BRIEFING BOOK

KEY ISSUES FOR THE 45TH PARLIAMENT
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Foreword by the Parliamentary Librarian

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As we do for each new parliament, the Library has prepared a volume providing snapshots of issues expected to figure during the Parliament’s first months. The articles give a high level perspective of key public policy issues, including relevant background, context and legislative history as well as outlining some of the policy and legislative directions raised in the public debate.

The Briefing Book is organised in broad themes, covering the gamut of public policy issues, from schools funding to foreign affairs. Many of the articles reflect issues that were prominent during the election campaign or in the legislative agenda flagged by the Government. Others are chosen on the basis of milestones occurring during the early part of the parliament. Lastly, we have picked some longer term trends that may be of interest to Senators and Members.

We recognise the challenges that Senators and Members face in staying abreast of the deluge of information and opinion that flows into Parliament House. In a fast-moving political debate, a significant challenge is to keep track of the history of an issue—the events, reports, inquiries and legislative amendments that have led to the current position. These briefings aim to give this context in a succinct overview.

In doing so, the Briefing Book also serves to highlight something of the breadth of specialist expertise among the Library’s researchers which is available to parliamentarians.

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The Parliamentary Library exists exclusively to serve the Australian Parliament. We do our utmost to deliver the information, analysis and advice that you need and in the format you need it, to meet the often difficult timeframes required by parliamentary business. I encourage you to discuss your needs with our staff and to explore what our services have to offer.

Dr Dianne Heriot
Parliamentary Librarian
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- delegation briefings
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For assistance contact the Central Enquiry Point:

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- the staff of senators and members when undertaking work on behalf of a senator or member and
- the staff of parliamentary committees, when undertaking work on behalf of their committee.

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8:30am–8:00pm Mon–Wed sitting days
8:30am–5:00pm Thurs–Fri sitting days

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Opening hours
8:30am–5:00pm Mon–Fri sitting and non-sitting days

A **Newspaper Reading Room** is adjacent to the Senators’ and Members’ Reading Room and is open 24 hours a day, seven days a week.

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Economics—covering topics such as the economy as a whole, superannuation, taxation, trade, public finance, commerce, foreign investment, primary industry, competition policy, employment and industrial relations

- Director, Jonathan Chowns (ph: 02 6277 2460)

Foreign Affairs, Defence and Security—covering topics such as border protection, crime and law enforcement, cybercrime, national security, terrorism, foreign aid, foreign affairs, United Nations, defence and peacekeeping

- Director, Nigel Brew (ph: 02 6277 2673)

Law and Bills Digest—covering topics such as legislation, constitutional law, discrimination, human rights, federalism, citizenship, intellectual property, trade practices, criminal law and international law

- Director, Michele Brennan (ph: 02 6277 2764)

Politics and Public Administration—covering topics such as Parliament, parliamentary procedure, referenda, elections including electoral funding, government, public administration, local government and state and territory politics

- Director, Nicholas Horne (ph: 02 6277 2506)

Science, Technology, Environment and Resources—covering topics such as climate change, energy, mining, water, environment, transport, food, biotechnology, telecommunications and innovation

- Acting Director, Sophie Power (ph: 02 6277 2746)

Social Policy—covering topics such as health, welfare and social security, Aboriginal and Torres Strait Islander issues, education, immigration, sport, the arts, media and social issues.

- Director, Luke Buckmaster (ph: 02 6277 2724)

Statistics and Mapping—providing assistance in census data, election results, maps and spatial data, demography and opinion polls.

- Director, Sue Johnson (ph: 02 6277 2480)

Central Enquiry Point

The Central Enquiry Point (ph: 02 6277 2500) can direct you to the right researcher to assist with your request.
THE 45TH PARLIAMENT
The 2016 federal election

Dr Damon Muller, Politics and Public Administration

Key Issue

The 2016 federal election was the first double dissolution election in almost 30 years.

The election was called due to industrial relations legislation, however Medicare emerged as the most prominent issue in the campaign.

The Government was returned with a reduced majority of 76 of the 150 House of Representatives seats, losing 14 seats, and with a two party preferred count of 50.36 per cent.

The 2016 federal election returned the Coalition government with a much reduced majority of, at the time of writing, 76 seats in the 150 seat House of Representatives.

Redistributions

A number of electoral redistributions fell due in the 44th Parliament, including New South Wales (NSW), Western Australia (WA), and the Australian Capital Territory (ACT). Redistributions were also due for the Northern Territory (NT) and Tasmania, but were deferred due to the proximity of the election.

The Electoral Commissioner’s November 2014 entitlement determination found that population change in NSW and WA resulted in NSW losing one seat and WA gaining one seat, with no change in the overall total of 150 seats.

The new Western Australian seat of Burt was created out of parts of the existing divisions of Swan, Tangney, Hasluck and Canning. It was calculated to be a fairly safe notional Liberal Party seat.

In NSW the division of Hunter was abolished, with Charlton being renamed Hunter. The division of Throsby was renamed Whitlam, in honour of the late former Prime Minister Gough Whitlam.

In the ACT the division of Fraser (not named after the late former Prime Minister Malcolm Fraser) was renamed Fenner, allowing the name Fraser to be assigned to another division in the future in honour of former Prime Minister Fraser.

Timeline

On Sunday 8 May Prime Minister Turnbull announced that the 2016 federal election would be held on 2 July 2016.

Both Houses of Parliament were dissolved on 9 May, and writs for the election were issued one week later, due to be returned on 8 August 2016. Polling day was 2 July 2016, and the first House of Representatives seat was declared one week later on 9 July. The first Senate results, for the NT, were announced on 25 July.

Electoral participation

Due to the length of the election period, the writs were issued a week after dissolving the Parliament. As the close of rolls is fixed at one week after the writs are issued, this allowed an extended period for voters to be enrolled after the announcement of the election.

Perhaps partly due to the longer than usual close of rolls period, but also partly due to the Australian Electoral Commission’s (AEC’s) direct enrolment programs, the number of people enrolled for the 2016 federal election...
reached over 15.6 million, an increase of almost a million voters since the 2013 federal election. The AEC reported that 95 per cent of eligible Australians were enrolled, compared to 92.4 per cent at the 2013 election.

One consequence of this increase in the enrolment rate was a corresponding decrease in the turnout rate (the proportion of enrolled people who voted). At just under 91 per cent, the turnout rate was the lowest since the introduction of compulsory voting in 1924. The turnout rate at the 2013 election was 93.23 per cent.

While the turnout rate was down, the higher enrolment rate meant that a slightly higher proportion of the eligible population voted (Parliamentary Library calculations indicate 86.27 per cent in 2016 compared to 86.19 per cent in 2013).

The double dissolution

The 2016 federal election was the first double dissolution election in 29 years, and only the seventh since Federation. Previous double dissolution elections were held in 1914, 1951, 1974, 1975, 1983 and 1987.

A double dissolution is a mechanism set out in section 57 of the Australian Constitution to resolve fundamental disagreements over legislation between the House of Representatives and the Senate.

Legislation becomes a ‘trigger’ for a double dissolution election under section 57 if the Senate twice rejects, fails to pass, or passes the legislation with amendments unacceptable to the House of Representatives, with more than three months between the first and second introduction in the lower house.

At a normal election only the House of Representatives is dissolved, with all members of the House of Representatives, the two senators for each of the territories, and half of the senators for each state, facing election. In a double dissolution the Senate is also dissolved, and all 76 senators for the states and territories face election. For more details about the effect of the double dissolution on the Senate election, see the related Briefing Book article ‘The new Senate voting system and the Senate result’.

The ‘triggers’

The specific ‘trigger’ bills that led to the 2016 double dissolution election related to industrial relations. The three bills that were listed in the proclamation dissolving both Houses of Parliament were the:

- Building and Construction Industry (Improving Productivity) Bill 2013 and the
- Fair Work (Registered Organisations) Amendment Bill 2014

The Constitution requires that a double dissolution be held at least six months before the expiry of the term of the House of Representatives, meaning that the dissolution had to occur prior to 11 May 2016.

Proroguing the Parliament

On 21 March 2016 the Prime Minister advised the Governor-General to prorogue the Parliament; the Governor-General accordingly prorogued the 44th Parliament and ended its first session on 15 April. The Parliament was summoned to meet again to commence its second session on 18 April 2016. This was the first prorogation and commencement of a new session prior to an election in almost 40 years.

The Senate considered the Prime Minister’s nominated Bills amongst its first pieces of business when it returned on 18 April 2016, negating both the Australian Building and Construction Commission (ABCC) Bills that day. The next day the Prime Minister announced that he would be seeking a
double dissolution of the Parliament from the Governor-General, and nominated his preferred election date of 2 July 2016.

The campaign

There were 55 days between the Prime Minister announcing the election and polling day, and no single issue dominated the lengthy campaign. Some topics (for example milk prices) were topical early in the campaign, but had faded by polling day. Other issues that arose during the campaign included penalty rates, economic management, marriage equality, negative gearing and housing affordability, and asylum seekers.

The topic that had the most resonance by the end of the campaign was the Australian Labor Party’s (ALP’s) claim that a returned Coalition government would privatise Medicare, which became known as the ‘Mediscare’ campaign. In his election night speech, the Prime Minister labelled the Mediscare campaign ‘some of the most systematic, well-funded lies ever peddled in Australia’.

The subject of the ABCC—the Prime Minister’s nominated legislative impetus behind the election—was not a major topic of debate in the campaign.

Early voting

The continued rise of pre-poll voting

The 2016 federal election continued the trend seen in the past several elections of increasing numbers of voters choosing to cast their vote early with 31 per cent of the votes were cast before polling day in 2016 around 4.5 million votes, according to Parliamentary Library calculations. This compares to 26 per cent, or 3.6 million, votes in 2013.

Pre-poll ordinary votes—those early votes cast at a pre-poll voting centre in the elector’s own division—once again made up the largest proportion of early votes.

Postal voting

While pre-poll ordinary votes draw most of the early voting attention, the long-established institution of postal voting also continued to see a rise in numbers. The 2016 federal election saw 1.2 million postal votes, up from 1.1 million in 2013, with over 8.5 per cent of the votes cast being postal votes.

Postal votes can be received and entered into the count up until 13 days after polling day. Postal votes require a much more involved scrutiny process before the vote can be entered into the count, unlike ordinary pre-poll votes which are entered into the count like an ordinary vote taken on election day and are usually all counted on election night.

The steady increase in postal voting is a significant contributor to the delay in declaring the result of the election particularly given that postal votes were essential to the final result.

As the ordinary votes, which are counted sooner, and the postal votes, which are counted later, tend to favour different parties in different ways, the high number of postal votes was largely responsible for early fears of a hung parliament.
The results

In the House of Representatives, the final tally saw the Liberal National Coalition win a total of 76 House of Representatives seats, down from 90 seats at the 2013 election. Ten of those 76 seats were won by The Nationals, an increase of one since 2013.

Due to the close margin of the original count of only 8 votes, the AEC ordered a re-count in the division of Herbert. After the recount Herbert was won by the ALP by a margin of 37 votes.

Including Herbert, the ALP won 69 seats, up from 55 at the 2013 election. The Greens retained their one seat (Melbourne, Vic.), as did Katter’s Australia Party (Kennedy, Qld).

The Nick Xenophon Team (NXT) won one seat in the lower house from the Liberal Party (Mayo, SA), and the independents Cathy McGowan (Indi, Vic.) and Andrew Wilkie (Denison, Tas.) retained their seats. The Palmer United Party (PUP) lost its single seat (Fairfax, Qld) to the Liberal National Party.

While not the finalised result, the Coalition received a national two-party preferred vote of 50.36 per cent, a swing against it of 3.13 per cent, and the ALP received 49.64 per cent.

Nationally, NXT achieved a vote of 1.85 per cent in its first outing as a party contesting federal lower house seats. The Greens received a national swing towards them of 1.58 per cent and PUP experienced a 5.49 per cent swing against it.

At the time of publication, there were not enough complete Senate results to include.
Senate voting reform and the 2016 Senate election

Dr Damon Muller, Politics and Public Administration

Key Issue

The Senate voting system was changed shortly before the 2016 election to allow optional preferential voting above and below the line.

The new voting system was unsuccessfully challenged in the High Court.

The Tasmanian Senate count has resulted in the unprecedented election of a senator on the basis of below the line votes.

The 2016 Senate election was distinctive in a number of ways:

- the election was the first to be held after reforms to the Senate voting system—legislated only months before the election was called—that abolished group voting tickets and introduced optional preferential voting to the ballot paper
- the election was the first federal election where computerised ballot paper scanning was an essential part of counting the ballot papers and
- the 2016 election was the first double dissolution since 1987 and only the seventh double dissolution election—where all 12 senators from each state were elected—since Federation.

Senate electoral system reform

A notable outcome of the 2013 election was the election of a number of previously unknown candidates to the Senate from ‘micro-parties’ on very small primary votes. This result was perceived by some as a perverse outcome of the Senate voting system. From 1984 parties had been able to submit group voting tickets, and voters could elect to use a party’s ticket to distribute their preferences by voting ‘1’ for that party above the line on the ballot paper.

Originally introduced to reduce the rate of informal voting in the Senate, the group voting tickets were increasingly used to trade preferences between groups of parties in a way that was largely opaque to voters. It has been argued that this pooling of preferences between small parties led to results which did not best represent the will of the voters.

During its post-2013 election inquiry the Joint Standing Committee on Electoral Matters (JSCEM) released an interim report in May 2014 that recommended substantial changes to the Senate voting system. Significant recommendations included abolishing group voting tickets and implementing optional preferential voting both above and below the line on the Senate ballot paper.

In February 2016 the Government introduced legislation to amend the Commonwealth Electoral Act 1918 (the CEA)—the Commonwealth Electoral Amendment Bill 2016. Following the longest continuous sitting of the Senate (at almost 29 hours straight), the Bill passed both Houses with a number of amendments on 18 March 2016 and was assented to on 21 March.

The most significant element of the Commonwealth Electoral Amendment Act 2016 is to implement optional preferential voting both above and below the line on the Senate ballot paper. Voters are now instructed to complete at least six
preferences above the line or at least 12 below the line; saving provisions would allow votes that expressed fewer preferences to be counted.

The effect of this is that the preferences of voters who vote above the line now only apply to the groups that voters express explicit preferences for, leaving voters in control of how far their preferences flow. Group voting tickets no longer apply.

The amending Act also provides for the inclusion of party logos alongside the party name on ballot papers. This appears to be in response to suggestions some voters were confused by party names in the 2013 election.

The introduction of these significant reforms only three months before the announcement of the election led to concerns about the ability of the Australian Electoral Commission (AEC) to successfully implement the changes and conduct the election. These concerns followed the overturned 2013 Western Australian Senate election where it was found that security and logistical failures may have contributed to the loss of ballot papers.

The High Court challenge

Following the passage of the Senate voting reforms through the Parliament, South Australian Family First Senator Bob Day lodged a High Court challenge against the changes.

Senator Day argued that the changes to the CEA were unconstitutional for a number of reasons, including that voters would be disenfranchised if their votes exhausted (when there are no more preferences on a ballot paper for candidates remaining in the count, and the ballot paper is removed from the count) because they had not preferred a winning candidate, and that above and below the line voting constituted different methods of voting. Section 9 of the Australian Constitution requires the voting ‘method … be uniform for all the States’.

In a unanimous judgement delivered on 12 May 2016 the High Court dismissed the case.

Counting the Senate ballot papers

The implications for counting the Senate ballot papers are substantial. Under the former group voting ticket system in place from 1984 to 2013, most voters (96 per cent in 2013) voted 1 above the line.

To count the votes, the number of first preference above the line votes each group received was recorded first. The ballot papers that contained below the line votes (around 470,000 in 2013) were then sent to a central location in each state where all of the preferences were entered into a computer. Once the below the line votes were entered the computer then applied the group voting tickets to the above the line votes, combined this with the below the line votes, and conducted the count.

In contrast, under the new Senate voting system each of the roughly 15 million ballot papers requires at least six (for above the line) or 12 (for below the line) votes to be entered into the computer.

The AEC has elected to electronically scan the ballot papers to assist with the 2016 Senate election count, due to the time it would take to manually enter all of the preferences. According to the AEC:

The AEC is using a semi-automated process to conduct the Senate count, scanning Senate ballot papers and using optical character recognition technology to capture preferences. Once captured, these preferences are then verified by a human operator.
The double dissolution election

In a double dissolution election there are two important differences for the Senate as compared to a ‘standard’ half-Senate election. Firstly, in a normal half-Senate election only half of the senators from each state, and the territory senators, face election and the Senate as a chamber continues. In a double dissolution, the Senate is dissolved and all 76 senators face election. At the commencement of the new Parliament in 2016, the Senate will be only the eighth Senate since Federation.

Secondly, the Senate electoral system operates by requiring candidates to exceed a quota of votes, either with primary votes or surplus votes transferred from other candidates. The quota equals the number of formal votes divided by one more than the number of vacancies. In a normal half-Senate election the quota is about 14 per cent of the vote. In a double dissolution it is about 7.7 per cent of the vote. As a result, the threshold for election to the Senate is much lower in a double dissolution election.

The double dissolution and the resulting election are covered in further detail in the Briefing Book article: ‘The 2016 federal election’.

Selecting long- and short-term senators

Following a double dissolution election, section 13 of the Constitution requires the 12 incoming senators for each of the states to be broken into two groups (or classes) of six. One group of senators is awarded a full six-year term, and the other group is awarded a half (three-year) term.

The Constitution gives the Senate the power to determine who will be awarded the long and short terms. Traditionally this has been determined by order of election, with the first six senators elected according to the Senate vote count in each state being awarded the long terms, and the remainder the short terms.

In 1983 the CEA was amended to insert section 282, which requires the AEC to conduct an additional recount following a double dissolution election. This recount only includes those candidates who were successful at being elected to the Senate, and uses a half-Senate election quota to select six of the twelve successful candidates. It has been argued that the section 282 recount provides the Senate with a fairer method for determining the long and short-term senators.

Following the 1987 double dissolution election (until 2016 the only such election since section 282 was inserted into the CEA), the Senate resolved to use the order of election method.

On 29 June 1998 the Senate agreed to a motion by then Labor Senator John Faulkner supporting the use of section 282 following any future double dissolutions. On 22 June 2010 the Senate agreed to an identical motion put by the then Special Minister of State, Liberal Senator Michael Ronaldson. The Senate is not bound by either of these motions, however.

Section 13 of the Constitution also requires that the terms of senators be back-dated to 1 July before the preceding election. Accordingly, the three-year senators’ terms will end on 30 June 2019, requiring a half-Senate election within one year prior to this. Under section 43 of the CEA the two senators for each of the territories serve the same terms as the members of the House of Representatives.

The outcome of the election

At the time of publication only the results from the Northern Territory and Tasmanian Senate elections had been declared.
Influence of below the line votes

Prior to the 2016 reforms, voters who elected to vote below the line, not using a party’s group voting ticket, were required to preference every candidate on the ballot paper. In the case of NSW in the 2013 Senate election, this meant they had to complete 110 preferences. Under the reforms, however, voters who vote below the line are only required to number at least 12 preferences, substantially reducing the burden for this type of vote.

Australian Labor Party (ALP) senator Lisa Singh, a shadow parliamentary secretary and former Tasmanian state government minister, was preselected by the ALP into sixth position on its Tasmanian Senate ticket, widely expected to be an unwinnable position. Liberal Tourism Minister Senator Richard Colbeck, the only Tasmanian in the Turnbull ministry, was preselected by his party to the fifth place on the Liberal ticket.

Both Singh and Colbeck were supported by grassroots campaigns in Tasmania encouraging their supporters to vote for them below the line. As a result, both Singh and Colbeck received substantial below the line votes—in Singh’s case roughly equal to one quarter of the ALP’s above the line vote in Tasmania.

While Colbeck was ultimately unsuccessful, Singh was the tenth candidate elected of 12, preventing the election of the ALP candidate above her on the ticket. There are no comparable examples of a candidate winning a Senate election from sixth position against the preference direction of their party.

Use of the new Senate voting system

At the time of the introduction of the new Senate voting system there was considerable concern that the reforms would lead to many people continuing to just vote 1 above the line with a correspondingly high rate of vote exhaustion (this was a key element of Senator Day’s High Court challenge).

Although not necessarily representative of the larger states, analysis of the Tasmanian results reveal that only 2.8 per cent of votes exhausted (compared to 0.1 per cent in 2013), and around 85 per cent of those who voted above the line preferred 1 to 6 as instructed on the ballot paper.

Tasmanian Senate voters also largely chose to ignore preference recommendations from ‘How To Vote’ cards, even from the major parties. Less than 10 per cent of Liberal voters, and ever fewer Labor voters, preferred above the line according to How To Vote cards. However, this may not be typical of Senate voting in other states, particularly given that Tasmanian voters are accustomed to voting using the Hare-Clark system in state elections, which is similar to below the line voting.

Further reading


Electronic voting at federal elections
Rob Lundie, Politics and Public Administration

Key Issue
Following the 2016 federal election both the Prime Minister and the Opposition Leader raised the possibility of introducing electronic voting at future elections.

Electronic voting promises benefits such as speed and secure ballot-handling, but has also identified concerns such as safety and cost.

On 10 July 2016, eight days after the federal election, Opposition Leader Bill Shorten conceded defeat. Five seats were still in doubt and 80 per cent of the votes had been counted. Mr Shorten also expressed frustration over the time taken for the election result to be finalised and to confirm which party would form government. He called for electronic voting to be introduced, saying:

…it shouldn’t be taking 8 days to find out who has won and who has lost. I actually think that it is long overdue to look at electronic voting in this country. I think that we should, in a bipartisan fashion set the ground work for electronic voting. We can’t afford to have our nation drift for 8 days after an election.

Prime Minister Malcolm Turnbull also indicated that he had been ‘an advocate of electronic voting for a long time’ adding:

…I would commend you to the work of the New South Wales Electoral Commission which has been more enthusiastic than its Federal counterpart.

What is meant by electronic voting?
Electronic voting covers the technology used to facilitate the act of casting a ballot and to support the electoral process overall. In relation to casting a ballot, electronic voting technologies include:

• electronically-assisted voting that enables visually impaired voters to complete a ballot paper with the help of an operator or through audio prompts on the phone, or via an electronic voting machine
• isolated static electronic voting where voters cast their votes at polling stations on a stand-alone computer or a local area network without an Internet connection and
• internet voting through various methods including: static voting at polling places via dedicated computers or networks; mobile internet voting using devices carried by visiting polling officials; and remote internet voting where voters use any device with an Internet connection.

Technologies used to support the electoral process more broadly include:

• electronic electoral rolls that enable voters to enrol and update their enrolment online
• electronically certified lists (ECLs) that enable voters to be marked off more accurately (and in real-time) at the polling booth, and that also allow for declaration votes to be dealt with more quickly and
• electronic scanning and counting of ballot papers.
Recent use of electronic voting technology in federal elections

At the 2007 federal election, the Australian Electoral Commission (AEC) trialled electronic voting for groups such as blind and low-vision voters. This evolved into the current method of telephone voting for this group of voters. At the 2007 election, the AEC also trialled access to a secure computer network through which Australian Defence Force personnel serving overseas could vote.

At the 2013 federal election, the AEC piloted the use of ECLs in select locations to introduce efficiencies into the process of finding and marking voters off the electoral roll.

At the 2016 federal election, the AEC deployed up to 1,500 ECLs that were used in high-volume early (pre-poll) voting centres; at large polling places on election day; and by remote mobile voting teams in over 40 electoral divisions throughout Australia. ECLs are currently also being used in all electoral divisions to more efficiently process the necessary checks against the electoral roll for voters who cast declaration votes. The AEC also scanned millions of Senate ballot papers and recorded voter preferences electronically.

Electronic voting in other jurisdictions

Several countries (for example, Brazil and Estonia) have either introduced or trialled electronic voting in its various forms—but no internationally-agreed standards have evolved.

Overall, the Australian states and territories have not embraced electronic voting to any great degree. Since 2001, the ACT has enabled voting on locally-connected computers in some polling places, and NSW has used its iVote system since 2011, which enables remote voting over the Internet or by telephone at NSW state elections.

At the 2015 NSW election, people who are vision-impaired, people with a disability, people who live more than 20 kilometres from their nearest polling place, or those who were interstate or overseas on election day, were able to register their vote using a web browser. The iVote system replaced in-person voting for all voters outside NSW on election day.

Some 283,669 electors cast their vote through the iVote system, but it was not without its problems. Two parties were omitted from the above-the-line section of the electronic ballot paper for the NSW Legislative Council; there was reportedly a greater donkey vote than that revealed on the paper ballot, and two academics claimed they had found a security flaw in the system.

The NSW Electoral Commission has indicated that iVote will continue to replace postal voting, interstate voting and overseas venues, and may be used in the future to take absent votes at all pre-polls and select high-volume polling places. However, it is not envisaged that iVote will replace normal voting at polling places and pre-polls using paper ballots.

Arguments for and against electronic voting

As noted by the Joint Standing Committee on Electoral Matters (JSCEM) in a 2014 report on electronic voting, the main benefits of electronic voting for Australia are:

- provision of a secret ballot for blind and low-vision voters
- easier delivery of remote voting services and
- secure ballot-handling.
In 2013, the House of Representatives Standing Committee on Regional Australia recommended electronic voting for ‘fly-in-fly-out’ workers as an aid to accessing the ballot.

The main concerns associated with electronic voting as identified by the JSCEM are:

- safety, including the security, integrity and transparency of the system
- cost and
- desirability, including the capacity to maintain the secrecy of the vote and the effect on voter behaviour and confidence in the electoral system.

Recent consideration of electronic voting

In its inquiry into the 2013 federal election, the JSCEM undertook an assessment of electronic voting options. The Committee identified:

...significant questions over the capacity of an electronic voting solution to be both cost-effective and protect the security and sanctity of the ballot in the Australian context’, and concluded that ‘there can be no widespread introduction of electronic voting in the near term without massive costs and unacceptable security risks.

The JSCEM also expressed concern over the potential for electronic voting to ‘further disengage the community’ from the political process.

The JSCEM recommended measures adopted by the AEC in relation to aiding vision-impaired voters, and called for an expansion of the assisted telephone voting system to include voters with mobility or access issues.

JSCEM inquiries following the 2004 and 2007 federal elections also highlighted concerns that cost and security issues outweigh the benefits of internet voting. The JSCEM report on the 2004 election also noted the contribution to Australia’s democracy of attending a polling place, and expressed concern that this would be removed by widespread remote electronic voting.

A 2013 paper on internet voting by the Electoral Council of Australia and New Zealand recommended that any move towards its implementation should have ‘strong and informed public and political consensus in favour of such a move’.

Further reading


Electoral Council of Australia and New Zealand, Internet voting in Australian electoral systems, 10 September 2013.


D Muller, ‘iVote, therefore I am’, FlagPost, Parliamentary Library blog, 16 March 2015.
Australia in pictures

Sue Johnson, Statistics and Mapping

Estimated resident population by state and territory: 1985, 2005 and 2015

Between 1985 and 2015, the proportion of Australians living in Queensland (Qld) and Western Australia (WA) increased, while the Northern Territory (NT) and the Australian Capital Territory (ACT) maintained their share of population. Over the thirty year period, Qld and WA recorded average annual growth of 2.1% and 2.0% respectively, compared with the Australian average of 1.4%.

Estimated resident population by age: 1985 and 2015

Over the 30 years to 2015, Australia’s population has aged. The proportion aged under 15 years has fallen from 23.8% to 18.8%, and the proportion aged 65 years and over has increased from 10.3% to 15.0%.

Source: Australian Bureau of Statistics (ABS), Australian Demographic Statistics, December 2015, cat. no. 3101.0.
Australia’s overseas born population by country of birth: 1981 and 2011

<table>
<thead>
<tr>
<th>Country</th>
<th>1981 No.</th>
<th>% of all overseas born</th>
<th>Country</th>
<th>2011 No.</th>
<th>% of all overseas born</th>
</tr>
</thead>
<tbody>
<tr>
<td>United Kingdom</td>
<td>1,086,625</td>
<td>36.5</td>
<td>United Kingdom</td>
<td>1,101,082</td>
<td>20.8</td>
</tr>
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<td>Italy</td>
<td>275,883</td>
<td>9.3</td>
<td>New Zealand</td>
<td>483,397</td>
<td>9.1</td>
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<tr>
<td>New Zealand</td>
<td>176,713</td>
<td>5.9</td>
<td>China (excl. SARs and Taiwan)</td>
<td>318,969</td>
<td>6.0</td>
</tr>
<tr>
<td>Yugoslavia</td>
<td>149,335</td>
<td>5.0</td>
<td>India</td>
<td>295,362</td>
<td>5.6</td>
</tr>
<tr>
<td>Greece</td>
<td>146,625</td>
<td>4.9</td>
<td>Italy</td>
<td>185,403</td>
<td>3.5</td>
</tr>
<tr>
<td>Germany</td>
<td>110,758</td>
<td>3.7</td>
<td>Vietnam</td>
<td>185,036</td>
<td>3.5</td>
</tr>
<tr>
<td>Netherlands</td>
<td>96,044</td>
<td>3.2</td>
<td>Philippines</td>
<td>171,234</td>
<td>3.2</td>
</tr>
<tr>
<td>Poland</td>
<td>59,441</td>
<td>2.0</td>
<td>South Africa</td>
<td>145,682</td>
<td>2.8</td>
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<tr>
<td>Malta</td>
<td>57,001</td>
<td>1.9</td>
<td>Malaysia</td>
<td>116,196</td>
<td>2.2</td>
</tr>
<tr>
<td>Lebanon</td>
<td>49,623</td>
<td>1.7</td>
<td>Germany</td>
<td>108,001</td>
<td>2.0</td>
</tr>
</tbody>
</table>


The proportion of Australians born overseas increased from 16.8% in 1981 to 24.6% in 2011. Over this period, there has been a shift away from the United Kingdom and Europe, and growth in migration from Asia.

**Employment by business size: 2014–15**

![Circle diagram showing employment by business size](image)


Small businesses employed 4.8 million people, or 44.8% of all those employed in 2014–15. This was followed by large businesses, which employed 31.7% (3.4 million people), while medium size businesses employed 23.5% (2.5 million people).
Australia’s trade in figures

Gregory O’Brien, Statistics and Mapping

Key Issue

Trade has been a key issue since the first Federal Parliament saw the Protectionist Party in government faced with an opposition with a strong contingent of Free Traders. Trade continues to be central to the Australian economy and has grown as a proportion of national income in recent years as transport, communications technologies and rising living standards in Asia have increased regional markets for Australian exports.

This article provides a brief overview of the importance of trade to the Australian economy, key export markets for Australian goods and services, and the main exports produced by Australia.

Trade as a share of GDP

One way of visualising the importance of trade to the Australian economy over time is by looking at the proportion of Gross Domestic Product (GDP) represented by trade. Figure 1 shows exports and imports on a Balance of Payments basis since 1959 and Australia’s trade balance over the period (the difference between Australian exports and imports in a quarter).

It shows that despite some volatility, trade represented a reasonably steady proportion of GDP throughout the 1960s and 1970s, increasing as a share of GDP since the 1980s and peaking in 2008 at around 23 per cent. The last few years have seen a slight easing-off to average around 21 per cent of GDP. This means that around a fifth of all goods and services (by value) produced in Australia are traded internationally.

While Australia is often thought of as a trading nation, this proportion is low by international standards as our lack of land borders reduces the amount of local international trade compared with other countries. Figure 2 shows exports, imports and trade balances as a proportion of GDP for a selection of G20 members. Trade is a larger proportion of GDP for Australia than the large economies of the United States and Japan, but is lower than most other countries, particularly European countries and export-focused economies such as Germany and South Korea.

Figure 2 also shows the relative trade balances of these countries. In 2014, Australia had a trade deficit of 1.4 per cent of GDP, much less than the US and Japan which both ran trade deficits over 3 per cent. It also contrasts with trade surplus countries such as Germany, which had a 6.7 per cent surplus and South Korea, which had a 5.4 per cent surplus.

It is important to note while looking at cross-country comparisons that while trade balances must offset each other globally, for any single country, trade balances can persist over many years or decades. For example, Australia has persistently run trade deficits over the long-term, as shown in Figure 1. This can occur as trade imbalances can be offset by contrasting balances in international income transfers, or financial or capital account transactions within the Balance of Payments.
Figure 1: Australian exports, imports and trade balance as a proportion of GDP

![Graph showing Australian exports, imports, and trade balance as a proportion of GDP from 1959 to 2015.]


Figure 2: Exports, imports and trade balance as a proportion of GDP in select G20 economies

![Bar chart showing exports, imports, and trade balance for select G20 economies.]

Table 1: Australia’s top export markets

<table>
<thead>
<tr>
<th>Rank</th>
<th>Country</th>
<th>2000 A$m</th>
<th>2007 A$m</th>
<th>2015 A$m</th>
<th>5 year growth trend %</th>
<th>% share of total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>China</td>
<td>6 868</td>
<td>27 659</td>
<td>91 297</td>
<td>28.8</td>
<td>8.1</td>
</tr>
<tr>
<td>2</td>
<td>Japan</td>
<td>25 342</td>
<td>34 715</td>
<td>42 355</td>
<td>13.4</td>
<td>–1.5</td>
</tr>
<tr>
<td>3</td>
<td>United States</td>
<td>16 725</td>
<td>15 609</td>
<td>22 114</td>
<td>7.0</td>
<td>8.4</td>
</tr>
<tr>
<td>4</td>
<td>South Korea</td>
<td>9 869</td>
<td>15 418</td>
<td>20 014</td>
<td>6.3</td>
<td>–2.7</td>
</tr>
<tr>
<td>5</td>
<td>India</td>
<td>2 298</td>
<td>11 265</td>
<td>13 574</td>
<td>4.3</td>
<td>–9.3</td>
</tr>
<tr>
<td>6</td>
<td>New Zealand</td>
<td>9 254</td>
<td>12 891</td>
<td>12 577</td>
<td>4.0</td>
<td>2.7</td>
</tr>
<tr>
<td>7</td>
<td>Singapore</td>
<td>7 954</td>
<td>7 308</td>
<td>11 044</td>
<td>3.5</td>
<td>7.3</td>
</tr>
<tr>
<td>8</td>
<td>United Kingdom</td>
<td>7 609</td>
<td>11 812</td>
<td>8 815</td>
<td>2.8</td>
<td>–7.8</td>
</tr>
<tr>
<td>9</td>
<td>Malaysia</td>
<td>3 261</td>
<td>4 464</td>
<td>7 966</td>
<td>2.5</td>
<td>9.1</td>
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<tr>
<td>10</td>
<td>Taiwan</td>
<td>6 022</td>
<td>6 446</td>
<td>7 479</td>
<td>2.4</td>
<td>–4.3</td>
</tr>
<tr>
<td>11</td>
<td>Indonesia</td>
<td>3 928</td>
<td>4 751</td>
<td>6 804</td>
<td>2.1</td>
<td>3.6</td>
</tr>
<tr>
<td>12</td>
<td>Hong Kong (SAR of China)</td>
<td>4 731</td>
<td>4 361</td>
<td>5 591</td>
<td>1.8</td>
<td>3.0</td>
</tr>
<tr>
<td>13</td>
<td>Thailand</td>
<td>2 496</td>
<td>5 206</td>
<td>5 331</td>
<td>1.7</td>
<td>–5.2</td>
</tr>
<tr>
<td>14</td>
<td>Vietnam</td>
<td>622</td>
<td>1 764</td>
<td>4 696</td>
<td>1.5</td>
<td>14.0</td>
</tr>
<tr>
<td>15</td>
<td>United Arab Emirates</td>
<td>1 165</td>
<td>3 548</td>
<td>4 020</td>
<td>1.3</td>
<td>9.4</td>
</tr>
</tbody>
</table>

Total goods & services exports | 145 086 | 218 004 | 316 590 | 100.0 | 2.1 |

Source: Department of Foreign Affairs and Trade (DFAT), Australia’s trade in goods and services 2015, DFAT, Canberra, March 2016.

Table 2: Australia’s top 15 export products

<table>
<thead>
<tr>
<th>Rank</th>
<th>Commodity</th>
<th>2013 A$m</th>
<th>2014 A$m</th>
<th>2015 A$m</th>
<th>5 year growth trend %</th>
<th>% share of total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Iron ores &amp; concentrates</td>
<td>69 492</td>
<td>66 008</td>
<td>49 060</td>
<td>15.5</td>
<td>0.9</td>
</tr>
<tr>
<td>2</td>
<td>Coal</td>
<td>39 805</td>
<td>37 999</td>
<td>37 031</td>
<td>11.7</td>
<td>–3.9</td>
</tr>
<tr>
<td>3</td>
<td>Education-related travel services</td>
<td>15 010</td>
<td>17 037</td>
<td>18 801</td>
<td>5.9</td>
<td>3.3</td>
</tr>
<tr>
<td>4</td>
<td>Natural gas</td>
<td>14 602</td>
<td>17 743</td>
<td>16 456</td>
<td>5.2</td>
<td>13.0</td>
</tr>
<tr>
<td>5</td>
<td>Personal travel (excl. education) services</td>
<td>13 171</td>
<td>14 187</td>
<td>15 943</td>
<td>5.0</td>
<td>6.2</td>
</tr>
<tr>
<td>6</td>
<td>Gold</td>
<td>13 898</td>
<td>14 460</td>
<td>14 500</td>
<td>4.6</td>
<td>–1.2</td>
</tr>
<tr>
<td>7</td>
<td>Beef, f.c.f. (fresh, chilled or frozen)</td>
<td>5 695</td>
<td>7 751</td>
<td>9 296</td>
<td>2.9</td>
<td>16.9</td>
</tr>
<tr>
<td>8</td>
<td>Aluminium ores &amp; conc. (incl. alumina)</td>
<td>5 904</td>
<td>6 336</td>
<td>7 493</td>
<td>2.4</td>
<td>6.8</td>
</tr>
<tr>
<td>9</td>
<td>Crude petroleum</td>
<td>9 016</td>
<td>10 564</td>
<td>6 036</td>
<td>1.9</td>
<td>–8.8</td>
</tr>
<tr>
<td>10</td>
<td>Wheat</td>
<td>6 085</td>
<td>5 920</td>
<td>5 814</td>
<td>1.8</td>
<td>4.4</td>
</tr>
<tr>
<td>11</td>
<td>Professional services</td>
<td>4 600</td>
<td>4 840</td>
<td>5 190</td>
<td>1.6</td>
<td>10.8</td>
</tr>
<tr>
<td>12</td>
<td>Copper ores &amp; concentrates</td>
<td>5 192</td>
<td>5 359</td>
<td>4 825</td>
<td>1.5</td>
<td>–0.8</td>
</tr>
<tr>
<td>13</td>
<td>Other ores &amp; concentrates (a)</td>
<td>4 486</td>
<td>4 594</td>
<td>4 436</td>
<td>1.4</td>
<td>0.1</td>
</tr>
<tr>
<td>14</td>
<td>Business travel</td>
<td>4 200</td>
<td>4 203</td>
<td>4 407</td>
<td>1.4</td>
<td>5.6</td>
</tr>
<tr>
<td>15</td>
<td>Aluminium</td>
<td>3 675</td>
<td>3 968</td>
<td>3 934</td>
<td>1.2</td>
<td>–3.0</td>
</tr>
</tbody>
</table>

Total goods and services exports | 302 276 | 331 241 | 318 737 | 4.2 |

Note: (a) Other ores & concentrates consists mainly of Lead, Zinc and Manganese ores & concentrates.
Source: DFAT, Australia’s trade in goods and services 2015, DFAT, Canberra, March 2016.
Australia’s top export markets

The Department of Foreign Affairs and Trade publishes a range of statistics describing Australia’s trade figures. *Australia’s Trade in Goods and Services*, released every six months, provides a good overview of Australia’s top export markets and export sectors.

Table 1 shows Australia’s top export markets for 2015, the share of Australia’s total exports which went to each market (by value) and growth in exports over the five years to 2015. Figures for 2000 and 2007 are included to show longer-term relative growth trends.

This table shows some of the trends driving Australian export growth. The rise of China as a key export market is clear, demonstrated by 28.8 per cent of Australia’s exports being destined for China, and the remarkable growth since 2000 in Australian exports to this market from under $7 billion in 2000 to over $90 billion in 2015. The concentration of Australian export markets is also evident with the top four markets (China, Japan, US and South Korea) accounting for over half (55 per cent) of all exports.

Southeast Asia has seen some of the strongest growth trends in the last five years with exports to Singapore, Malaysia, Indonesia and Vietnam all showing strong growth.

The inclusion of the United Arab Emirates is indicative of the strong growth in exports to the Middle East in recent years.

The Department of Foreign Affairs and Trade produces individual fact sheets for most countries and regions to which Australia exports.

Australia’s top export products

As with Australia’s export markets, Australia’s top export products are more concentrated than imports.

Table 2 shows the top 15 export products for 2015 with relative shares of total exports and growth rates for the five years to 2015.

Despite the fall in iron ore prices and the correspondent drop in export revenue, iron ore remains Australia’s largest export, followed by coal. These two commodities alone represent over a quarter of all export earnings. Primary products still represent the majority of Australia’s top exports, with beef and wheat the largest agricultural sources of export earnings, and oil and gas, gold and other metals representing the other top goods exports.

Services have become an increasingly important component of Australia’s export revenue, with education-related, personal and business travel, and professional services all in the top 15 export categories. The growth rates of the services categories show that strong growth in these areas over the past five years has helped offset lower growth rates in some resource sectors.

Further reading

Australian Bureau of Statistics (ABS), *International trade in goods and services*, cat. no. 5368.0, ABS, Canberra, released monthly.

Department of Foreign Affairs and Trade (DFAT), *Australia’s trade in goods and services*, DFAT, Canberra, released biannually.
Trends in apprenticeships and traineeships

Geoff Gilfillan, Statistics and Mapping

Key Issue

Apprenticeship and traineeship numbers have been falling since mid-2012. However, the major falls have occurred in non-trade occupation traineeships.

Declining numbers of commencements could be driven by changes to incentive payments made in mid-2012; the decline in demand for skills associated with a softening labour market, and the uncapping of university placements.

Trade and non-trade apprenticeship and traineeship numbers have been falling in Australia since the middle of 2012. Data from the National Centre for Vocational Education Research (NCVER) shows there were 291,000 apprentices and trainees in training in December 2015 (in seasonally adjusted terms)—down on the most recent peak of 490,000 in June 2012.

When separated out over the longer term, it is evident that apprentices and trainees in non-trade occupations have fallen dramatically from their peak of 300,000 in June 2012 to 104,000 in December 2015.

Non-trade occupations for trainees include farm managers, sales workers, clerical and administrative workers, community and personal service workers and drivers and machine operators.

The fall in the number of apprentices and trainees in trade occupations during the same interval is significant but not as dramatic—down from 216,600 to 175,000.

One of the reasons for the decline in non-trade occupation commencements was the change in incentive payments offered by the Federal Government which took effect from 1 July 2012. The changes included:

- the discontinuation of the $1,500 standard employer commencement incentive payment and
- an increase in the standard completion incentive from $2,500 to $3,000 for existing worker apprentices and trainees in non-National Skills Needs List occupations.

The fall in apprenticeship and traineeship numbers since mid-2012 may also be a reflection of reduced demand for labour in particular industries. In this period the mining industry and utilities have been shedding labour while manufacturing has...
been in long-term decline. Demand for skilled trades has been strongest in construction.

Trade-based occupation commencements for apprentices have been relatively consistent over the past decade despite the impact of events such as the Global Financial Crisis (GFC) between 2007 and 2009. In contrast, non-trade occupation commencements have fallen substantially since mid-2012.

Figure 2: Trade and nontrade apprentice and trainee commencements

![Graph showing trade and nontrade apprentice and trainee commencements](image)

Source: NCVER, Apprentices and trainees 2015 December quarter, NCVER, 2016, Table 21, Seasonally Adjusted data.

The changes appear to have proportionally the greatest affect on women and older apprentices and trainees. Female apprentices and trainee numbers have fallen by 112,000 or 59% between June 2012 and December 2015, compared with a fall of 125,500 or 38% for men.

Over the same period, the number of apprentices and trainees aged 45 years and over fell by 57,000 or 71% while those aged 25 to 44 years fell by 95,600 or 55%. In comparison, apprenticeships and traineeships for people aged 19 years and under and 20 to 24 years fell by 39% and 26% respectively.

Of the trade occupations, the largest falls were recorded for engineering, information and communications technology (ICT), and science technicians (down 58%); and automotive and engineering trade workers (down 24%).

Some of the building trades have been less affected. The numbers of apprentice bricklayers, carpenters and joiners in training have only fallen marginally (by 5%) while plumbers fell by 3%. However, electricians in training have fallen by 10%. The only occupation to record a rise in apprenticeships was electronics and telecommunications trade workers (up 27%).

In a recent newspaper article the NCVER suggested that declining apprenticeship numbers could partly be due to the uncapping of university places. The Australian Industry Group expressed concern at the prospect of skill shortages in the future from declining apprentice and trainee commencements.

Current evidence of shortages in skilled occupations is mixed, with a general decline in demand for skilled labour since the GFC contributing to more skilled occupations being in balance rather than shortage. Analysis conducted by the Department of Employment showed just over 40% of trade and technician occupations were in shortage in 2014–15 compared with 97% in 2007–08.

Further reading


Department of Employment, Skill shortages—statistical summary, Department of Employment, Canberra, 2015.
The Australian Government’s debt position
Alicia Hall, Statistics and Mapping

Key Issue
The ratings agency Standard and Poors recently revised its sovereign rating outlook on Australia from stable to negative, largely relating to concerns about the government sector’s ongoing fiscal position. This brief discusses the Australian Government’s current and historical debt levels, and revenues and expenses.

The Australian Government’s ‘net debt’ is at a reasonably high level in a historical context (see Figure 1). Although net debt levels are still low by international standards, this issue is nonetheless considered a concern by some commentators due to Australia’s high level of overall net foreign debt (that is, both private and public net foreign debt).

Australian Government debt is often reported as a relative indicator to allow comparison across years. For example, debt can be expressed as a proportion of Gross Domestic Product (GDP). In the 2016–17 Budget, the Government indicated that net debt in Australia has risen from a low of -3.8 per cent of GDP in 2007–08 to an estimated 18.9 per cent of GDP in 2016–17. Based on Budget forecasts, it is set to peak in 2017–18 at 19.2 per cent, and then decline. These figures did not change in the Pre-election Economic and Fiscal Outlook 2016, which was released shortly after the Budget. These levels of net debt are higher than the average of 5.9 per cent of GDP between 1970–71 and 2014–15. However, they are not unprecedented. These levels were reached in 1995–96 when net debt was recorded at 18.1 per cent of GDP.

Gross debt is the amount of money owed by a government (or its financial liabilities). The major component of gross debt on the Australian Government’s balance sheet is Commonwealth Government Securities. More often reported, net debt is the sum of all financial liabilities (gross debt) of a government less its respective financial assets. Gross debt indicates the magnitude of debt owed, but it does not show whether a government can repay that debt and provides limited detail about the overall financial health of a government. This is where net debt is significant. If a government has a gross debt of 50 per cent of GDP, but has large amounts of cash and or assets (low net debt), then it is in a much better position to handle this level of debt.

The Australian Government’s net debt position is primarily a product of the reduced revenues associated with the GFC, and higher government expenditure since that time. As can be seen in Figure 2, Australian Government revenues as a per cent of GDP declined in 2008–09, and have not yet climbed back to 2007–08 levels. Similarly, expenses as a per cent of GDP peaked in 2009–10 and have not significantly declined since that time. Overall, Australia’s fiscal balance (revenue less expenses less net capital investment) in 2016–17 was estimated at 2.2 per cent of GDP. The IMF’s 2016 World Economic Outlook indicates that Australia’s 2015 structural balance is lower than the average of the Major Advanced Economies (2.2 vs -2.7).
External debt (or foreign debt) relates to amounts owing to non-residents by residents. This includes amounts borrowed by government. High levels of net foreign debt can be a problem for a country as, amongst other things, it results in increased vulnerability to changes in interest rates and exchange rates. Fortunately for Australia, current low interest rates are keeping interest expenses low for the government and the private sector.

Further reading


T Kryger, Australia’s foreign debt: a quick guide, 28 October 2014.

Employment in Australia
Geoff Gilfillan, Statistics and Mapping

Key Issue
The Australian labour market performed more solidly in the 12 months to June 2016 with relatively strong growth in employment and a modest fall in the unemployment rate.

Full-time employment growth remains subdued and wages have virtually flatlined in real terms over the past three years. After signs of a steady fall in the youth unemployment rate since late 2014 there has been a slight uptick in recent months.

Employment
In the 12 months to June 2016 employment in Australia grew by 212,000 or 1.8% (in trend terms) to 11.9 million. This growth rate is just below the annual average for employment growth of 1.9% recorded since the early 1980s.

However, just over two-thirds (68.3%) of employment growth in the past 12 months was in part-time employment: around 32% of employed Australians worked part-time in June 2016 compared with 26% in January 2000.

Unemployment
The unemployment rate has fallen by 0.4 percentage points over the past year to 5.7% in June 2016 (in trend terms). Over this period, the number of people who are unemployed fell by just over 40,000 to 726,000 (in trend terms).

The most recent low for the unemployment rate in Australia was 4.1% in April 2008—the lowest unemployment rate recorded since monthly estimates started being released in February 1978.

Figure 1: Unemployment rate

Source: ABS, Labour force survey, Australia, cat. no. 6202.0, Table 1, Trend.

Participation
Other indicators of the health of the labour market include the proportion of the population aged 15 years and over in the labour force (participation rate), and the proportion who have a job (employment to population ratio).

Both measures showed signs of recovery in the 12 months to late 2015 but have since fallen marginally. The labour force participation rate of 64.8% (in trend terms) in June 2016 is below its most recent peak of 65.7% in December 2010.

The employment to population ratio (61.1%) in June 2016 is below its most recent peak of 62.8% in July 2008.
Lower labour force participation is driven by a combination of discouragement from looking for work for some potential job seekers, long-term demographic trends such as the ageing of the population, and higher rates of engagement in full-time education by young people. Conversely, there is evidence of higher participation among older age groups in recent years—perhaps in response to declining superannuation balances following the Global Financial Crisis (GFC).

**Youth**

The unemployment rate for young people aged 15 to 24 years stood at 12.7% (in trend terms) in June 2016—well in excess of the total unemployment rate (people aged 15 years and over) of 5.7%.

While youth unemployment increased steadily from mid-2008 to late 2014, a much higher proportion of people in this age group are now engaged in full-time study. Over half (54%) of people aged 15 to 24 years were engaged in full-time study in June 2016 compared with 47% in July 2008.

**Wages**

Wages in both the public and private sectors have grown at a slower pace in recent years.

Total hourly rates of pay for employees in the private sector (excluding bonuses) grew by 1.9% in the 12 months to March 2016, compared with growth of 2.5% for public sector employees.
While nominal wages (unadjusted for inflation) have grown at a slower pace, real wages (adjusted for inflation), as measured by Average Weekly Ordinary Time Earnings, have virtually flatlined since May 2013.

Figure 5: Nominal and real wages

![Graph showing nominal and real wages](image)


The Reserve Bank of Australia found wages have been reacting to a softening in the labour market and increasing spare capacity in the economy. Declining inflationary expectations also appears to have had some influence. However, wages growth in the past 12 months remains subdued despite a strengthening in employment growth and a fall in the unemployment rate.

**Underemployment**

Underemployment is an indicator of the extent of underutilised labour in the economy. Underemployed workers include those people who worked part time and wanted more hours and those who normally worked full-time but were working part-time due to being stood down or insufficient work being available.

Underemployment affects younger workers more than older workers. Just under 20% of workers aged 15 to 24 years wanted more hours of work in June 2016 compared with 9% of all workers (aged 15 years plus).

Figure 6: Underemployment ratios

![Underemployment ratios graph](image)

Source: ABS, *Labour force survey, Australia*, cat. no. 6202.0, Table 22, Trend.

**Long-term unemployment**

Long-term unemployed people are those who have been unemployed for 12 months or more. Increasing levels and rates of long-term unemployment indicates that some unemployed people are taking longer to find suitable employment.

The level and prevalence of long-term unemployment rose sharply from mid-2008 to late 2010, plateaued until mid-2013 and has been rising since. The number of people who were long-term unemployed has increased from 69,000 in July 2008 to 182,900 in March 2015 (in trend terms) and has since fallen to 166,600 in June 2016. Around 22.9% of all unemployed people were long-term unemployed in June 2016 compared with 12.8% in February 2009.
Unemployed people in older age groups tend to have higher rates of long-term unemployment. In May 2016, 41% of unemployed people aged 55 to 64 years were long-term unemployed compared with 18% of unemployed people aged 15 to 24 years.

**Labour productivity**

Labour productivity measures the efficiency of use of labour and is equivalent to the growth of output above the growth in labour inputs.

The annual rate of growth of labour productivity (as measured by gross value added per hour worked in the 12-industry market sector) has been slowing in Australia since mid-2012. Labour productivity grew by 1.4% per cent in the 12 months to March 2016 (in trend terms).

Productivity growth rates are best measured in growth cycles. According to the Productivity Commission’s PC Productivity Update (April 2016) labour productivity across the market sector has averaged 2.3% per annum in the period between 2007–08 and 2014–15. The last, complete cycle occurred between 2003–04 and 2007–08 when annual average labour productivity growth was 1.6%.

The Productivity Commission found the relatively strong growth in labour productivity recorded for mining in 2014–15 was driven by a substantial contraction in labour inputs as well as strong growth in output. The Commission attributed the improvement in both labour productivity and multifactor productivity in mining to the transition from the investment phase to the production phase.

**Further reading**

C Kent, Cyclical and Structural Change in the Labour Market, Address by the Assistant Governor (Economics) Reserve Bank of Australia, Reserve Bank of Australia website, 16 June 2014.


PC Productivity Update April 2016.
THE NATIONAL ECONOMY
Insolvency laws in Australia

Dr Nitin Gupta, Economics

Key Issue
Creating a culture of innovation means striking a balance between promoting productive and discouraging reckless risk-taking. Insolvency laws help to strike this balance.

Australia’s insolvency laws are increasingly out of sync with trends across much of the OECD, and risk undermining the innovation outcomes of the Australian economy.

A broad context
The importance of innovation as a means to promote growth has been an important part of the Government’s policy agenda. This is because the mining boom—the mainstay of the economy for the last two decades—is coming to an end, and there is a broad consensus that the boom has obscured a general decline in national productivity.

The ways in which an economy encourages and regulates risk are critical to its innovation outcomes. The rules have to strike a balance between promoting risk-taking on one hand, and minimising the possibility that risk protections lead to abuse and reckless behaviour by companies (the moral hazard problem) on the other. Insolvency laws are an important marketplace mechanism by which countries try to strike this balance.

Insolvency laws fall broadly into two groups. In the first are those that prioritise liquidation of a company over its restructuring. These assume that insolvency is the result of deliberate malpractice by companies, and accordingly, place greater emphasis on the protection of creditors. In the second are laws that reflect a ‘rescue culture’ that allows for financially constrained companies to reorganise themselves rather than be forced into liquidation. These assume that insolvency may not reflect deliberate malpractice and that a second chance for the company will be in the longer-term interest of creditors.

Insolvency in Australia—the key issues
Under the Corporations Act 2001, ‘a person is solvent if, and only if, the person is able to pay all the person’s debts, as and when they become due and payable’. Thus ‘a person who is not solvent is insolvent.’

Australian insolvency law does not take account of an insolvent company’s longer-term prospects, its competitiveness, assets, or brand value, and is geared towards its premature closure and liquidation. It does not allow for the possibility that, through some restructuring or assistance, the company could return to profitability and preserve the interests of creditors.

Bankruptcy laws in other advanced countries
Globally, insolvency laws have tended towards restructuring rather than liquidation. The ‘Chapter 11’ (Ch. 11) provisions of the US Bankruptcy Code are considered the most liberal, and place great emphasis on corporate rescuing. These provisions have been used as a model for insolvency law reforms in several other countries.
Some of the key advantages of the Ch. 11 approach are that they provide:

- higher planning reliability, avoiding short-term thinking in decision making
- continued employment and wages for workers and
- preservation of skills and experience, brand name and relationships. These intangible assets are highly valued and can take years to build.

In the last few decades the UK, Germany and Canada have all recognised the value of an effective insolvency regime for driving innovation, and have implemented reforms—based on Ch. 11—with the explicit aim of creating a ‘rescue culture’ rather than one based on liquidating an insolvent company.

In the UK, insolvency laws are based on the recommendations of the 1982 Cork Report which reasoned that restoring the profitability of companies would be in the longer-term interests of creditors. Until about 2008, German law was geared towards liquidation of a debtor’s assets. Since then, laws have been progressively reformed to improve the possibility of corporate restructuring, and also to raise the profile of German insolvency law versus foreign jurisdictions. Canada has implemented several reforms since 1992, and also has special provisions for large companies owing more than $5 million.

Laws in these countries broadly follow Ch. 11 by preventing creditors from liquidating a company’s assets while the latter is underdoing restructuring. However, unlike Ch.11 which allows an insolvent company’s directors to retain control over its operations, these countries typically have greater scrutiny and involvement by the courts, including passing of operational control to a court-appointed monitor.

Proposed reforms in Australia

Both Labor and Coalition Governments have proposed changes to the Australian insolvency laws in order to modernise them.

The Ch. 11 provisions have provided a useful reference point for Australia’s thinking on insolvency law reforms. Over several years, multiple reviews have yielded a general view—illustrated by the 2004 Joint Committee inquiry into insolvency, and the 2015 Productivity Commission inquiry into Business Set-up, Transfer and Closure—that a Ch. 11-style framework would be inappropriate for Australia. The specific objection was that an insolvent company’s directors should not be in control of operations once insolvency is declared.

In this vein the National Innovation and Science Agenda (NISA), announced by the Government in December 2015, proposed several changes to the insolvency laws, including:

- reducing the current default bankruptcy period from three years to one year
- introducing a ‘safe harbour’ provision to protect directors from personal liability for insolvent trading if the company is undertaking a restructure and
- making the ‘Ipso Facto’ clause, which allow contracts to be terminated solely due to an insolvency event, unenforceable if the company is undertaking a restructure.

No legislation to give effect to these changes had been introduced prior to the prorogation of the 44th Parliament. However, the Government demonstrated its interest in insolvency reform with the passage of the Insolvency Law Reform Act 2016, which aligned standards for corporate insolvency practitioners with those of personal bankruptcy practitioners.
Influencing decisions to retire
Kai Swoboda, Economics

Key Issue
The decision to retire is typically made with reference to age-based thresholds for access to the means tested Age Pension and superannuation. Changes to these thresholds need to consider a range of issues, including how demographic changes impact on the economy and government finances as well as broader social impacts.

What is retirement?
Retirement is generally viewed as a withdrawal from the labour market and/or paid employment. Retirement can also be viewed as a process, whereby an individual scales down employment—such as by transitioning to part-time employment or unpaid/volunteer activities—and moves into a period of leisure that is a ‘reward’ or ‘benefit’ earned through participation in employment or as a contribution to society.

Statistics on the age of ‘effective retirement’—the average age at which people withdraw from the workforce—show two distinct periods of trends in the average retirement age in Australia since 1970. The first period, which ended in the early to mid-1990s, saw the average retirement age falling (Figure 1). However, since this time, the broad trend has been for the average retirement age to increase. While this trend is replicated in most other OECD countries, the average effective retirement age for men and women in Australia is lower than in New Zealand.

Figure 1: Average effective retirement ages for men and women in Australia, 1970 to 2014


Broader impacts of retirement
Individual decisions to retire have broader economic and societal impacts including:

- the loss of skilled employees to the economy
- the ability of retirees to devote more time to (unpaid) caring activities
- for tourism and leisure businesses that provide goods and services to people in retirement, and
- the funding of retirement by superannuation funds and/or governments.

These broader impacts are of particular relevance given the significant ageing of the Australian population due to the decline in fertility rates and increase in life expectancy—changes that are occurring across most advanced economies. Most of the concerns about the impact of ageing have related to the sustainability of government finances due to increasing health, aged care and pension expenditures.
Reasons for retirement and changes in the age at which people retire

There are a number of factors that affect retirement decisions including health status, involuntary redundancy and accumulated savings. For those who have already retired in Australia, the most common reason given in a recent survey by the Australian Bureau of Statistics was having reached eligibility age to access the age pension or superannuation. This was followed by sickness, injury or disability, and being retrenched or dismissed with no other work being available.

Age-based thresholds influencing retirement decisions

Key policy levers regarding the age pension and superannuation that frame the retirement decision are:

- the eligibility age for access to the means-tested Age Pension—currently 65, increasing to 67 between 2017 and 2023 (Social Security Act 1991)
- the superannuation preservation age (the age at which superannuation savings can generally be accessed)—currently 55 increasing to 60 between 2015 and 2024 (regulations under the Superannuation Industry (Supervision) Act 1993) and
- the age at which superannuation benefits can generally be accessed tax free—currently 60 (Income Tax Assessment Act 1997).

During the previous parliament, the Government introduced legislation to further lift the eligibility age for the age pension to 70, to take effect between 2025 and 2035. However, this proposal did not pass into law.

A number of OECD countries have also increased the eligibility age for public pensions in recent years. For example, Belgium and Canada have lifted the eligibility age to 67. Some OECD countries have taken the further step of directly linking eligibility to life expectancy. These include the Netherlands and Portugal.

There have been a number of proposals to change the superannuation preservation age, including increases to align it with the Age Pension eligibility age.

Addressing other reasons that can lead to early retirement

Apart from changing the age-based thresholds mentioned above, policies to encourage later retirement need to address the other factors that influence retirement decisions. For example, addressing retirement decisions based on matters that may be outside an individual’s control—such as their own poor health or retrenchment—require more complex policy responses that may include programs to address specific barriers or labour market issues that prevent many Australians from continuing to work as they age.

Further reading


Influences on superannuation policy settings
Kai Swoboda, Economics

There are a number of influences on this growth, including policy settings.

**Election policies and inquiries underway**

The alternative superannuation policy measures presented by the major parties for the 2016 election included 2016 Budget measures which propose changed tax concessions. The Government has committed to advance these proposals in the 45th Parliament after further consultation on draft legislation. The Government will also consider the fate of measures that were not fully considered by the previous parliament. These include governance changes for superannuation funds, broadening choice of fund arrangements and changes to penalties for employers who make late superannuation contributions on behalf of their employees.

The Productivity Commission is conducting two inquiries and can be expected to propose changes. In the first, it is developing criteria to assess the efficiency and competitiveness of the superannuation system. In the second, the Commission is developing a workable model, or models, for allocating members to superannuation funds if the member does not choose one.

**Demographic ageing**

Changes in Australia’s population structure and the impact of ageing have been well-documented. Increased life expectancies, higher labour participation and rising expenditure on aged care, health and pensions are all outcomes of these demographic shifts.

Superannuation policy settings will play a role in adjusting to an ageing population, such as mitigating the impact of ageing...
on labour markets by promoting the participation of older people. Policy settings may also have a role in addressing the ‘longevity risks’ associated with higher life expectancies, by providing incentives to draw superannuation savings over a longer period. The financing of retirement lifestyles—in full or in part combination with the age pension—will also be a key consideration.

A maturing superannuation system

With the superannuation guarantee in place since July 1992, the first cohort of people to have benefited from superannuation over their whole working lives will start retiring from around the early to mid-2030s.

With the population ageing, the maturing superannuation system is expected to result in an increase in the total level of benefits paid as fund members retire. At some stage in the 2020s, these outflows will be larger than the level of contributions. This transition, from the ‘accumulation’ to the ‘retirement’ phase, has implications for funds in managing cash flows and adjusting investment strategies.

An era of low returns?

All other things being equal, higher rates of return provide greater levels of retirement income for fund members, potentially allowing for an earlier retirement or a more ‘comfortable’ retirement. While returns can vary significantly from year to year, over the past 25 years the average nominal return has been in the order of 7 per cent.

With the Australian superannuation system closely enmeshed with global financial markets and the Australian economy exposed to the global economy, superannuation returns are influenced by changes in domestic and international economic conditions. Some economists consider that the prospects for future global economic growth are fundamentally constrained, basing their arguments on the secular stagnation hypothesis.

Secular stagnation hypothesis

The so-called ‘secular stagnation’ hypothesis suggests that the barriers to growth—demographic change, education, inequality and government debt—combined with the potential for low rates of productivity growth compared to that achieved in the past, will lead to slower and lower levels of economic growth in the future. This view is contested, with some economists considering that low rates of growth are largely due to a ‘debt overhang’ in developed economies which will dissipate over time and that technology advances and economic restructuring will lead to productivity gains.

Recent forecasts suggest that the medium-term global outlook is lacklustre. This is mainly due to concerns about the impact of ‘Brexit’ on confidence, the potential for rising oil prices and a continued low interest rate environment, globally.

Further reading

I Arsov and A Ravimohan, ‘Secular stagnation: a review of the key arguments’, JASSA, 1, 2016, pp. 6–16.

Competition policy
Paul Davidson, Economics

Key Issue

Competition reforms enacted more than 20 years ago have provided significant improvements to Australia’s overall welfare.

The issue facing the 45th Parliament is whether there is sufficient appetite to pursue further reforms in light of the recent competition policy review.

In 2013, the Abbott Government appointed Professor Ian Harper to review Australia’s competition policy. Professor Harper reported in March 2015 and the Government responded in November 2015.

The Harper Review (Harper) was the first holistic review of competition policy since the Review of National Competition Policy (NCP) in 1992–3, conducted by Professor Fred Hilmer. Indeed, several recommendations were identical to those put forward over two decades ago. Several of these reforms are the responsibility of the states and territories. In particular, recommendations related to reviewing planning and zoning laws, regulations affecting the taxi industry, and the regulation of retail trading hours.

Benefits of competition policy reform

In 1995, the Productivity Commission (PC) modelled the ‘outer envelope’ of potential gains of the Hilmer competition policy recommendations. It was found that real GDP would be 5.5 per cent higher once the productivity gains, service price rebalancing and other associated changes had fully worked their way through the economy.

In 1999, in modelling a subset of the NCP reforms of relevance to rural and regional Australia, the PC found that real GDP would potentially increase by around 2.5 per cent.

In 2005, in assessing some of the actual gains from the NCP reforms, PC modelling of productivity and price changes in large infrastructure sectors attributed to the NCP reforms (while only forming one part) indicated that real GDP had increased by 2.5 per cent, worth $20 billion in 2005.

Significant recommendations

Some of the central recommendations of Harper are set out below. See also: Australian Government response to the competition policy review recommendations: a quick guide published by the Parliamentary Library.

Improving institutional arrangements

Harper recommends the establishment of two bodies; the Australian Council for Competition Policy (ACCP) and a national Access and Pricing Regulator. The functions of the ACCP would include undertaking ‘market studies’; that is, to examine areas of the economy where competition issues may arise and provide recommendations to government. The other would take on the current functions of the ACCC and in effect be incorporated into an expanded role for the National Competition Council. The final roles and functions of both bodies would be discussed with the states and territories.

Introducing an ‘effects test’

At present, the misuse of market power provisions of the Competition and Consumer Act 2010 provides that it is the purpose of a corporation in engaging in proscribed conduct that (in part) determines whether
the provision has been breached. Harper recommends that the test be changed to ‘purpose, effect, or likely effect’. Essentially, the change will enable the court to look at the outcome (including the likely outcome) of the conduct, rather than merely its purpose or intent.

The recommendation is not universally supported—the PC says that it may lead to regulatory risks, and the Business Council of Australia and others say that it would amount to regulatory overreach and ‘chill’ pro-competitive conduct. Even former chairs of the ACCC, Alan Fels and Graeme Samuel—in articles published the Australian Financial Review in early September 2015—do not agree on the possible consequences of introducing an effects test.

Future competition policy

Harper recommends measures aimed at ensuring that competition policy remains of central relevance to governments. It recommends that governments commit to transparent competition principles, including:

- all government regulation that binds public or private sectors should not restrict competition.
- consumer choice in the funding, procuring or providing of government services should be promoted.
- government procurement should separate the roles of policy (including funding), regulation and service provision, while also encouraging a range of providers.

When applying the competition principles, all governments should subject regulation to a public interest test to ensure that governments do not restrict competition unless it is in the overall community’s interest to do so, and that there are no other means by which the policy can be achieved.

Competition in human services

Harper recommended that there should be a diversity of competing providers of human services to stimulate innovation in service provision and to give consumers choice. The recommendation foreshadows a new focus for governments being one of overseeing the impact of policies on users (‘stewardship’) rather than on service delivery. Harper cautioned governments that where they are involved in commissioning services, it should be done with a clear focus on outcomes.

The welfare gains from implementing competition policy reforms into human services are potentially significant—previous estimates by the PC suggested that improved productivity of health service delivery alone could implicitly boost household consumption by $40 per person in 2005–06 dollars.

Further reading


PUBLIC FINANCES
Tax expenditures
Dr Anne Holmes, Economics

Key Issue
Tax expenditures are concessions—like concessional tax rates and tax exemptions—that apply to particular activities or classes of taxpayer—so that those involved pay less tax than they would normally.

They have the same effect on the budget as expenditure but tend to be not as easily controlled. They do not appear in the budget papers but are reported by the Treasury in the annual tax expenditures statement.

Examples that have recently attracted attention include GST exemptions for food and some superannuation tax concessions.

Some background
Tax expenditures arise when the ‘normal’ tax liability is reduced in order to encourage a particular behaviour or to assist a particular group. Tax exemptions, tax deductions, tax offsets, concessional tax rates and deferrals of tax liability are examples.

Specific examples include the capital gains discount for assets held longer than 12 months, the capital gains tax exemption for the main residence, the several exemptions from GST (for example, for food, water, education) and the deductibility of gifts to certain charities.

It is sometimes difficult to identify tax expenditures. For example, the private health insurance rebate is classified as a program expense. However, non-taxation of the private health insurance rebate (which is a form of income) gives rise to a tax expenditure estimated at $1.5 billion a year.

Another example is negative gearing. This displays some characteristics of tax expenditure but it is not treated as one. This is because it is considered by Treasury to be a normal application of the principle that expenses incurred in earning assessable income are deductible.

It is difficult to measure tax expenditures. Usually they are expressed as a cost to revenue, compared with the ‘normal’ tax treatment. But this does not mean that their removal would generate a corresponding increase in revenue. That is because tax expenditures are often intended to change behaviour. With their removal, there would be another corresponding change in behaviour. For example, if the private health insurance rebate were taxable it may lead to fewer people taking out private health insurance which would in turn reduce the rebate.

There is also debate about how to define the benchmark for ‘normal’ tax treatment. For example, estimates of the tax forgone from not taxing capital gains on the family home would be irrelevant if that policy were treated as ‘normal’ rather than a concession.

Treasury Tax expenditures statement
The Treasury publishes an annual Tax Expenditures Statement. For 2015, it notes that 140 out of 290 tax expenditures are unquantifiable. This year’s statement does not publish a total figure, but in previous years Treasury estimated that the value of total measured tax expenditures was 7.5 per cent of GDP.
By comparison, total Commonwealth revenues recorded in Budget Paper No. 1 for 2015–16 were 23.5 per cent of GDP.

The case of superannuation

In the last couple of years some policy makers, academics, think tanks and media commentators have called for concessions to superannuation to be wound back. Amongst the reasons given, advocates for reform say that the concessions are inequitable, as they are worth more to those on higher marginal tax rates. Further, they are a significant imposition on the Budget and difficult to control as their magnitude depends on decisions made by individual tax payers. And it is claimed that they are not meeting their policy objectives, like increasing savings and taking pressure off the age pension.

The tax expenditure statements show superannuation tax expenditures are among the biggest. Although well behind the capital gains tax concessions for the main residence, at $54 billion, they total about $30 billion.

Tax expenditures and programs

Tax expenditures are less transparent than program spending. They do not require annual appropriation, and are not reported in portfolio budget statements. Their target groups are often less clearly defined, and the government has less control over the cost. They are generally not established with a ‘sunset’ date, and are not regularly reviewed.

Growth in some tax expenditures

The quantum and rate of growth of tax expenditures tends not to attract the same attention in the media as do expenditures. For instance, there has been debate in recent years about the sustainability of Medicare which is projected to increase by 14.4 per cent to $25.1 billion over the forward estimates. In contrast, the cost of three major health tax expenditures is projected to increase by 21.6 per cent to $8.3 billion over the same period. These expenditures are the exemption from income tax of the private health insurance rebate, the exemption from GST of medical and health services and the low income medicare levy exemption.

What might be done?

Because tax expenditures are targeted to particular groups or activities, attempts to end them often meet resistance. Some actions that could be taken to improve their performance might be to:

- where possible, convert tax expenditures to payments
- convert all deductions (for example, gifts to charities) to flat-rate rebates, so the benefit is not greater for those on higher incomes
- cap the amount any individual can claim in tax expenditures at a proportion of total income or a dollar amount
- introduce a schedule of reviews or sunset dates for large items
- publish information about who benefits from each tax expenditure.

Further reading


Paying for the National Disability Insurance Scheme

Dr Luke Buckmaster, Social Policy

Key Issue
The National Disability Insurance Scheme (NDIS) is being introduced across Australia from July 2016, at a cost of around $22 billion by 2019. How does the Commonwealth plan to pay for its share?

What is the NDIS?
The NDIS provides support to people with disability, their families and carers. It is jointly governed and funded by the Commonwealth and participating states and territories. The NDIS is being introduced across Australia from July 2016, except in Western Australia where it is still being trialled.

The main component of the NDIS is individualised, long-term funding to provide support for people aged under 65-years with permanent and significant disability, or eligible for early intervention support. Participants meet with the National Disability Insurance Agency to identify a set of supports agreed as ‘reasonable and necessary’ to meet their goals. They are provided with funding for these supports and can choose how their needs are met.

When the NDIS is fully implemented in 2019, it is expected that around 460,000 Australians will receive individualised supports.

The NDIS also has a broader role in helping people with disability to access mainstream services and community services, and to maintain informal supports (such as family and friends).

This NDIS is not means tested. Like many other Commonwealth social policy programs—such as Medicare, the Pharmaceutical Benefits Scheme and income support payments—the NDIS is an uncapped (demand-driven) scheme.

How much will it cost?
The cost of the NDIS will increase substantially over the next four years while it is progressively introduced: from around $4.2 billion in 2016–17 to $21.5 billion in 2019–20—representing an increase in spending to around 1.1 per cent of GDP. It is important to note, however, that the Commonwealth will only be responsible for half of the annual cost of the scheme.

The most recent NDIA annual report projects that expenditure will increase gradually to 1.3 per cent of GDP in 2044–45, reflecting the increased cost of supports as NDIS participants age over time.

In its 2011 report recommending the introduction of the NDIS, the Productivity Commission suggested that the benefits of the NDIS would outweigh the costs and add almost 1 per cent to Australia’s GDP.

Why the funding source is important
Funding for disability has long been the subject of debates about cost and blame shifting between the Commonwealth and the states and territories. Guaranteed future funding for disability services was part of the rationale for the NDIS.

The Productivity Commission noted that ‘current funding for disability is subject to the vagaries of governments’ budget cycles’ and proposed that the Commonwealth should
finance the entire costs of the scheme from general revenue, or a levy ‘hypothesized to the full revenue needs of the NDIS’.

**How is the NDIS being funded?**

The method of financing agreed between the Commonwealth (Gillard) and state and territory governments is different to the two main approaches proposed by the Productivity Commission. Participating governments jointly provide funding based on intergovernmental agreements. Funding comes from a combination of sources.

First, existing money spent by Commonwealth, state and territory governments on disability services is being redirected to the NDIS. According to the 2016 *Report on Government Services*, 29.7 per cent of the $8.0 billion spent on disability services in 2014–15 came from the Commonwealth.

In addition, funds for the NDIS are taken from the July 2014 increase to the Medicare levy (from 1.5 to 2 per cent of taxable income). Revenue raised from increasing the Medicare levy is directed to a special fund—the DisabilityCare Australia Fund—for the purposes of reimbursing governments for NDIS expenditure. In contrast to the Productivity Commission model, the increased Medicare levy is not designed to meet the full revenue needs of the scheme (just as the levy only partially covers the annual cost of Medicare).

Finally, any NDIS funding not offset by the above sources must come from general budget revenue or borrowings. As the Parliamentary Library noted previously, the reliance on multiple sources creates ‘some risk of future instability of financing’ for the NDIS.

**Funding from 2019**

The Commonwealth Government’s share of NDIS expenditure in 2019 is *expected* to be around $11.2 billion. The Government *says* that around $6.8 billion of this will come from the redirection of existing disability funding and the Commonwealth’s share of the DisabilityCare Australia Fund, leaving $4.4 billion to be sourced elsewhere.

The Government has *proposed* that this additional amount should come from budget savings directed to a special account—the NDIS Savings Fund—which *will* ‘hold NDIS underspends, and selected saves from across the Government’. While savings may come from any portfolio, all savings *proposed so far* have been from the social services portfolio. Legislation to establish the NDIS Savings Fund lapsed with the dissolution of the 44th Parliament.

To the extent that it cannot be funded from these sources, the Commonwealth’s contribution will be a cost to the Budget—as are most other Government programs that do not have dedicated funding sources.

**Further reading**


The Australian Public Service
Philip Hamilton, Politics and Public Administration

Key Issue
Enterprise bargaining continues.

The Australian Public Service (APS) Commissioner has outlined future directions for the APS.

The Department of Finance is developing a new Commonwealth Performance Framework.

Recommendations of the review of internal red tape are being implemented.

A government transformation agenda has been announced, but with few details at this stage. ICT projects are likely to have a prominent role.

APS workforce

Workforce size

Data produced by the Organisation for Economic Co-operation and Development (OECD) indicates that for 2000, 2008 and 2013, employment in the Australian public sector was around 15 per cent of the total labour force (including federal, state and local levels). In 2013, the OECD average was 19.3 per cent.

The Australian Public Service Commission (APSC) has reported that at 30 June 2015 there were 152,430 staff employed under the Public Service Act 1999—down 5,526 (or 3.5 per cent) from 157,956 in June 2014. Figure 1 shows the change in total APS employee numbers over the past 15 years.

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Figure 1: APS employee numbers, 2001–2015


The adjusted line takes account of coverage changes in the APS each year, by adjusting total APS employee numbers by the number of employees performing functions moving into or out of coverage of the Public Service Act 1999.

APS Commissioner John Lloyd PSM has observed that ‘over the past 10 years the number of non-ongoing employees in the APS has steadily increased. This is a healthy sign and reflects the changing nature of public sector work’. Figure 2 shows non-ongoing APS employees as a percentage of total APS employees from 2001 to 2015, including an apparent longer-term trend since 2010 and a more pronounced increase since 2014.
Enterprise agreements

The salaries of most public servants are determined in agency enterprise agreements, the majority of which expired on 30 June 2014. Negotiations towards new agreements have been protracted, most recently because the caretaker conventions effectively precluded significant steps in the bargaining process during the two-month election period.

A substantive point of contention is the position outlined by the APS Commissioner: ‘Government policy for the current bargaining round is to remove the more detailed policy and process content from enterprise agreements, and place this material in agency documentation.’ The Community and Public Sector Union considers that the use of agency policy documents rather than agreements would reduce employees’ access to dispute resolution procedures in some circumstances.

Future directions

In March 2016 the APS Commissioner outlined the future direction of the APS. Priorities include:

- more effectively using employment types such as part-time, casual, fixed-term, contractor and labour-hire
- reducing complexity and timeframes in recruitment
- facilitating mobility of staff between agencies, and between the APS and the private sector
- using talent management to identify high potential people and preparing them for business-critical roles
- improving performance management
- reducing the complexity and length of separation processes and
- moving HR management beyond a focus on transactions and toward planning and strategy.

Budgeting for the APS

Program funds and running costs

Most Budget appropriations for public service agencies are classified as either administered or departmental.

Administered funds are administered by an agency on behalf of the government for the benefit of parties who are external to the agency, generally through programs. For example, the Department of Human Services (DHS) provides income support payments. Agencies have no discretion in how administered funds are spent. For example, DHS must make income support payments to applicants who fulfil eligibility requirements. Other examples of administered program funds include grants, subsidies, and other obligations arising from legislated eligibility rules and conditions.

In contrast, departmental funds are generally intended to cover agency running costs such as employee salaries and the purchase or rental of equipment and property.
In 2014, the National Commission of Audit reported that ‘of total Commonwealth spending in 2013‒14, some $360 billion (or 88 per cent) comprised administered expenses with less than $50 billion (or 12 per cent) categorised as departmental expenses’. As such, even significant cuts to departmental expenses have only a minor impact on total government expenditure.

**Efficiency dividend**

In place for over 25 years, the efficiency dividend (ED) is an annual funding reduction for Australian government agencies, in general applied only to departmental expenses. The ED has ranged from 1 to 4 per cent over its life. The 2016‒17 Budget provided that the ED will be maintained at 2.5 per cent through 2016‒18, before being reduced to 2 per cent in 2018‒19 and 1.5 per cent in 2019‒20.

In a first for the ED, the 2016‒17 Budget indicated that public sector agencies can anticipate the re-investment of a portion of projected ED savings ($500.0 million) for ‘specific initiatives to assist agencies to manage their transformation to a more modern public sector’. This will mean a total estimated net ED saving of $1.4 billion over 2017–20.

**Managing the APS**

**Planning and reporting**

The Department of Finance is leading a Public Management Reform Agenda which, through a new Commonwealth Performance Framework (CPF), will result in significant changes to Commonwealth entities’ planning and reporting. In the 44th Parliament, the Joint Committee of Public Accounts and Audit (JCPAA) produced two reports on the CPF, the second of which recommended that Finance should produce an incoming brief about the CPF for the JCPAA of the 45th Parliament.

**Reducing red tape**

The 2015 report of the Independent Review of Whole-of-Government Internal Regulation (the Belcher Red Tape review) made 134 recommendations, most of which can be implemented administratively within the public service. However, full implementation of some recommendations will require consideration by parliamentary committees, the Senate or legislative amendments.

**Outsourcing**

Notable agency-specific outsourcing projects in progress include:

- the provision of passport application lodgement services, for which the Department of Foreign Affairs and Trade sought potential suppliers by 27 April 2016 and
- the upgrade and operation of the registry functions of the Australian Securities and Investments Commission, for which final bids for interest are due by 29 August 2016.

In a project likely to be of relevance to all agencies, in early 2016 the Department of Finance sought ‘the views of interested parties on the most effective and efficient way to consolidate shared and common service delivery’, in particular ‘whether opportunities may exist for partnering with the private sector to deliver shared services’. The first tranche of shared services will focus on ‘core transactional services’ considered to be low risk, low to moderate complexity, and high volume of activity. Examples include accounts payable/receivable and payroll administration.

**ICT projects**

During the 2013 election campaign, the Coalition undertook to ‘improve the transparency of government ICT spending with the establishment of a US-style online dashboard so taxpayers can assess the performance and progress of major projects’.
In the 2016 election campaign the Coalition promised an expanded online dashboard enabling ‘public dashboard users … to track the performance of key government services, including: cost per transaction, user satisfaction, and completion rates’. A performance dashboard of this type is being developed by the Digital Transformation Office. A US-style projects/spending dashboard is yet to be released, although an ICT dashboard is mentioned on the Department of Finance website in the context of government investment in ICT.

The number of projects that would feature in a projects/spending dashboard is likely to increase. One stated theme of the 2016–17 Budget was transforming Government, including by ‘maximising the opportunities of a digital dividend wherever possible’.

The ICT capability of Medicare received some exposure in the 2016 election campaign, albeit in the context of a highly-charged debate over the possible privatisation of Medicare.

In August 2014 the Government sought ‘Expressions of Interest from the private sector’ for handling the claim and payment functions of both Medicare and the Pharmaceutical Benefits Scheme. However, during the campaign the Prime Minister gave a commitment that ‘every aspect of Medicare that is delivered by Government today will continue to be delivered by Government in the future, full stop’. While that statement aimed to address the privatisation issue, there appears to be a broadly-held view that Medicare’s ICT capability still requires attention:

- During the election campaign, the Opposition health spokesperson stated that ‘the IT system is going to have to be modernised at some point’, and it was reported that in 2009 the then Labor Government had sought to improve Medicare’s systems in collaboration with the private sector.
- The incoming president of the Australian Medical Association has described Medicare’s ICT as ‘clunky, 30 years old’ and ‘not fit for purpose’.
- The Chief Information Officer of the Department of Human Services has been quoted as suggesting the Medicare system needs to be addressed within a four-year period.

One industry analyst has observed that a challenge will be bringing in sufficient external expertise without compromising on ownership of the final delivered systems, as ‘the worst answer would be for the pendulum to swing all the way back in the other direction and for the government to start coding a whole new Medicare system from scratch’.

Further reading


Government procurement and free trade agreements

Philip Hamilton, Politics and Public Administration

Key Issue

Calls for a ‘buy Australian’ preference in Australian government procurement could fall foul of free trade agreements.

Commonwealth Procurement Rules

Procurement by public sector entities is governed by the Commonwealth Procurement Rules—July 2014 (CPRs). A legislative instrument exempted from disallowance, the CPRs are issued under section 105B of the Public Governance, Performance and Accountability Act 2013. Compliance with the CPRs is mandatory for all non-corporate Commonwealth entities (such as departments) and corporate Commonwealth entities prescribed by section 30 of the Public Governance, Performance and Accountability Rule 2014. Currently, twenty corporate Commonwealth entities are prescribed.

The ‘core rule’ of the CPRs is the achievement of Value for Money. For each submission to a procurement process, ‘relevant financial and non-financial costs and benefits’ must be taken into consideration, including whole-of-life costs, rather than simply the initial purchase price.

In general, an open tender must be undertaken for all procurements greater than $80,000 ($7.5 million for construction). There are also requirements to report procurement information on AusTender and elsewhere.

Under the Indigenous Procurement Policy, non-corporate Commonwealth entities subject to the CPRs ‘can purchase directly from Indigenous small to medium enterprises (SMEs) for contracts of any size and value’. The aim is that 0.5 per cent of domestic contracts will be awarded to Indigenous businesses by 2015 16, 2.5 per cent by 2018 19, and 3.0 per cent in 2019 20.

Further information about the operation of the CPRs and other aspects of the procurement framework is provided on the Department of Finance’s procurement website and in Volume 2 of the 2015 Belcher Independent Review of Whole-of-Government Internal Regulation report.

Procurement and free trade agreements

Since December 2004, successive versions of the procurement rules (or guidelines as they were previously known) have given effect to compliance with provisions in free trade agreements (FTAs) to which Australia is a signatory.

Typically, a country will specify in an FTA the scope of government procurement open to partner countries. Specifics include government entities covered or not covered; goods and services in or out of scope; threshold values of in-scope procurements; and exemptions such as the retention of preference for particular categories of domestic suppliers.

These specifics are then incorporated into the CPRs which advise that ‘an official undertaking a procurement is not required to refer directly to international agreements’.

Proposals for an Australian focus in government procurement

During the 44th Parliament, crossbenchers proposed that government procurement arrangements should be revised to include:
a ‘buy Australian’ preference, particularly in relation to steel products

the redefinition of the ‘value for money’ principle to include ‘secondary and social benefits to communities’ and

the assessment of future FTAs in terms of the ‘impact on [Australian] manufacturing jobs’.

A central issue is how such proposals might contend with Australia’s obligations under existing FTAs. A Senate committee inquired into procurement policies and procedures in 2014, and sought through its recommendations ‘a detailed explanation of the barriers to developing a preferencing scheme, which takes into account Australia’s free trade obligations’.

The Government’s response to the Senate committee’s report stated that ‘international agreements limit the extent to which the Government can preference local suppliers’. Similarly, a submission to the inquiry by a legal expert concluded that ‘the Commonwealth is not free to pursue a buy Australian policy unless an exemption applies’.

If this view is correct, there could be two avenues for the implementation of a ‘buy Australian’ policy in government procurement:

- re-negotiation of existing FTAs to include broader ‘buy Australian’ exemptions and
- ensuring that future agreements include broader ‘buy Australian’ exemptions.

However, both avenues have the potential to result in a patchwork of agreements that differ in their exemption provisions—the opposite of the more uniform, non-discriminatory treatment sought by current FTAs.

Possible future agreements

Australia has taken steps to participate in two more agreements, one of which focuses exclusively on government procurement.

In June 2015 the Government announced Australia’s intention to join the World Trade Organization Agreement on Government Procurement. In February 2016 Australia was among 12 signatories to the Trans-Pacific Partnership (TPP), which includes a chapter on government procurement.

The Australian Government has moved to ensure compliance with TPP provisions, with the 2016–17 Budget including:

- $12.4 million to upgrade ICT systems to ‘support greater transparency’ in the reporting of limited tender procurements and
- $2.9 million for the Federal Court of Australia to ‘provide a mechanism to deal with disputes about procurement decisions’.

Further reading


The future of school funding
Marilyn Harrington, Social Policy

Key Issue
Australian Government funding arrangements for schools will change from 2018. Speculation about this change is taking place amid a national and international debate about what matters most in improving school outcomes and whether more funding is the answer.

Australian Government funding for schools explained
The Review of Funding for Schooling (the Gonski Review) argued that a significant increase in funding by all governments was required to lift the performance of school students, particularly those from disadvantaged backgrounds.

The then Labor Government developed a new school funding system based on the Gonski Review’s recommendations for a new schooling resource standard (SRS) comprising per student funding and loadings to address student and school disadvantage. The long-term goal was for all schools to be at least funded at 95 per cent of their SRS by 2019.

The total amount of additional funding ($14.5 billion) to achieve this goal was to be phased in over six years, with the Australian Government contributing $9.8 billion (65.0 per cent) and state and territory governments the remainder. Most of the Australian Government’s funding was to be provided in the last two years of the transition period.

By the time of the 2013 election, however, only three state and territory governments had concluded agreements with the Australian Government to implement the new system (the non-government school sector automatically became part of the new system).

The Coalition Government and school funding
Following its election in 2013, the Coalition Government committed only to the first four years (2014 to 2017) of Labor’s school funding plan. It also applied the new funding arrangements to all state and territory government education systems, including those that had not concluded, or had rejected, agreements with the previous government. These jurisdictions were not required to meet the original agreement’s terms nor contribute additional funding.

The Government has indicated that it will change how schools are funded from 2018. Its vision for the future is outlined in its pre-budget statement, Quality Schools, Quality Outcomes. However, no detail about distribution arrangements, which will be a matter for negotiation with the states and territories, has been provided. Nevertheless, the process has already begun with the Government announcing that a new indexation rate, which is lower than the current rates, will apply to school funding from 2018.
Does funding matter in improving educational outcomes?

Those who question the benefit of additional expenditure in improving educational outcomes (including the Government in *Quality Schools, Quality Outcomes*) highlight the declining performance of Australian 15-year-olds in the Programme for International Student Assessment (PISA) vis-a-vis the significant increases in school funding.

The Australian Council for Educational Research (ACER) summary report on PISA 2012 shows the significant declines in mean mathematical and reading literacy performance. The former declined by 20 score points on average between PISA 2003 and PISA 2012 and the latter declined by 16 score points from PISA 2000 to PISA 2012. At the same time, Australian Government expenditure on schools grew by 70.0 per cent in real terms from 2000–01 to 2012–13 (see figure above).

The evidence

Both the proponents of increased school education expenditure and those that question its value in improving educational outcomes, can draw upon a substantial body of research to support their cases.

The proponents of ‘Gonski’ funding, such as the Australian Education Union in its report *Getting Results*, point to evidence that shows the importance of increased investment in improving educational outcomes, particularly for disadvantaged students. A number of anecdotal reports provide similar evidence.
International research also supports the argument for increased funding. A recent major review of this research, *Does Money Matter in Education*, concluded: ‘aggregate measures of per-pupil spending are positively associated with improved or higher student outcomes’. This review also found that schooling resources that cost money are ‘positively associated with student outcomes’.

In contrast, a PISA analysis, *Does Money Buy Strong Performance in PISA?*, concludes that higher expenditure on education does not guarantee better student performance. What is more important among high-income countries is how the resources are used.

This finding aligns with the tenor of recent Australian reports and commentary which examine strategies for improving educational outcomes, particularly for those from disadvantaged backgrounds. One example is the Grattan Institute’s *Orange Book 2016: Priorities for the Next Commonwealth Government*, which suggests that the key reforms to lift student outcomes are ‘well known’. These include focusing more on student progress and not just achievement, improving teaching practice in the classroom, and making ‘trade-offs’ to improve how and where money is spent.

A recent ACER report, *Five Challenges in Australian School Education*, concurs with the widely accepted view that what is important is how funding is targeted. However, the report does not completely reject the notion of increased funding:

‘... whether or not increased funding makes a difference depends on how it is applied. Our national challenge is to maximise the impact of government expenditure by targeting it on evidence-based strategies to improve performances in Australian schools.’

**The future**

The Government has proposed that future funding should be contingent upon state and territory governments maintaining their funding effort and committing to specific education reforms. The proposed new conditions for funding relate broadly to improving literacy and numeracy outcomes and the quality of teachers and teaching, including a focus on disadvantaged schools and science, technology, engineering and mathematics (STEM) subjects; and providing more foreign language teachers and access to languages education. There has been a mixed response to these proposed reforms and initiatives similar to these reforms have been endorsed by the Council of Australian Governments’ (COAG) Education Council and are already being implemented.

The proposed reforms and distribution arrangements for school funding will have to be negotiated through COAG, which has agreed that ‘discussions on new funding arrangements should be concluded by early 2017’.

Given the recent history of school funding reform efforts, it is likely that negotiating and implementing the new arrangements for school funding will be difficult.

**Further reading**

M Harrington, *Funding the National Plan for School Improvement: an explanation*, Background note, Parliamentary Library, Canberra, 26 June 2013.

Early childhood education and care

Michael Klapdor and Marilyn Harrington, Social Policy

Key Issue

The 45th Parliament will need to decide between competing approaches to the way in which government assists families with the costs of child care.

The future of early childhood education services will also have to be considered with the key national partnership agreement expiring in 2017.

Snapshot of child care in Australia

In 2015, around 1.2 million children were attending formal child care services. The median hourly fee for a long day care service in 2015 was around eight dollars an hour. A family with gross income under $100,000 per year would spend around ten per cent of their disposable income on child care if they had one child in care for 50 hours a week (after receiving government fee assistance). Child care fees have been increasing, on average, by around seven per cent per year over the last decade.

Australian Government assistance

The two main payments by which the Australian Government assists families with the cost of child care are Child Care Benefit (CCB) and Child Care Rebate (CCR).

CCB is income tested, paid at hourly rates and available to those using services approved by or registered with the Australian Government. Parents/carers must meet an activity test (work, training or study for at least 15 hours a week) to be eligible for more than 24 hours of CCB per child per week (up to a maximum of 50 hours per child per week). CCR is a non-means tested payment that covers 50 per cent of out-of-pocket costs of approved child care services up to a maximum of $7,500 per child per financial year. CCR has an activity test as well but there is no minimum hourly requirement.

The Government also provides payments to specific groups such as those on income support looking for work, and provides funding directly to some services which offer care to disadvantaged groups or in areas where it is otherwise unfeasible to operate.

The Government estimates that it will spend around $8.6 billion on CCB, CCR and other support for the child care system in 2016–17.

Jobs for Families package

In May 2015, the Abbott Government announced the most significant changes to fee assistance payments in more than 15 years: the Jobs for Families package. The package was in response to a Productivity Commission report on child care and early childhood learning. The package was later revised in December 2015, primarily to make it less generous to higher income earners.

The centrepiece of the package is the Child Care Subsidy (CCS) which would replace existing child care payments. The CCS would offer a payment based on a percentage of an hourly benchmark price or the actual child care service fee, whichever is lower, with the benchmark set by government and differentiating by service type. The benchmark would be based, initially, on average fees plus an additional loading. It would only be increased in line with inflation.
rather than in line with average fee increases. The rate offered varies by family income:

Table 1: Child Care Subsidy income test

<table>
<thead>
<tr>
<th>Annual family income</th>
<th>Subsidy rate-% of actual fee or benchmark (whichever is lower)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to $65,710</td>
<td>85%</td>
</tr>
<tr>
<td>&gt;$65,710 to &lt;$170,710</td>
<td>Tapering from 85% to 50% for each $3,000</td>
</tr>
<tr>
<td>$170,710 to &lt;$250,000</td>
<td>50%</td>
</tr>
<tr>
<td>$250,000 to &lt;$340,000</td>
<td>Tapering from 50% to 20% for each $3,000</td>
</tr>
<tr>
<td>≥$340,000</td>
<td>20%</td>
</tr>
</tbody>
</table>

Source: Department of Education and Training (DET), Overview: Jobs for Families child care package, DET, Canberra, 3 May 2016.

The hours of child care to be subsidised would be based on the number of hours per fortnight parents/carers spent in approved activities such as work, training, study, volunteering or looking for work. Eight to sixteen hours of activities would offer 36 hours of CCS per fortnight; 17–48 hours provides up to 72 hours of CCS; 49 hours+ provides up to 100 hours of CCS. For couples, the partner with the lower number of hours would determine the CCS entitlement. Families with income under $65,000, who do not meet the activity test, would be eligible for a maximum of 24 hours of CCS. Families with income over $185,000 would have their CCS entitlement capped at $10,000 per year.

Cost and timing

When first announced, the package was to cost an additional $3.5 billion over five years including $327.7 million for targeted support to disadvantaged and vulnerable families separate from the CCS. The Government stated that cuts to the Family Tax Benefit program would be used to fund the additional cost. The revised package saw a reduction in estimated expenditure in the first two years on the CCS of around $1.2 billion.

The CCS was originally intended to commence on 1 July 2017. However, in the 2016–17 Budget, the Government announced that the CCS would be deferred until 1 July 2018, citing the failure of the Senate to support the Family Tax Benefit savings.

Reform or patch-up

The Jobs for Families package represents a significant change in direction for child care funding aimed at better targeting assistance, slowing growth in costs for families, and providing simple levers for government to constrain costs. The package is expected to see an increase in parents’ workforce participation—but the increase in labour supply is projected to be relatively small given the $2 billion in additional expenditure on the package its first two years. Criticisms have been made of the activity test, the method for setting the benchmark price, and the number of families worse off under the changes.

At the 2016 election the Australian Labor Party (Labor) committed to using the expenditure allocated to the Jobs for Families package for a new child care policy to commence from 1 January 2017, which includes: increasing CCB rates by 15 per cent, increasing the annual CCR cap from $7,500 per child to $10,000 per child and new administrative powers to constrain excessive fee increases.

Labor’s proposals do not address key issues with the current system identified in the Productivity Commission’s report such as the complexity of the payment system, poor targeting of some programs, and long-term fiscal sustainability. However, the proposals would deliver more immediate relief to families with the costs of child
care. While the Government’s policy offers an improvement on the existing system—in terms of simplification and increased assistance to most families—and comes with a sizeable amount of additional investment in child care, there remain issues with its design and the fact that the additional funding is to be drawn from other forms of family assistance. While the Family Tax Benefit cuts do not affect higher income families, low and middle-income families will see the benefits of the CCS partly offset by reductions to these other payments.

**Early childhood education—is Australia doing enough?**

The imperative for good quality early childhood education (ECE), particularly for children from disadvantaged backgrounds, is undisputed.

A recent Organisation for Economic Co-operation and Development report, *What Are the Benefits From Early Childhood Education*, reasserts the benefits of ECE (preschool). It also presents evidence about the long-term benefits of ECE participation as shown by the performance of 15-year-old students in the 2009 Programme for International Student Assessment (PISA). An Australian study of national literacy and numeracy tests (NAPLAN) results, *Early Bird Catches the Worm*, also showed the positive effect of ECE participation.

State and territory governments have primary responsibility for the funding of ECE services. This funding, since 2009, has been augmented by the Australian Government through a series of short-term national partnerships (NPs). The current NP will provide $840.0 million from 2016 to 2017.

Through the NPs, all governments have committed to ‘universal access’ to ECE. The aim is to provide every child with access to a quality ECE program of 15 hours per week or 600 hours in the year prior to full-time schooling.

A question remains, however, as to whether Australia is doing enough in ECE provision. According to the *Australian Early Development Census National Report 2015*, which assesses children in their first year of school, about one in five children were developmentally vulnerable in one or more areas (domains).

A review found that, in 2013, most jurisdictions were not meeting the NP enrolment targets for disadvantaged and Indigenous children in 2013; hence, the current NP’s focus on these children. There is also concern from state and territory governments and ECE services about the NP’s continuing short-term nature which, it is claimed, has led to increased uncertainty for service delivery and impedes long-term planning.

Australia’s ECE provision is not keeping up with that of other countries. Professor Edward Melhuish from Oxford University is amongst those who argue that Australia is being left behind—other countries are now providing two years of ECE.

**Further reading**


Increasing participation in tertiary education
James Griffiths and Marilyn Harrington, Social Policy

Key Issue
Government policies to increase participation in higher and vocational education and training have had mixed results. Three main areas of concern have emerged: containing the cost to government, ensuring quality education and reducing student debt.

Increasing access to tertiary education

The tertiary education sector comprises higher education (university) and vocational education and training (VET). It is a diverse sector, including public and private universities, state and territory government technical and further education (TAFE) institutes and private VET providers.

Since 2007, significant government efforts have been made to increase participation in the tertiary education sector. In higher education, this has been through the creation of an uncapped demand-driven system for bachelor-degree places. This means, in part, that the Government no longer places limits on the number of undergraduate students public universities can enrol. In VET, this has been through the introduction of contestable funding (where public and private providers compete for funds), and by expanding student loans to the VET sector through the VET FEE-HELP program.

The graph below shows the number of new higher education students has increased steadily since the uncapped demand-driven system was progressively implemented from 2009.

The spikes in new VET students shown in the graph may be partly explained by the progressive implementation of VET reforms from 2009 to 2012. However, since 2012, the number of new VET students has noticeably fallen. Peter Noonan from the Mitchell Institute has attributed the fall to declining funding, VET competition with universities, increased training fees and ‘a rationalisation of programs—particularly at TAFEs—that had moved some courses further away than many students were prepared to travel’.

Figure 1: Commencing domestic students in tertiary education, 2007 to 2014

Note: VET commencing students are mostly domestic students. Source: Parliamentary Library, using data from the Department of Education and Training (Higher Education Data Collections) and National Centre for Vocational Education Research (Government-funded students and courses) online datasets.

Containing the cost of tertiary education

Costs to government

The increases in the number of government-supported higher education and VET students have been accompanied by significant increases in government expenditure. In higher education, the Review of the Demand Driven Funding System...
reported that uncapping bachelor places had increased the cost to government from $4.1 billion in 2009 to $6.1 billion in 2013. The Review estimated that the cost would reach $7.2 billion by 2016–17. In VET, the most recent VET FEE-HELP statistical report shows that the value of loans increased from $25.6 million in 2009 to $1.8 billion in 2014.

Higher education

In an attempt to contain costs, the Government proposed widespread changes to higher education in the 2014–15 Budget, including an average 20 per cent reduction in student subsidies. Although these measures have not been legislated, their projected savings continue to appear in the budget forward estimates.

The Government’s recent discussion paper, Driving Innovation, Fairness and Excellence in Australian Higher Education, reconsiders the 2014–15 budget proposals and presents other options for reform. These options include reductions in government subsidies, changes to the Higher Education Loan Program (HELP) and limited fee deregulation for ‘flagship courses’, whereby institutions could be given the freedom to set fees for ‘a small cohort of their students enrolled in identified high quality, innovative courses’. Notably, the Government has ruled out fee deregulation across the entire higher education sector as a means to contain costs.

The options proposed in the discussion paper have met with a mixed response. The Group of Eight (Go8) and the Regional Universities Network, for instance, oppose the idea of flagship degrees, concerned that they would create a two-tier university system.

Vocational education and training

The Mitchell Institute’s response to the Government’s discussion paper, Redesigning VET FEE-HELP, suggests that the expansion of student loans to the VET sector has led to cost-shifting by some of the states for some courses. The states and territories have been able to reduce the number of places they subsidise, with students able to access Commonwealth VET FEE-HELP loans instead.

Ensuring quality in tertiary education

Higher education

The quality of the student cohort is an issue in higher education. More students with lower Australian Tertiary Entrance Ranks (ATARs) are being accepted into university. Coinciding with the introduction of the uncapped demand-driven system, the share of offers to applicants with ATARs of 50 per cent or less increased from 1.6 per cent (3,607 applicants) in 2012 to 4.4 per cent (9,723 applicants) in 2016.

To address concerns that students are being accepted into courses for which they are not academically prepared, the Minister for Education and Training asked the Higher Education Standards Panel (HESP) to provide advice about ways to improve the transparency of higher education student admissions policies. The Go8 universities support the HESP’s recommendations, including the proposal to publish minimum, median and maximum ATARs for every degree. The Go8 has also suggested the publication of student progression rates.

Vocational education and training

In VET, the issue of quality relates to both students and providers. Contestable government funding has created an incentive for new providers to enter the VET market, although the evidence on whether this has occurred is mixed. Also, the Victorian Registration and Qualifications Authority recalled almost 10,000 VET qualifications in 2014 and 2015 ‘because of concerns about poor training and standards breaches’. A recent Senate inquiry also
examined the private VET sector and found the national regulator, the Australian Skills and Quality Authority (ASQA), was struggling to adequately regulate the sector, protect the rights of students and act firmly and quickly to stamp out abuses.

Declining rates of VET course completions, in part due to the suitability of students for courses, is also an issue for the sector. In response, the Government has implemented new minimum literacy and numeracy standards for VET FEE-HELP students and made other amendments to the scheme.

Reducing tertiary student debt

The Grattan Institute’s report, *Doubtful Debt: the Rising Cost of Student Loans*, shows that the proportion of unpaid student loan debt is increasing. It estimated that by 2017 the Government will have $13.0 billion in loans that it does not expect to collect (known as ‘doubtful debt’). One reason for this debt is the repayment threshold—some debtors will never earn more than the income threshold or will do so for too few years to repay all their debt. The major cause of the amount of doubtful debt, however, is that HELP debts in deceased estates are written off.

The Government’s proposal to reduce the current repayment threshold from $54,869 to $50,638 has bipartisan support and there is also some support for collecting HELP debts from deceased estates.

A major concern for the VET sector is providers who have used unethical sales techniques to sign up students to a VET FEE-HELP loan. These students may have no hope of repayment. The Government’s proposals in its discussion paper, *Redesigning VET FEE-HELP*, are intended to redress unethical provider practices. Meanwhile, the Australian Competition and Consumer Commission has launched legal action against five VET FEE-HELP providers.

Future directions for tertiary education

It is not clear if, or how, the higher education system will be changed based on the options presented in the Government’s discussion paper. The Go8 asserts that the uncapped demand driven system has ‘harmed the economy, diminished the value of higher education, and created the false view that anyone without a degree is a “failure”’. However, there appears to be little political appetite to restore caps on university places.

The process of VET reform has already begun with the Government’s recent changes to VET FEE-HELP. However, the future of the scheme is still under consideration as canvassed in the Government’s recent tertiary education discussion papers. A new National Partnership (NP) with the states and territories will also have to be negotiated to replace the existing (NP) Agreement on Skills Reform, which is scheduled to expire in 2017. The sustainability of TAFEs also remains an issue.

Further reading


Aged care—reforming the aged care system
Alex Grove, Social Policy

Key Issue
Demand for aged care is growing as the population ages, with a corresponding increase in Australian Government expenditure.

Aged care issues look set to feature strongly in the 45th Parliament. A review of recent reforms will be conducted and tabled in parliament, major changes to home care will commence in 2017, and further reforms have already been foreshadowed.

Increasing demand for aged care
The Australian Government is the primary source of funds for, and regulator of, the aged care system. Care is provided in people’s homes or in a residential (nursing home) setting by more than 2,000 not-for-profit, for-profit and government providers.

Recurrent government expenditure on aged care services was around $15.8 billion in 2014–15, with the Australian Government providing approximately 95 per cent of this funding. Expenditure is contained by capping the number of subsidised aged care places in line with growth in the population aged 70 years or over (aged care services are generally aimed at people aged 65 or over, but the average age of consumers is considerably older). As the figure below shows, the number of people aged 70 years and over is projected to grow from 2.5 million in 2016 to 3.6 million in 2026, requiring more subsidised places. In the longer term, demand for aged care services is expected to more than treble by 2056.

Review of the 2012 reforms
The Productivity Commission (PC) released a report in 2011 recommending significant changes to the aged care system to improve access, quality and choice of services, and financial sustainability. The then Labor Government incorporated some of the PC’s recommendations in its 2012 Living Longer, Living Better (LLLB) reform package. The first wave of LLLB reforms required consumers to contribute equitably to the cost of their care and accommodation, placed a greater focus on individualised care and established the My Aged Care website and call centre to help people navigate the system. The longer term goal was to create a more flexible and integrated aged care system driven by consumer choice, with less government regulation.

The LLLB reforms are now due for review. The legislation (section 4) requires an independent review commencing around August 2016 to be tabled in parliament in 2017. The review will consider matters such as demand for and supply of places, means testing, pricing, access, and workforce strategies. It may also consider issues that have emerged since
the reforms were enacted, such as the recent tightening of the funding formula for residential aged care providers.

Changes to care in the home

Significant changes to aged care services provided to people in their homes are set to commence in 2017. From 27 February 2017, packages of home care services will be allocated directly to eligible consumers. This means that consumers will no longer have to search for a provider that has a package available in their area, as they will be able to direct the funding attached to their package to a provider of their choice. While this should increase consumer choice and market competition, questions have been raised about the capacity of consumers to make an informed choice if their decision-making capacity is reduced, or if comparative information on providers is not readily available. The changes to home care may also focus attention on unmet demand, as a national waiting list for home care packages will be created for the first time.

Further changes to home care were flagged in the 2015–16 Budget, with a proposal to merge home care packages with the entry level Commonwealth Home Support Programme from 2018. Legislation for the proposed merger has not yet been introduced, but may come before the 45th Parliament for consideration.

Calls for further reform

Aged care stakeholders look set to campaign for further structural reform of the aged care system during the 45th Parliament. In April 2016, the Aged Care Sector Committee produced a Roadmap at the request of then Assistant Minister for Social Services, Mitch Fifield, calling for wide-ranging changes to make the system more sustainable, consumer-driven and market-based. This included some proposals that were recommended by the PC in 2011 but not adopted by government, such as uncapping the number of subsidised places, and releasing equity in the family home to pay for aged care. Such proposals could come with a degree of fiscal or political risk.

It is likely that aged care workforce issues including employee remuneration and retention, and whether workforce growth will be able to keep pace with rising demand for services, will continue to be a focus for the parliament. The Senate inquiry into the future of Australia’s aged care sector workforce did not report prior to the dissolution of parliament, and may resume its inquiry in 2016.

The aged care system has undergone significant reforms since 2012. Given the increasing demand for services, ongoing cost and workforce pressures, and stakeholder calls for further reform, this rapid pace of change is expected to continue during the 45th Parliament.

Further reading


Medicare and health system challenges

Amanda Biggs, Social Policy

Key Issue

Medicare was a key election issue with concerns about privatisation, bulk billing incentives and the rebate freeze capturing attention. While these remain pertinent, other issues affecting Medicare and the health system are also likely to come before policy makers in this term of parliament.

Medicare was a high profile issue during the election—claims that the Government was intending to privatise the Medicare payments system, the Medicare rebate freeze and changes to bulk billing incentives all generated significant debate. The Prime Minister subsequently ruled out major changes and committed to Medicare’s full retention. Notwithstanding this commitment, Medicare and the health system will face a number of challenges during this term of parliament.

Cost pressures on the Commonwealth

The Australian health system performs comparatively well internationally—life expectancy is the sixth highest among Organization for Economic Cooperation and Development (OECD) countries. At 8.8 per cent of GDP, Australia’s total expenditure on health (including government and private sources) remains close to the OECD average of 8.9 per cent. But it is expected to rise. The Intergenerational Report 2015 forecasts that Commonwealth spending on health is projected to grow from 4.2 per cent of GDP to 5.5 per cent by 2054–55. This growth will be driven largely by non-demographic factors: higher incomes (which drive consumption), health sector wage increases and technological change. This means that keeping health spending efficient and sustainable over the period will be a key challenge.

Out of pocket costs

While the 2014–15 Budget’s $7 patient co-payment on bulk billed services (with exemptions) has been abandoned, a $5 co-payment on subsidised medicines remains. Proposals to increase patient out-of-pocket costs, however, raise concerns that high costs deter people from seeking needed health care. Patient out-of-pocket costs account for around 20 per cent of overall health expenditure—a rate close to the OECD average, but considerably higher than New Zealand and the United Kingdom. According to the Australian Bureau of Statistics, nationally around five per cent of people who needed to see a general practitioner (GP), delayed or did not go due to cost. In some regions the rate was almost twice as high.

Some argue the effect of the Medicare rebate freeze introduced in 2013–14 and extended to 2020 in the most recent Budget, is a ‘co-payment by stealth’. Doctor groups such as the Australian Medical Association warn that the freeze is unsustainable and will force doctors to abandon bulk billing and pass costs on to patients. So far, the national bulk billing statistics show bulk billing rates for GPs remain high. Nevertheless, reports of GPs abandoning bulk billing and patients attending emergency departments for GP-treatable conditions are emerging.
Parliament’s capacity to overturn the rebate freeze is limited. It can move to disallow the regulations that specify the fees for Medicare services. But disallowance would revive the previous regulation which specifies fees that have themselves been frozen at the same level. A further complication is that the regulation itself has a finite life—expiring after 12 months and 15 sitting days.

**Chronic disease**

Another challenge will be addressing the rise of chronic disease. New approaches, such as the Health Care Home model as proposed by the Primary Health Care Advisory Group (see article elsewhere in the Briefing Book), warrant consideration. A greater emphasis on prevention has also been urged. One option that has been suggested is a sugar tax. In 2014, Mexico imposed a tax on sugary drinks and other countries, including the United Kingdom (UK), have begun to follow. Early evidence suggests the Mexican tax has reduced soft drink consumption, but evidence of impacts on weight is yet to emerge.

**Improving efficiency**

Meanwhile, initiatives to improve efficiency and reduce wastage in the health system continue. The Medicare Benefits Schedule Review Taskforce is reviewing the 5,700 Medicare funded services against best clinical practice and removing services for which the evidence base is poor. The interim report of this Taskforce recommended the removal of 23 items, with more recommendations likely by year’s end, when its next report is due. However, in the current political climate any changes to Medicare are likely to face considerable scrutiny, particularly proposals for further deletions.

**Role of private health insurance**

Reforms to private health insurance may come before the Parliament, following the recent consultation process. Improving consumer value and providing better product information are likely to be a major focus for the Government. Meanwhile, insurers will be keenly pursuing policies that address their cost pressures, such as reforming the pricing of prostheses. However, proposals for private health insurers to play a greater role in primary care—such as in chronic disease management—could be contentious. Doctor’s groups remain wary, and some are concerned it could lead to the ‘Americanisation’ of the health system, and the erosion of the Medicare principle of universality.

**Unpassed budget measures**

Health measures from the 2016–17 Budget will also need to be considered. This includes the proposal to replace the means-tested Child Dental Benefits Schedule funded through Medicare, with a new state-run public dental scheme to be established under a National Partnership Agreement with the states and territories. Legislation to enact this was introduced in May but lapsed when Parliament was dissolved. In addition, previously presented but unpassed measures from earlier budgets, such as the 2014–15 budget proposal for a single Medicare Safety Net may be re-submitted. This legislation was introduced in 2015, but lapsed at prorogation.

**Rural and regional challenges**

Providing accessible and affordable health care to residents of rural and regional areas remains a high priority for many policy makers. Many of these areas lack ready access to Medicare funded services as a result of the distribution of the medical workforce. The health problems of Aboriginal and Torres Strait Islander people,
who face particular sociodemographic, cultural and language barriers may also gain greater consideration in the new Parliament with the election of several Indigenous members and senators.

**Mental health**

Improving the care of those with mental illnesses is another pressing issue. The National Mental Health Commission proposed the development of a new ‘stepped care’ model providing a range of help options of varying intensity to match people’s needs. But mental health reform will be challenging. Questions have been raised over the role of Primary Health Networks which will commission mental health services and how these will integrate with other services, with concerns that some patients may fall through the gaps. In addition, the National Disability Insurance Scheme trials have raised concerns in the mental health sector around workforce issues, funding and the pace of change the sector faces.

**Hospital funding**

It will be important to resolve the future of public hospital funding after 2020, when the recently signed COAG agreement expires. The Turnbull Government’s decision to reverse the contentious 2014–15 budget measure that replaced activity based funding with CPI and population growth as the basis for hospital funding for the life of the agreement, was welcomed by many. But future funding arrangements will still need to be agreed between the Australian Government and the states and territories.

**Pharmaceuticals**

The Parliament passed significant reforms to Pharmaceutical Benefits Scheme (PBS) pricing in 2015 to coincide with the signing of the Sixth Community Pharmacy agreement. While some issues may not be revisited until the signing of the next agreement in 2020, the listing of new medicines will continue to impose cost pressures on the PBS. The review of pharmacy remuneration and regulation, which is currently underway, may also reinvigorate debate on issues such as the Pharmacy Location Rules that regulate where pharmacies can operate.

These, and other health issues, look likely to feature prominently in the work of the upcoming Parliament.

**Further reading**


A new way to address chronic disease in primary care

Amanda Biggs, Social Policy

Key Issue
The rise in chronic diseases is putting health budgets under pressure and placing growing numbers of Australians at risk of serious complications and early death. Improving the management of chronic diseases in primary care is urgently needed. The ‘medical home’ model is a promising approach, but it faces a number of challenges.

A key issue facing policy makers is curbing the impacts of the rise in chronic diseases. Chronic diseases are long-term conditions with persistent, negative health effects. They include cancer, arthritis, cardiovascular disease, type 2 diabetes, asthma, mental illness and dental conditions. The Australian Institute of Health and Welfare (AIHW) estimates that in 2011, 90 per cent of deaths in Australia had a chronic disease as an underlying cause. It also found that half of all Australians have a chronic disease and 20 per cent have at least two, and the incidence is associated with ageing. Chronic diseases are complex and expensive to manage. In 2008–09, the management of cardiovascular diseases, oral health issues, mental disorders and musculoskeletal conditions alone cost the health system $27 billion. Importantly, many chronic diseases are preventable—31 per cent of the burden of disease is attributable to lifestyle factors such as smoking, overweight and obesity, alcohol, physical inactivity and high blood pressure.

As the first point of medical care, primary care plays a key role in preventing, delaying and reducing the progression of chronic diseases. Australia has a well-developed primary care sector with general practitioners (GPs) at the centre. GP services are funded primarily through the Medicare Benefits Schedule (MBS), largely on a fee-for-service basis. Fee-for-service is considered appropriate for treating episodic, acute illnesses but not considered optimal for managing chronic diseases.

Various approaches to better manage chronic diseases through the MBS have been implemented. In 2004, services provided by allied health providers such as physiotherapists, dieticians and others were added to the MBS under the Enhanced Primary Care package. Team-based care for managing chronic disease was strengthened in 2005 with the addition of a number of chronic disease management (CDM) items to the MBS. Practice incentive payments (PIP) which encourage GPs to better manage patients with asthma and type 2 diabetes are also available.

Despite these initiatives there remains room for improvement. The Grattan Institute estimates that only 25 per cent of patients with type 2 diabetes get the recommended monitoring and treatment for their condition while poor management of chronic disease is estimated to cost $320 million annually. Recognising that improvements were needed, the Government established a Primary Health Care Advisory Group (PHCAG) in 2015 to examine ‘innovative care models for target groups such as those with complex, chronic disease’.
The PHCAG report was provided to Government in late 2015. It recommended trialling a new model of care for patients with chronic diseases—the Health Care Home (HCH)—and new payment structures to incentivise care and replace traditional fee-for-service payments. The HCH model involves the voluntary enrolment of a patient with a main provider (usually their GP) who coordinates all aspects of their care, and ensures care is flexible and team-based. Patients would be supported to become partners in their care. The aim is to minimise preventable hospitalisations and provide more integrated and coordinated care. Similar models have been developed in overseas jurisdictions notably the US (where it is known as the patient-centred medical home or PCMH), the UK, Canada and NZ.

The Government broadly accepted the PHCAG’s recommendations. In March 2016, the Health Minister announced $21 million for a two year trial of HCHs involving 200 medical practices and 65,000 patients, supported by Primary Health Networks (PHNs) and commencing in July 2017. A flexible payment structure comprising upfront and quarterly payments to participating GPs that would replace fee-for-service payments for these patients is proposed.

There is broad support politically for the medical home model. During the 2016 election campaign the Labor Party proposed ‘Your Family Doctor’ which it described as a patient-centred medical home (PCMH)—similar to the HCH. It also includes voluntary enrolment and a key role for PHNs. The Greens also support voluntary enrolment for patients with chronic diseases; their policy proposes to pay GPs $1,000 for each enrolled patient.

The trial of the HCH now looks set to be implemented but it may face challenges. The HCH model relies on newly established PHNs to manage implementation, but their capacity to do this remains unclear. To make patients partners in care, the empowerment of patients and their carers will be critical. There will be an urgent need to improve health literacy among patients. ABS data (2009) shows that just 41 per cent of adults were assessed as having adequate health literacy but among those with fair or poor self-assessed health, only one quarter had adequate health literacy. Research indicates that social disadvantage is linked to poor health literacy, and older Australians are particularly vulnerable because they are more likely to experience both poor health literacy and a higher incidence of chronic diseases.

Improving co-ordination of care will require better take-up of electronic health records and improved data collection, but progress is hampered by a number of challenges. How enrolled patients in the HCH will interact with other parts of the health and social services sectors such as the aged care sector and the National Disability Insurance Scheme (NDIS), also needs careful consideration given these sectors are also undergoing changes. The extent to which traditional fee-for-service items on the MBS would be available to enrolled patients for medical treatment unrelated to their chronic disease is also unclear. Some have warned that the trial requires greater funding. Lastly, a sound evaluation will be needed that also allows enough time for lessons to be learned.
Meanwhile, the evidence around the medical home model is inconclusive. Evaluations of the patient-centred medical home model in the US show variation in outcomes; possibly reflecting its still embryonic development and experimental implementation. While some studies do show positive outcomes, one study of Ontario’s medical home model found GPs engaged in ‘cherry picking’ healthier patients at the expense of sicker patients, resulting in gaps for vulnerable groups and suboptimal access to care.

The HCH trial is unlikely to require legislation.

Further reading

World Health Organization (WHO), Preventing chronic diseases: a vital investment, 2005.


Migration—the Australian migration flows and population
Janet Phillips, Social Policy and Joanne Simon-Davies, Statistics and Mapping

Key Issue
In February 2016, Australia’s estimated resident population (ERP) reached 24 million. More than one quarter (28.2%) of Australia’s resident population was born overseas—a level that is considered very high compared to most other OECD countries.

Australia’s population
Over the past ten years the annual population growth rate has been in a period of flux, reaching its peak in 2008 with the highest-ever recorded annual growth rate of 2.2%. In the following seven years the rate was in decline, dropping to 1.8% in 2009 and 1.4% in 2010, before briefly rising in 2012 to 1.8%. It is currently at 1.4% (as at December 2015).

The growth in the Australian population comprises two components:
- natural increase—births minus deaths and
- Net Overseas Migration (NOM)—the net gain or loss of the population through immigration to Australia and emigration from Australia. NOM includes both permanent and long-term (greater than 12 months) arrivals and departures.

The relative contribution these two components make has changed. For example, in 1985 the natural increase represented 58.5% of Australia’s population growth and NOM 41.5%. By 2015, natural increase represented only 45.7% of Australia’s population growth, with NOM at 54.3%. Interestingly, the NOM increase in recent years has been driven by people staying in Australia on long-term temporary visas, such as overseas students and temporary skills migrants (temporary migration is discussed in more detail elsewhere in this Briefing Book).

Figure 1: Annual population growth rate: Australia, 1985 to December 2015

Figure 2: Components of Australia’s population, 1985 to 2015
As Figure 2 shows, in 2008—the year Australia experienced its highest level of annual growth since the early 1970s (2.2%)—natural increase was at its lowest (33%) and NOM at 67%.

Migration flows

Since 1945, over 7.5 million people have settled in Australia, helping to establish it as one of the most culturally diverse and multicultural countries in the developed world. Currently, the Australian Bureau of Statistics (ABS) estimates that 28.2% of Australia’s resident population was born overseas—a level that is considered very high compared to most other OECD countries.

Today, Australia’s migrants enter via one of two formal programs managed by the Department of Immigration and Border Protection (DIBP)—the Migration Program for skilled and family migrants, or the Humanitarian Program for refugees and those in refugee-like situations. Each year, the Australian Government allocates places (quotas) for people wanting to migrate permanently to Australia under these two programs. For several years the planning figure for the Migration Program has been set at a record high level of 190,000 places, with the majority of the available places allocated to the skill stream which is designed to attract migrants with desirable skills in order to relieve skill shortages in Australia.

### Table 1: Migration Program visa grants since 2000–01

<table>
<thead>
<tr>
<th>Year</th>
<th>Family</th>
<th>Skill</th>
<th>Special Eligibility</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000–01</td>
<td>33 470</td>
<td>44 730</td>
<td>2 420</td>
<td>80 610</td>
</tr>
<tr>
<td>2001–02</td>
<td>38 090</td>
<td>53 520</td>
<td>1 480</td>
<td>93 080</td>
</tr>
<tr>
<td>2002–03</td>
<td>40 790</td>
<td>66 050</td>
<td>1 230</td>
<td>108 070</td>
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<tr>
<td>2003–04</td>
<td>42 230</td>
<td>71 240</td>
<td>890</td>
<td>114 360</td>
</tr>
<tr>
<td>2004–05</td>
<td>41 740</td>
<td>77 880</td>
<td>450</td>
<td>120 060</td>
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<td>45 290</td>
<td>97 340</td>
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<td>142 930</td>
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<td>50 080</td>
<td>97 920</td>
<td>200</td>
<td>148 200</td>
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<td>49 870</td>
<td>108 540</td>
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<td>158 630</td>
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<td>2008–09</td>
<td>56 366</td>
<td>114 777</td>
<td>175</td>
<td>171 318</td>
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<tr>
<td>2009–10</td>
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<td>107 868</td>
<td>501</td>
<td>168 623</td>
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<td>2010–11</td>
<td>54 543</td>
<td>113 725</td>
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<td>60 185</td>
<td>128 973</td>
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<tr>
<td>2013–14</td>
<td>61 112</td>
<td>128 550</td>
<td>338</td>
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<tr>
<td>2014–15</td>
<td>61 085</td>
<td>127 774</td>
<td>238</td>
<td>189 097</td>
</tr>
</tbody>
</table>

Source: J Phillips and J Simon-Davies, Migration to Australia: a quick guide to the statistics, Parliamentary Library, Canberra, 2016

While Australia has always been one of the world’s major ‘immigration nations’, there have been some marked changes to the composition of its migration flows in recent years. Historically, the majority of Australia’s overseas-born residents came from the UK or Europe, but this pattern has shifted significantly. Although the majority of Australia’s overseas-born residents originate from the UK, the numbers are declining—making way for an increasing number who were born in Asia, particularly China and India. In terms of new (permanent) migrants, for the first time in Australia’s history, entrants from China overtook those from the UK in 2010–11.
The following year, migrants from India took out the top spot for the first time.

Another significant development in Australia’s migration story is the growth in the numbers of temporary migrants entering the country. Temporary migrants eligible to stay long-term (12 months or more) and work for varying periods of time include skilled (subclass 457) workers, overseas students and working holiday makers. In addition, under the Trans-Tasman Travel Arrangement, New Zealanders are free to visit, live and work in Australia. As a result, New Zealanders also feature highly in Australia’s settler arrival statistics, but it is important to note that they are not considered permanent migrants (or included in the Migration Program statistics) unless they apply for (and are granted) a permanent visa.

Further reading


Migration—issues for Australia’s migration program

Harriet Spinks, Social Policy

**Key Issue**

Australia has a long tradition of immigration, and has for many years welcomed permanent migrants from all over the world under its managed migration program. Recent years have seen significant growth in the numbers of temporary migrants coming to Australia through uncapped, demand-driven programs such as the 457 visa program. There is an increasing trend for these temporary migrants to eventually settle here permanently.

Australia has a long history of welcoming migrants, and has for many years run a highly managed permanent migration program, with annual quotas for both skilled and family reunion migrants. In 2016–17 the migration program planning level is for 190,000 places; where it has been for the last five years. Around two-thirds of the permanent migration program is set aside for skilled migrants, with the remaining third allocated to family reunion migrants. There is a separate quota for the humanitarian program, discussed elsewhere in this briefing book.

The last two decades have seen significant growth in the numbers of temporary migrants coming to Australia, the majority as either temporary skilled workers or overseas students. This growth in temporary migration has led to what is perhaps the most significant shift in immigration to Australia in the last 60 years—a move to what is frequently termed ‘two-step migration’. Under this process, migrants come to Australia initially on a temporary visa and then later (potentially after many years) transition to permanent residency.

**Temporary and two-step migration**

Most of Australia’s long-term temporary migrants come here as temporary skilled workers (on the subclass 457 visa), overseas students, or working holiday makers. Unlike the permanent migration program, for which annual quotas apply, temporary migration categories are uncapped, demand-driven programs. This means that numbers fluctuate each year according to the number of people wishing to come to Australia and the number of overseas workers needed by Australian business to fill local labour market gaps.

![Figure 1: Visa grants to 457 visa workers, overseas students and working holiday makers, 1996-97 to 2014-15](image)


Immigration Department statistics indicate that increasing numbers of temporary migrants are transitioning to permanent residency. Figure 2 shows the numbers of permanent skilled visas granted each year, over the last ten years, to people who were
offshore (outside Australia) at the time of visa grant, and people who were onshore (in Australia on a temporary visa). During this period the proportion of permanent skilled visas granted to people already in Australia on a temporary visa has grown significantly.

Figure 2: Permanent skill stream visa grants to offshore and onshore applicants, 2004-05 to 2014-15

![Graph showing visa grants to offshore and onshore applicants]

Source: Department of Immigration and Border Protection, Report on the migration program (various years) and Population flows (various years).

Policy considerations

This two-step migration process has many potential benefits, and has been encouraged by successive Governments as a means of allowing Australia to ‘try out’ potential migrants before allowing them to stay permanently. For the migrants, it offers the chance to test out life in Australia before deciding whether to make a permanent move.

However, there are also potential problems with this process. There is evidence that temporary migrants are vulnerable to workplace exploitation. The report of a recent Senate Standing Committee inquiry into Australia’s temporary work visa programs found that exploitation was a serious problem for temporary migrants, and made several recommendations aimed at improving the protection of temporary migrants in the workplace. The Government had not formally responded to the report prior to the election.

The growth in the number of temporary migrants coming to Australia has also caused concern in some quarters about the impacts on the local labour market. Further concerns relate to the settlement and integration of temporary migrants.

Recent reforms to the 457 visa program include those made in response to a 2014 independent review, which was tasked with investigating ways of improving the program’s integrity while minimising the compliance burden on participating businesses. The government agreed to most of the review’s recommendations, and has implemented several of them to date.

It is likely that temporary migration, and in particular the 457 visa program, will continue to be the subject of debate and reform, in response to ongoing concerns about how best to balance employers’ needs for migrant workers, with the protection of both local and overseas workers.

Further reading


Immigration—issues for Australia’s humanitarian program
Janet Phillips, Social Policy and Elibritt Karlsen, Law and Bills Digest

Key Issue

Australia has a long history of accepting humanitarian entrants and is one of only a handful of industrialised countries in the world that participate in the formal refugee resettlement program administered by the Office of the United Nations High Commissioner for Refugees (UNHCR). However, Australia’s asylum seeker policies, in particular the offshore processing arrangements in Nauru and Papua New Guinea (PNG), remain controversial.

Australia’s humanitarian program

Since 1945, when the first federal immigration portfolio was established to administer Australia’s post-war migration program, 7.5 million people have settled here—including over 800,000 refugees and other humanitarian entrants.

Today, there are two formal programs administered by the Department of Immigration and Border Protection to facilitate the entry of Australia’s permanent migrants—the Migration Program for skilled and family entrants, and the Humanitarian Program for refugees and other humanitarian entrants (the Migration Program is discussed elsewhere in this Briefing Book).

The Humanitarian Program has two main components—offshore and onshore. Most offshore refugees are referred to Australia for resettlement by the UNHCR.

The 1951 Convention Relating to the Status of Refugees (Refugee Convention) defines a ‘refugee’ as any person who:

…owing to well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

These entrants are formally resettled in Australia under the ‘Refugee’ category. The Special Humanitarian Program also offers places to people who may not be refugees, but who face human rights abuses in their home country and have a connection with Australia.

The onshore component of the Humanitarian Program offers protection to people who have arrived in Australia, lodged an asylum claim, and been granted protection. Onshore entrants may have been found to be refugees under Refugee Convention criteria or may otherwise engage Australia’s protection obligations under other human rights conventions. Statistics on humanitarian entrants are available back to the 1940s. The following table provides figures since 2000–01:
Responding to irregular maritime arrivals

Australia has a highly managed migration system and public perceptions or concerns over boat arrivals of unauthorised asylum seekers continue to strongly influence government policy. In response to rises in the number of unauthorised boat arrivals in Australian waters between 2001 and 2013, there has been increasing pressure on both Coalition and Labor governments to adopt and maintain measures that are seen to deter future boat arrivals, address border security concerns and combat people smuggling.

Both major parties agree on most of the key measures that have been put in place to deal with these issues, including mandatory immigration detention for unauthorised arrivals—introduced in 1992 by the Keating (Labor) Government—and offshore processing arrangements in the Pacific—first introduced by the Howard (Coalition) Government in 2001 and reintroduced by the Gillard (Labor) Government in 2012. Currently, the only major policy difference centres on whether onshore asylum seekers found to be refugees should be offered temporary or permanent protection visas in Australia.

Since forming government in 2013, the Coalition has continued to pursue the regional processing arrangements in Nauru.
and PNG and there are currently about 1,300 asylum seeker transferees being processed offshore. The Government has made it clear that these asylum seekers will not be able to settle in Australia, arguing that this would act as a pull factor to other unauthorised boat arrivals. As a result, there are limited resettlement options for this cohort—most of whom have been accommodated in regional processing centres since the second half of 2013.

Australia’s offshore processing regime has been the subject of vigorous debate for some time. Critics have highlighted evidence of poor mental health outcomes for long-term detainees and note the risk of physical harm in the centres, particularly for women and children in the Nauru centre. With public concerns escalating, and a new legal challenge in the High Court of Australia arising from the recent PNG Supreme Court ruling that the PNG centre was unconstitutional, there is significant pressure on the Government to come up with effective resettlement solutions for those affected by this policy. It is highly likely that this issue will continue to challenge the Parliament.

The Expert Panel on Asylum Seekers established in 2012 to advise the Australian Government on ‘the best way forward’, acknowledged the complexities of the issues arising from the arrival of asylum seekers by boat, noting that there ‘were no quick or simple solutions’. The panel argued for an integrated suite of short-term and long-term proposals that included deterrence measures such as the reintroduction of an offshore processing regime. Long-term non-deterrence proposals included recommendations that the Government create better migration pathways and protection opportunities for refugees, coordinated within an ‘enhanced regional cooperation framework’. However, many of the long-term proposals along the lines of those recommended by the panel have not been pursued by either of the major parties to date.

Stakeholders and experts in the field have urged the Australian Government to move forward on asylum seeker policy by creating better protection opportunities in the region under a variety of burden-sharing arrangements. Proposals include:

- developing a broader regional cooperation framework that improves protection more generally for all refugees within the region
- discouraging asylum seekers from engaging the services of people smugglers by: providing alternative legal migration pathways to safe countries in the region, including Australia; negotiating agreements to develop effective processing arrangements with countries in the region, such as Malaysia and Indonesia; and increasing the number of refugees Australia resettles from Malaysia and Indonesia and
- closing the offshore processing centres in PNG and Nauru and resettling the refugees in Australia, but maintaining turnbacks to prevent further boat arrivals.

Further reading


Welfare—what does it cost?

Michael Klapdor and Don Arthur, Social Policy

Key Issue

Social security and welfare represents 35 per cent of the Australian Government’s expenses. The level and sustainability of this expenditure will be a key issue for the Parliament.

Commentary on welfare expenditure often focuses on income support to working-age people. However, key drivers of growth in expenditure are expected to be in the National Disability Insurance Scheme and assistance to the aged.

In 2016–17, the Australian Government estimates that it will spend around $158.6 billion on social security and welfare, and around $191.8 billion in 2019–20. This category of expenditure includes a broad range of payments and services including:

- most income support payments such as pensions and allowances (for example, Newstart)
- family payments such as Family Tax Benefit
- paid parental leave pay
- child care fee assistance payments
- funding for aged care services
- funding for disability services and
- payments and services for veterans and their dependents.

This administrative category of expenditure does not include other programs associated with the welfare state such as health and education (including income support for students) but does include a broader range of services and supports than are often associated with the term ‘welfare’. Public debate over the cost of welfare often focuses only on cash payments to working age people such as unemployment benefits and the Disability Support Pension (DSP) but these payments only represent around 17 per cent of welfare expenditure as presented in the budget and are not the main drivers of growth in expenditure.

Key drivers of cost increases

Welfare and social security programs are primarily demand-driven, so costs are affected by factors such as population growth, population ageing, labour market changes and economic circumstances as well as policy changes relating to eligibility requirements. Most welfare payments are also adjusted regularly to maintain their value over time.

The biggest driver of growth in both welfare expenses and overall government payments is the National Disability Insurance Scheme (NDIS). As shown in Chart 1, expenditure on disability services was $4.7 billion in 2015–16 but is expected to rise to $24.0 billion in 2019–20 when the NDIS roll-out is completed (the Australian Government is responsible for just over half the NDIS expenditure of $21.6 billion in 2019–20 with states and territories funding the rest). The Parliamentary Budget Office (PBO) estimates that real annual growth in expenditure on the NDIS will be 43.6 per cent between 2014–15 and 2025–26, rising from almost zero to 1.1 per cent of Gross Domestic Product (GDP) (see ‘Funding the National Disability Insurance Scheme’ elsewhere in this Briefing Book).
According to the PBO, expenditure on child care will also grow from 0.4 per cent of GDP in 2014–15 to 0.7 per cent in 2025–26 (from $6 billion to $20 billion) as a result of the Government’s proposed child care package.

The ageing population will see aged care expenditure grow from 0.9 per cent to 1.1 per cent of GDP. Expenditure on the Age Pension is expected to grow in nominal terms to $72 billion in 2025–26 but not as a percentage of GDP. Expenditure on carer payments is also expected to rise, partly as a result of population ageing, from 0.5 to 0.6 per cent of GDP (from $7 billion in 2014–15 to $18 billion in 2025–26).

Expenditure in some areas is expected to decline with Family Tax Benefit falling from 1.4 to 0.9 per cent of GDP over the medium term—partly as a result of policy changes. Income support for jobseekers is projected to fall (from 0.7 per cent to 0.5 per cent of GDP), as is expenditure on Parenting Payment (0.4 per cent to 0.3 per cent of GDP) while DSP is projected to remain at 1.0 per cent of GDP.

**Sustainability**

Given its size, the welfare budget is often a target for savings measures, particularly in the face of budget deficits. While welfare expenditure is increasing, it is primarily in areas tracking demographic trends—support for the aged—and areas in which there is bipartisan support for additional funding—disability services and child care. It will be difficult to achieve significant savings without looking at addressing spending in these areas, particularly the largest component: the Age Pension. Working-aged payments are a less contentious target for savings but are not the source of the Government’s main fiscal pressures (see: ‘Where to for welfare reform?’ elsewhere in this Briefing Book).

**Further reading**

Welfare—where to for reform?

Don Arthur, Social Policy

Key Issue

The 2014 review into welfare reform recommended moving to a simpler system of working age payments. The Government has yet to formally respond to the review’s recommendations.

Welfare reform was high on the agenda at the start of the 44th Parliament. In December 2013, then Minister for Social Services, Kevin Andrews, commissioned a review of the welfare system. Reporting in February 2015, the Reference Group on Welfare Reform (McClure Review) called for a major redesign of the income support system to make it simpler, more coherent and more sustainable. More than a year after the report’s release, the Government has not formally responded to the review’s recommendations.

The reform process began with an earlier Reference Group on Welfare Reform in the late 1990s. This reference group proposed a more radical simplification of the income support system. The Government did not act on this proposal.

As well as the McClure Review, two other reviews included recommendations about the income support system. These were the National Commission of Audit (NCOA) and the Indigenous Jobs and Training Review (Forrest Review).

Background

In 1999 the Howard Government commissioned a review of Australia’s income support system. Chaired by Patrick McClure of Mission Australia, the Reference Group on Welfare Reform consulted widely before releasing its final report in July 2000. The reference group called for a radically simpler income support system with a single payment for recipients of working age and add-ons to take account of particular circumstances such as disability or the cost of raising children.

The reference group acknowledged that moving to a streamlined system would be costly. There were two reasons for this. Firstly, pensions such as the Disability Support Pension are paid at a higher rate than allowances such as Newstart Allowance and have more generous income tests. Placing both groups on a single base rate of payment without reducing payments for current pension recipients would mean lifting payments for allowance recipients.

Secondly, under a needs-based system with a single working age payment, a larger proportion of the low-income population would be eligible for payment. If the new system used the income test applied to pensions, some full-time employees and self-employed workers would be eligible for payment.

While these changes would be costly, the report argued that removing the pension/allowance divide would remove unintended incentive and disincentive effects in the current system. The report stressed that ‘changes to the payment structure should not be undertaken for the purpose of reducing expenditure on income support (except in so far as the new system helps people replace income support with employment income).’
The report also argued that a streamlined system would allow support to be better tailored to recipients’ individual circumstances.

While the government adopted some of the report’s recommendations (for example, reviewing the work capacity criterion for people with a disability and introducing participation requirements for parents with school-aged children), it decided to pursue reform within the existing payment structure rather than opting for simplification.

The second McClure review

In 2013 the new Coalition Government commissioned a further review of the welfare system, focused on working age payments, chaired again by Patrick McClure.

The reference group again called for simplification, but recommended a less radical approach than the earlier report. Rather than replacing all working age payments with a single base rate of payment with add-ons, the report recommended a tiered working age payment for people with some work capacity (now or in the future), and a Supported Living Pension for people whose capacity to work is permanently and severely limited. There would also be a separate payment for carers and a simpler structure for family payments.

According to the report, creating this new payment structure would require a new information technology (IT) system.

In its interim report, the reference group explained that one reason a single working age payment was no longer feasible was that the gap between payment rates for pensions and allowances had grown since the 2000 report. Creating a single base rate of payment would mean closing the gap by lifting the level of payment for those on allowances and/or reducing the rate for those on pensions. The size of the gap was already a problem in the early 2000s with then Minister for Social Security, Amanda Vanstone, making it clear that the Government could not afford to lift all payments to the rate of the pension.

The abandonment of the single working age payment idea may reflect the second review’s greater emphasis on reducing growth in the cost of the income support system. To address this concern, the report also recommended an ‘investment approach’ to welfare reform modelled after an initiative in New Zealand. The key aspect of this approach is an actuarial valuation that estimates the lifetime cost of the system and the costs associated with various groups. This helps identify those groups most likely to spend long periods of time on income support and can be used to target welfare to work interventions and prevention programs. Changes in actuarial valuations over time can be used to measure the success of the interventions and programs.

The National Commission of Audit

In its 2014 report, the NCOA stated that the IT system that managed income support payments was ageing and should be replaced. The NCOA suggested that simplifying the income support system could reduce the cost and complexity of the new IT system. However it also noted this could make it more difficult to tightly target assistance.

The Forrest review

In October 2013, then Prime Minister, Tony Abbott, announced a Review of Indigenous Training and Employment headed by Fortescue Metals Group chairman Andrew Forrest. Forrest’s review went beyond its original terms of reference, making recommendations about early childhood education, housing, and income support.
Forrest’s most controversial recommendation was the ‘Healthy Welfare Card’, a cashless debit card for income support recipients designed to prevent spending on alcohol, drugs, and gambling.

Progress so far

Since the release of the second McClure report, successive ministers have acknowledged the advantages of the report’s simpler payment model. However, the Government is yet to announce any plans to implement the review’s recommendation.

The Government has taken up the McClure Review’s recommendation on the ‘investment approach’. It has commissioned PricewaterhouseCoopers to undertake an actuarial analysis and has announced a Try, Test and Learn Fund to develop innovative policy interventions.

The Government has also acted on the Forrest Review’s recommendation on a cashless welfare card. Trials of the card are currently underway in Ceduna in South Australia and in Kununurra and Wyndham in the East Kimberley.

Simplifying the structure of the income support system is a more challenging reform. In late 2014, ahead of the McClure Review’s final report, then Social Services Minister, Kevin Andrews explained the department would need to replace its IT system to complete the reforms and as a result, some changes would not be possible before 2017 or 2018.

The Department of Human Services is currently working towards an IT upgrade. The government announced the first stage of its Welfare Payment Infrastructure Transformation (WPIT) program in the 2015–16 budget.

Where to now?

Radically simplifying the income support system by introducing a single working age payment with add-ons is probably now off the agenda. The Government has made it clear it is looking for savings on income support and a radically simpler system is likely to cost more rather than less.

One of the principles behind the first McClure review was that there should be no reduction in pensions or allowances. But if reforms have to be budget neutral or produce savings, simplification of the income support system would need to reduce payments to people with disabilities so that they were closer to those for people on Newstart and Youth Allowance.

The same principles apply to the changes recommended in the second McClure review. If the changes have to be budget neutral or produce savings, some groups of recipients will be made worse off.

When explaining the need to make savings on income support payments, ministers have pointed to the large increases in projected spending on social security and welfare. While these increases are largely driven by spending in areas such as aged care and the National Disability Insurance Scheme, ministers have suggested that any increased spending needs to be met by savings from within the social services portfolio (see: ‘Welfare — what does it cost?’).

Reform of the income support system is easier during periods of strong economic growth when unemployment is low and tax revenue is high. Strong demand for labour reduces the flow of people into the income support system and increases the flow into work and out of the payments system. A strong budget position makes it easier for Government to protect recipients from being made worse off by
changes to the income support system (for example, by grandfathering payments).

In a more challenging economic environment, the risk is that future governments will continue to look for savings through incremental changes to the welfare system. This means many of the problems with work incentives will continue and the system will become even more complex and difficult to administer.

Further reading


L Buckmaster, ‘What’s happening with the McClure welfare review?’, FlagPost, Parliamentary Library blog, 19 March 2014.

Gambling—a reprise for reform?
Dr Matthew Thomas, Social Policy

Key Issue
Using his influence in the 43rd Parliament, Andrew Wilkie advocated for some significant gambling reforms. Ultimately, a watered down package of measures was introduced by the Gillard Government. These measures were repealed by the Abbott Government and gambling-related reforms were not a key focus of the 44th Parliament. Mr Wilkie has recently indicated that he and Senator Nick Xenophon intend to use their key crossbench positions to ‘put gambling reform back on the national agenda’.

Problem gambling and poker machines
In 2010, the Productivity Commission (PC) released its final report after an extensive public inquiry into gambling in Australia. The PC estimated that of the $19 billion spent on gambling in 2008–09 around $11.9 billion was spent on Electronic Gaming Machines (EGMs), otherwise known as poker machines.

Problem gambling may be defined as being ‘characterised by difficulties in limiting money and/or time spent on gambling which leads to adverse consequences for the gambler, others, or the community’. While problem gambling occurs across all forms of gambling, the PC estimated that a greater proportion of EGM players—around 15 per cent of all adults who play EGMs weekly or more often—were problem gamblers.

The PC estimated the cost of problem gambling to the Australian community to be at least $4.7 billion a year, with EGMs being responsible for the majority of this cost. The social costs associated with problem gambling result from adverse impacts on people’s health, jobs, finances, emotional states and relationships.

Given the potential for harm associated with EGMs, the PC recommended, among other things, a progressive move towards an Australia-wide EGM pre-commitment system—under which players could set spending limits on all EGMs—by 2016.

Gillard Government reforms
In 2010, Independent Member for Denison, Andrew Wilkie made the introduction of a full mandatory pre-commitment system a key feature of his agreement to support the minority Gillard Labor Government following the federal election.

Subsequently, the Parliamentary Joint Select Committee on Gambling Reform recommended in its 2011 report that a card-based mandatory pre-commitment scheme be introduced by 2014, and that a trial of mandatory pre-commitment be conducted.

In early 2012, then Prime Minister, Julia Gillard announced the gambling reforms the Government would be proceeding with. The reforms included a raft of measures to tackle problem gambling, including legislating for pre-commitment capable EGMs. However, they did not include the implementation of a mandatory pre-commitment system and, as a consequence, Mr Wilkie withdrew his support for the government.
In changing its stance, the Gillard Government was likely to have been influenced by an intense campaign against mandatory pre-commitment conducted primarily by the club and hotel industries.

In November 2012, the Gillard Government introduced the National Gambling Reform Bill 2012 and two companion bills. The provisions of these bills required that:

- from the end of 2013, all new EGMs would be capable of supporting an approved pre-commitment system
- by 2016, EGMs would be linked together as part of a state-wide or territory-wide pre-commitment system, and display electronic warning messages, and
- from 1 May 2013 Automatic Teller Machines (ATMs) located in gaming venues would have a $250 daily withdrawal limit.

The bills also proposed the establishment of a national regulator to monitor compliance with the new scheme and the main features of, and methodology for, a 12 month trial of mandatory pre-commitment. The trial was to be undertaken by ClubsACT before being postponed in the lead-up to the 2013 federal election.

Following its election to office, the Abbott Coalition Government introduced the Social Services and Other Legislation Amendment Bill 2013, which effectively wound back all of the above reforms in favour of the development and implementation of a voluntary pre-commitment scheme and a focus on responsible gambling and industry self-regulation. The bill was passed by both houses of Parliament on 25 March 2014.

Online gambling—an emerging area of concern

In its 2010 report, the PC observed that online gaming and sports betting were growing rapidly in Australia. This trend has continued, with sports betting, in particular, gaining in popularity among young men. It has been estimated that online betting is growing at 15 per cent per annum.

A number of factors are likely to have contributed to the strong uptake of online sports betting in Australia. These include the centrality of sport and general acceptance of gambling in Australian culture, Australia’s high rate of internet and smartphone usage and intensive advertising and promotion by sports betting companies. There is some concern that sports betting advertising during live sports broadcasts may be normalising gambling among young viewers, and potentially creating a new generation of problem gamblers.

One of the problems associated with online sports betting is its potential to increase corruption in sport. Gambling online easily enables wagers to be made on particular incidents taking place in a sporting competition, and not just on the competition’s outcome. ‘Exotic’ or ‘spot bets’ have already been implicated in the corruption of international cricket. While the provision and advertising of ‘in play’ betting to customers in Australia is prohibited under the Interactive Gambling Act 2001, the existing approach to regulation has been found to be inconsistent and difficult to enforce, with in play betting readily available through offshore providers. It is worth noting that, irrespective of the regulatory approach adopted, it would be almost impossible to regulate access to or prevent the use of international gaming sites.
Another key concern is the capacity for online gambling to contribute to gambling problems among vulnerable individuals. The use of communications technology enables gamblers to gamble from anywhere, at any time, in privacy, and without appearing to spend ‘real’ money. These characteristics, when combined with sports betting companies’ aggressive marketing and inducements to gamble, have contributed to rates of problem gambling among online gamblers being more than double the rate for all gamblers.

The Government is aware of the problems associated with online gambling and the limitations of Australia’s current regulatory regime. In 2015, then Minister for Social Services, Scott Morrison commissioned a review of the impact of illegal offshore wagering. In its response to the review, the Government committed to, among other things, the development of a national policy framework that would improve the regulation of online gambling and the effectiveness of consumer protection and harm minimisation measures.

Where to next?

Andrew Wilkie and Nick Xenophon have indicated that they intend to pursue a number of specific gambling reforms, namely, the imposition of maximum $1 bets and $120 in maximum hourly losses on EGMs, and the banning of sports betting advertising during G-rated television broadcasts. They also hope to revive the Parliamentary Joint Select Committee on Gambling Reform in order to push for further reform in relation to online gambling and EGMs.

Comment

Although a significant number of Australians experience gambling-related problems, the PC estimated that only around 15 per cent of them seek help. Further, it found the evidence for the effectiveness of many of the available help services is limited.

This suggests that if problem gambling and its associated harms are to be seriously tackled then there may need to be a greater focus on preventive measures. Such measures include changing aspects of the environment that lead to problems for gamblers vulnerable to harm, such as gambling technology, the accessibility of gambling and the nature and conduct of gambling providers.

Further reading


B O’Farrell, Review of illegal offshore wagering, Commonwealth of Australia (Department of Social Services), 2015.
Housing affordability in Australia
Dr Matthew Thomas, Social Policy and Alicia Hall, Statistics and Mapping

Key Issue
The high cost of housing in Australia has been at the forefront of a range of recent policy debates concerning Australia's taxation arrangements. This brief examines housing affordability in Australia for both owners and renters over recent decades. It focuses particularly on those households which are most affected by high housing costs—those on low incomes in the private rental market.

What is housing affordability?
The term ‘housing affordability’ usually refers to the relationship between expenditure on housing (prices, mortgage payments or rents) and household incomes. The concept of housing affordability is different to the concept of ‘affordable housing’, which refers to low-income or social housing.

Affordability for owners
Housing affordability in Australia has broadly declined since the early 1980s. The OECD’s price to income ratio index shows a 78% increase between 1980 and 2015. In Sydney, which has experienced significant price rises over the period, Parliamentary Library calculations indicate that the ratio of average disposable household income (Australia-wide) to median house prices has increased from approximately 3.3 in June 1981, to just over seven in June 2015. The following graph illustrates Australia-wide ratios from the early 1970s to 2012.

![Figure 1: Dwelling Price-to-Income Ratio 1977 to 2012](image)


Much of the growth in housing prices relative to incomes took place during the late 1980s, 1990s and early 2000s. In this context, the Reserve Bank of Australia’s 2014 submission to the Senate Economics References Committee Inquiry into Affordable Housing noted ‘Australian housing prices increased by about two thirds relative to income in the decade or so up to around the end of 2003’.

Partly as a consequence of rising house prices between 1984 and 2009–10, the Australian Bureau of Statistics’ (ABS) *Household Expenditure Survey* indicates that the estimated proportion of average weekly household expenditure on current housing increased from approximately 12.8% to 18.0%. Some of this increase is likely to represent changing societal preferences, with households choosing to put more of their household budget into larger, more comfortable or better-located homes. This has been facilitated...
through financial deregulation and a significant growth in household disposable incomes between 1980 and 2010.

Of course, affordability differs between the states and territories, and between capital cities and regional areas. As an indication, Table 1 shows nominal median house prices in each of the capital cities in March 1980, and March 2016.

Table 1: Capital cities’ nominal median house prices

<table>
<thead>
<tr>
<th>City</th>
<th>March 1980</th>
<th>March 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sydney*</td>
<td>$64 800</td>
<td>$999 600</td>
</tr>
<tr>
<td>Melbourne</td>
<td>$40 800</td>
<td>$713 000</td>
</tr>
<tr>
<td>Brisbane*</td>
<td>$34 500</td>
<td>$480 000</td>
</tr>
<tr>
<td>Adelaide</td>
<td>$36 300</td>
<td>$445 000</td>
</tr>
<tr>
<td>Perth</td>
<td>$41 500</td>
<td>$520 000</td>
</tr>
<tr>
<td>Canberra</td>
<td>$39 700</td>
<td>$570 000</td>
</tr>
<tr>
<td>Hobart</td>
<td>Not available</td>
<td>$385 000</td>
</tr>
<tr>
<td>Darwin</td>
<td>Not available</td>
<td>$582 500</td>
</tr>
</tbody>
</table>

Source: Time series data purchased from the Real Estate Institute of Australia by the Parliamentary Library. *REIA advises that comparisons over time for Sydney and Brisbane should be made with caution.

Rising house prices are one factor behind the declining levels of home ownership in Australia. The 2016 Household, Income and Labour Dynamics in Australia Survey: Selected Findings from Waves 1 to 14 reports that, in 2001, 68.8% of households were owner-occupied, compared to 64.9% in 2014. This trend is most prevalent in Victoria (7.8 percentage point decline) followed by New South Wales (4.3 percentage point decline), and South Australia (2.5 percentage point decline).

**Measurements of housing affordability**

There are two major approaches to the measurement of housing affordability in policy discussions in Australia—ratio measures and residual measures. Ratio measures focus on the relationship between housing expenditure (prices or costs) and household income, either as a median or mean. The ABS, the OECD and various housing industry associations publish ratio measures. As outlined by Gabriel, Jacobs, Arthurson, Burke and Yates in their 2005 paper Conceptualising and measuring the housing affordability problem, residual measures emphasise the capacity of a household to maintain an acceptable standard of living after housing costs. Given the level of complexity associated with their calculation, residual measures are typically published by researchers and academics.

**Affordability for renters**

The ABS’ Housing Occupancy and Costs publication indicates that between 1994–95 and 2013–14, the proportion of households which are renters has increased from 26% to 31%. In addition, the proportion of households renting from private landlords has increased from 18% to 26% over the same period.

On average, private renters spend more of their gross household income on housing costs than other tenure types. Specifically, the ABS reports private renters spent 20% of their gross household income on housing costs in 2013-14, compared with 16% for those with a mortgage.
The cost of renting privately has increased significantly over the period between 1994–95 and 2013–14. The ABS’ Housing Occupancy and Costs publication indicates a 62% increase in average weekly housing costs (after inflation). This compares to a 42% increase for owners with a mortgage and 45% for public renters.

What is housing stress?

A household is typically described as being in ‘housing stress’ if it is paying more than 30% of its income in housing costs. As higher income households can spend a higher proportion of their income on housing without experiencing problems, they are often excluded from these types of analysis. Consequently, a ratio of 30/40 is often used as a benchmark—that is, if households that fall in the bottom 40% by income spend more than 30% of their income on housing, they are defined as being in housing stress. Confusingly, both gross and disposable incomes are referenced by researchers when referring to housing stress.

Affordability in the private rental market for those on low incomes

Much of the recent public debate about housing affordability has focused on the inability of many would-be home owners—and young people in particular—to break into the property market, and factors contributing to this. Rather less attention has been paid to the difficulties faced by low-to-medium-income earners who are obliged to compete with people on higher incomes for a limited number of affordable rental properties in the private rental market in areas with greater employment opportunities.

In 2012, the National Housing Supply Council (NHSC) estimated that as at 30 June 2011, the gap between overall housing supply and demand was 228,000 dwellings. The NHSC also estimated that there was a deficit of 539,000 affordable rental properties for lower income renters. Anglicare Australia’s annual rental affordability snapshots suggest that the situation for lower income renters remains difficult. The latest Anglicare survey of 75,410 rental properties across Australia, conducted in April 2016, found that at a national level, only 21 properties were affordable for single adults living on Newstart Allowance, and only one was suitable for a single person living on Youth Allowance.

In this context, an increasing number of Australian renter households are experiencing housing stress. In 2013–14, the ABS found 50.1% of low-income renter households had housing costs greater than 30% of gross household income (which includes Commonwealth Rent Assistance (CRA)). While the provision of CRA has helped to reduce the number of Australian households in housing stress, Parliamentary Library calculations indicate that for a substantial and growing proportion of people renting in certain parts of Australia, rental costs are rising at a higher rate than CRA thresholds and rates.

For those low-income households in greatest need, the federal, state and territory governments provide social housing. However, the stock of social housing is not increasing at a rate sufficient to keep up with demand, and waiting lists for social housing remain long. At 30 June 2015, there were 199,133 households on social housing waiting lists.
Government response

Housing affordability did not receive significant attention during the 44th Parliament. The Government had committed to undertake a review of housing and homelessness policies and programs as part of the reform of the federation white paper process, with housing issues also to be considered as part of the white paper on the reform of Australia’s tax system. However, the status of this review is unclear given the cessation of both the white papers.

On 7 January 2016, the Government announced that the COAG Council on Federal Financial Relations would form an Affordable Housing Working Group. This group has been charged with identifying ways of increasing the supply of affordable housing for people on low incomes and implementing trials of models of such arrangements. To this end, the Working Group released an issues paper and called for submissions on ways to boost the supply of affordable rental housing through innovative housing models. The consultation process was completed on 6 April 2016.

If the supply of affordable housing is to be increased sufficiently to meet medium- to long-term demand, then this could be met through (among other things) institutional investment in the affordable end of the residential market.

The main barrier to such investment would appear to be that institutional investors have shown relatively little interest in affordable housing, largely due to perceptions of risk and affordable housing’s comparatively low returns. If investors’ reluctance is to be overcome then it is likely that this will require government incentives and the introduction of some form of financial instrument (similar to the discontinued National Rental Affordability Scheme).

The Affordable Housing Working Group is currently considering the merits of a number of such instruments and Australian Housing and Urban Research Institute (AHURI) researchers have undertaken a significant amount of research on Housing Supply Bonds and an Affordable Housing Finance Corporation Model.

Financing instruments such as these could help to increase the supply of affordable housing over the longer term. However, if low-income households currently experiencing housing stress are to gain some respite, then this might suggest the need for a more immediate response. Such a response could include changes to the levels and indexation of CRA to ensure that it better reflects the costs of rental housing, as recommended by the Henry Review of the tax system and the McClure Review of the welfare system.

Further reading

Senate Select Committee on Housing Affordability, A good house is hard to find: housing affordability in Australia, The Senate, Canberra, 2008.


Employment—Measuring and improving outcomes for young Australians
Dr Matthew Thomas, Social Policy and Penny Vandenbroek, Statistics and Mapping

Key Issue
Labour market conditions have generally improved for young people in Australia since the Global Financial Crisis (GFC). However, the recovery has been uneven across labour market regions and age groups.

The Government’s main response to youth unemployment is the provision of active labour market programs. Evidence for the effectiveness of these programs is not positive where it comes to disadvantaged young people. Some of the targeted programs introduced in the last two federal budgets have a better prospect of improving participants’ long-term employment outcomes.

Youth employment in Australia
The labour market for young people aged 15 to 24 years deteriorated substantially after the onset of the GFC and has only recently shown signs of recovery.

However, this recovery has not been uniformly experienced. Rates of youth participation in the labour market, education and training vary across the country, with some labour market regions remaining relatively depressed. Rates of recovery in youth participation have also varied by age.

Figure 1 shows the regions with the strongest positive growth in youth employment (aged 15–24 years), based on the share of population that was employed.

Figure 1: Growth in youth employment, 2008 and 2015 comparison

Generally in the youth population, a large portion of people are neither working nor actively looking for work (i.e. unemployed), as they are students. Young people opting out of, or exiting the labour force, is an issue of concern, particularly when they do not go on to undertake some form of training or other productive activity.

Figure 2 shows the regions that experienced the largest growth in young people who were disengaged from the labour force since 2008.
Figure 2: Young people not in the labour force, 2008 and 2015 comparison

Figure 3: Level of engagement in work, study or training (NEET rate)

The ‘fully active’ measure is similar to the NEET rate, but focuses on the positive interactions young people are having with either work or study. This measure represents young people who are in full-time education or in full-time work, as a proportion of the civilian population (in the same age group).

Figure 4 shows the youngest age group has had an increase in the fully active rate since the GFC, in contrast to those aged 20 to 24 years, who have seen a decline.

Figure 4: Level of full-time youth participation (in work or study)

Reasons for youth unemployment

In developed countries, young people tend to bear the brunt of economic downturn, suffering greater job losses and higher unemployment rates than adults. This is for two main reasons.

Firstly, young people often have little or no labour market experience, and frequently lack relevant skills. Secondly, businesses face higher costs of investment and lower costs of termination when employing young workers.

Combined, these factors contribute to some young people having a precarious relationship to the labour market. They move between joblessness, training and working,
and are more likely to enter temporary and insecure employment. In the worst cases, young unemployed people experience ‘scarring’ effects—that is, they suffer from negative labour market experiences in the future as a result of having been unemployed.

Active labour market programs

Australia has adopted a number of policy responses to youth unemployment over recent years. These include things like encouraging and assisting young people to stay in school beyond the age of 16 and tightening the conditions for eligibility for income support. However, assistance to unemployed youth through active labour market programs (ALMPs) is the most common policy response.

Essentially, ALMPs seek to increase the employment participation of people receiving income support from government, or at risk of becoming unemployed. In Australia, ALMPs take three main forms, namely job search; work experience; and formal training and education. These programs are mostly run by contracted employment service providers through the jobactive system.

There is a large body of international evidence on the effectiveness of ALMPs, and labour market expert Professor Jeff Borland has recently compiled a summary of the Australian evidence.

This evidence—which relates to unemployed people in general—is mixed where it comes to employment outcomes. There are differences in the results, both positive and negative, across and within different ALMP types. The evidence is similarly varied where it comes to the effectiveness of ALMPs for young people. One notable exception is public sector job creation programs, such as Work for the Dole, the evidence for which is almost universally negative.

What we do know, based on systematic evaluations of the evidence, is that young people tend to benefit less from ALMP participation than adults. Further, while ALMPs work reasonably well for people who are job-ready, they have a limited impact on outcomes for the most disadvantaged jobseekers.

These findings raise questions: what sorts of intervention, or combination of interventions, do help young people gain employment? And, in particular, what forms of assistance can deliver results for young people from disadvantaged backgrounds (for example early school leavers, young mothers, people with disability, non-English speakers and Indigenous Australians)?

What policy responses work for young people?

While the overall evidence for the effectiveness of ALMPs for disadvantaged young people is not positive, the Organisation for Economic Cooperation and Development (OECD) and the International Labour Organisation (ILO) have identified the key characteristics of those programs that are most likely to achieve successful labour market outcomes for disadvantaged youth.

The most successful programs directly target disadvantaged young job seekers, providing a comprehensive package of support services, such as literacy and remedial education; vocational and job-readiness training; job search assistance and career guidance and counselling; and social support and workplace training.

Borland et al. have recently identified evidence-based elements of best-practice employment programs for jobseekers with high levels of disadvantage. They argue that ‘an employment program for jobseekers
with high levels of disadvantage should substantially address their deficiencies in job readiness and skills and provide a pathway to employment via work experience’. They emphasise that such programs are most likely to be feasible where they involve collaboration between service providers and employers at a local level.

Programs like these can pay dividends in terms of medium- and long-term employment outcomes. However, such programs are costly and not necessarily highly rated by ALMP evaluations that focus primarily on short-term employment outcomes.

**Recent government initiatives**

As a part of the 2015–16 and 2016–17 federal budgets, the Government introduced a number of youth employment measures that approximate best-practice criteria. The Government has also reduced the emphasis placed on participation in Work for the Dole. This strategy to tackle youth unemployment can be seen as being broadly consistent with both evidence-based and investment approaches to social welfare. However, evidence for the effectiveness of the Government’s proposed four-week waiting period for income support for under 25 year olds is questionable.

It is also not clear that the Government’s central proposal to address youth unemployment—through the Youth Jobs PaTH program—will gain sufficient support from employers, or provide adequate assistance to job seekers to produce meaningful results. Much will depend on the level of economic activity over coming years, the boosting of which is the best means to ensure increased levels of youth employment.

**Further reading**


J Stanwick, Tham Lu, T Rittie and M Circelli, *How young people are faring in the transition from school to work*, Foundation for Young Australians, September 2014.

H Cuevo and J Wyn, *Rethinking youth transitions in Australia: A historical and multidimensional approach*, Research report no. 33, Youth Research Centre, University of Melbourne, 2011.

Closing the Gap
James Haughton, Social Policy

Key Issue

It has been eight years since the Closing the Gap framework was established, but only half the Closing the Gap targets are on track to be met. The Productivity Commission has expressed concern that we do not know which policies are effective. In response to high levels of Indigenous incarceration, there is strong stakeholder pressure to add an Indigenous Justice target.

The origins of Closing the Gap

In his Social Justice Report 2005, Aboriginal and Torres Strait Islander Social Justice Commissioner Tom Calma urged Australian governments to commit to Indigenous health and life expectancy equality within 25 years. At the time, the gap was thought to be 17 years; better data has since shown it was approximately 11 years. Health and non-government organisations (NGOs) responded with a Close the Gap campaign in 2007, including the annual National Close the Gap Day. The Human Rights Commission issued its own Close the Gap reports.

Prime Minister Kevin Rudd and Opposition Leader Brendan Nelson committed to the goal in 2008. The Council of Australian Governments (COAG) then committed to the six (now seven) Closing the Gap targets in the National Indigenous Reform Agreement (NIRA). The Prime Minister reports annually to Parliament on its progress.

Close the gap in life expectancy within a generation (by 2031)

This target is not on track to be met. Indigenous life expectancy is improving, and mortality rates are decreasing, but progress is slow.

Figure 1: Indigenous and non-Indigenous life expectancy: actual, projected and target rates

Source: Department of the Prime Minister and Cabinet, Closing the Gap Prime Minister's Report 2016, Commonwealth of Australia, Canberra 2016.

Halve the gap in mortality rates for Indigenous children under five by 2018

This target is on track to be met. Since 1998, the Indigenous child mortality rate has more than halved from 13.5 per 1,000 live births in 1998, to 6.4 in 2014. The gap had narrowed by 34% as at 2014. The recent National Aboriginal and Torres Strait Islander Social Survey found that Indigenous infant and maternal health has been improving.
Ensure access to early childhood education for all Indigenous four-year-olds in remote communities by 2013

This target was not met. In 2013, 85% of Indigenous four-year-olds in remote communities were enrolled in early childhood education. This was a higher rate than in major cities (67%) and regional areas (74%). The new COAG target is 95% preschool enrolment for Indigenous four-year-olds by 2025.

Close the gap in school attendance by the end of 2018

This target is not on track to be met. All of the states and territories reported changes in Indigenous attendance rates between 2014 and 2015 of less than 1%, with the exception of the ACT (1.3% rise) and Victoria (1% rise).

Halve the gap in children’s reading, writing and numeracy by 2018

Progress on this target has been mixed, with half the targets on track to be met and half unmet. Outcomes are worse for male students and decline drastically with remoteness. Most measures are improving, but some are not improving fast enough.

Halve the gap for Indigenous students in year 12 attainment rates by 2020

This target is on track to be met, with an increase in year 12 attainment levels from 45.4% in 2008 to 58.5% in 2012–13. The number of students attaining year 12 was higher in urban and regional areas. The gap narrowed by 11.6% between 2008 and 2013.

Halve the gap in employment outcomes between Indigenous and other Australians by 2018

This target is not on track to be met. While Indigenous employment rates are increasing, the gap has not reduced since 2008. The Prime Minister’s report notes that employment is closely tied to educational outcomes.

Are government programs effective?

The Productivity Commission has expressed concern that ‘we need to know more about what works and why’. Although Closing the Gap reports measure Indigenous outcomes, and the Indigenous Expenditure Report measures inputs, little is known about which programs are producing outcomes. Few programs are evaluated and evaluations rarely consider cost-effectiveness.

An Indigenous Justice target?

Indigenous people make up 2% of the population, but over a quarter of adult prisoners (27%) and more than half of young detainees (54%). High imprisonment rates drive Indigenous deaths in custody and are associated with other poor outcomes. Indigenous organisations are calling for a target of equal Indigenous imprisonment rates by 2040 through Justice Reinvestment. This is an approach which emphasises reduced spending on corrections, with savings reinvested in preventive strategies. This was supported by a House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs committee report, Doing Time—Time for Doing. A Justice Reinvestment trial in Bourke (NSW) is showing good results.

Further reading

Department of the Prime Minister and Cabinet (PM&C), Closing the Gap—Prime Minister’s report, PM&C, Canberra (issued annually).

Productivity Commission (PC), Overcoming Indigenous disadvantage: key indicators, PC, Canberra.
AUSTRALIA’S ENVIRONMENT
Climate change—a science overview

Emily Hanna, Science, Technology, Environment and Resources

Key Issue
The impacts of human-influenced changes to the climate are already occurring and are expected to continue and intensify in the future. The issue of climate change and its impacts has significant implications for government policy across a range of portfolios and industries.

Nearly 200 national and international scientific bodies, as well as over 97 per cent of recently published climate scientists, agree that the Earth is warming and that humans are contributing to the change in climate.

Global climate change
Since its first assessment in 1990, the Intergovernmental Panel on Climate Change (IPCC) has expressed growing certainty that global warming is underway and that human activity is a principal cause. In its latest report on climate change, the Fifth Assessment Report in 2014, the IPCC stated:

Warming of the climate system is unequivocal, and since the 1950s, many of the observed changes are unprecedented over decades to millennia. The atmosphere and ocean have warmed, the amounts of snow and ice have diminished, and sea level has risen.

Globally, the average temperature (combined land and ocean surfaces) has increased 0.85 °C between 1880 and 2012, according to the IPCC. Most of this heat is stored in the oceans, with the top 75 metres of water warming an average of 0.11 °C per decade globally over the four decades until 2010.

The IPCC states that average sea level has already risen around 20 centimetres since 1901 and is forecast to continue rising at a faster rate. Sea water has also become more acidic, with surface ocean water 26 per cent more acidic than it was in pre-industrial times.

These changes are expected to continue this century, with the average temperature projected to increase, the average sea level continuing to rise and the ocean becoming warmer and more acidic.

While these increases may sound minor, small changes in average temperature can lead to big changes in the climate system. For example, the IPCC expects extreme weather events such as heatwaves, bushfires, floods and droughts to become more frequent and more intense.

It is not currently possible to state that an individual extreme weather event (such as a drought) is definitely attributable to climate change. However, it is now possible to determine how much more likely it is that a particular extreme temperature event is due to climate change. For example, the autumn heatwaves in Australia in 2014 were found to be 23 times more likely to occur with climate change, compared to conditions without human contribution to climate change.

What is causing climate change?
The climate is affected by the rise in greenhouse gas emissions. Greenhouse gases (GHGs) ‘trap’ heat in the lower parts of the atmosphere around Earth (by absorbing infrared energy coming off the Earth’s surface which could otherwise
escape). GHGs include both natural compounds (such as carbon dioxide (CO₂) and methane) and synthetic compounds (such as chlorofluorocarbon (CFC)).

Some fluctuations in the levels of natural GHGs are normal. However, the increasing trend in GHG concentration and the rate of change is beyond the normal variation seen over millennia. Atmospheric GHG concentrations have increased dramatically since industrial times began in the mid-19th century, driven by the burning of fossil fuels and land clearing. For example, CO₂ concentrations recently hit 400 ppm (see Figure 1) after not going above approximately 280 ppm in the last 400,000 years.

**Climate change in Australia**

Australia has become 0.9 °C warmer since 1910. The increase in sea surface temperature varies by location. Since 1950, it has risen approximately 0.12 °C per decade in north-west and south-west Australia, while the average temperature rise in south-eastern Australia has been approximately 0.2 °C per decade. The 30 year period from 1985-2014 experienced the warmest average temperature in the last millennium compared to other 30 year periods. Australia’s average temperature is virtually certain to continue rising this century, with inland areas forecast to increase more than coastal areas.

Australian rainfall is also changing, decreasing in winter in south-western Australia and in autumn in south-eastern Australia. In contrast, average annual rainfall has increased in north-western Australia. Weather extremes are also changing, with fewer cold extremes while hot extremes rise in number and temperature. Heatwaves are occurring more often and droughts will become more common in southern Australia. As much of southern Australia becomes hotter and drier, the risk of bushfires is also projected to increase.

The IPCC considers that:

Human influence on the climate system is clear, and recent anthropogenic emissions of greenhouse gases are the highest in history ... It is extremely likely that more than half of the observed increase in global average surface temperature from 1951 to 2010 was caused by the anthropogenic increase in GHG concentrations.

The higher sea levels are a consequence of increased temperature. This is caused by two processes: melting ice sheets (for example, Antarctica and Greenland) and glaciers, as well as the warmer water increasing in volume due to thermal expansion. The rise in ocean acidity is also caused by higher atmospheric levels of CO₂. As these levels increase, ocean absorption of CO₂ becomes greater. The CO₂ then undergoes a chemical reaction with the water to form carbonic acid, thus increasing the level of acidity in the marine waters.

Implications for Australia

The IPCC outlined a range of specific risks for Australia from climate change that could affect the country this century. These include:
- greater flood damage
- limited water resources in southern Australia
- greater impacts from heat waves on infrastructure and human health and mortality and
- worse harm from bushfires in southern Australia including possible greater human mortality, damaged ecosystems and economic losses.

These risks, and the changes in climate described, have significant implications for Australia across a range of policy areas. It is also worth noting that these threats are not simply theoretical but are already occurring.

In 2012, the Productivity Commission found that all governments should ‘embed consideration of climate change’ in risk management strategies and ensure that regulatory and policy settings allow the risks of climate change to be managed. Some examples of the policy implications of climate change for Australia are set out below.

**Health**

Climate change is likely to affect human health in a number of ways. For example, there is likely to be an increase in heat-related illnesses such as heatstroke and an increased risk of some infectious diseases (such as those spread by mosquitoes due to mosquitoes’ changing distribution). In turn, this has implications for our health system and policy. The Climate and Health Alliance recently called for a national strategy on ‘Climate, Health and Wellbeing’.

**Agriculture**

Climate change also presents challenges for agriculture, which is likely to be affected by changes to water availability, changes in growing seasons and the effects of projected increases in extreme weather events. In turn, this may disrupt crop yields, reduce stock numbers, and erode the productivity of farms, threatening their long-term sustainability and viability. While moderate warming may benefit some crops (as long as they are not water stressed) and some colder locations, production levels are projected to decline over much of southern Australia as a result of climate change.

**Infrastructure**

Infrastructure, including residential and commercial buildings, roads, railways and industry, is also at increasing risk of damage from climate change. Coastal infrastructure is particularly vulnerable, mainly due to an increased risk of flooding from rising sea levels, storm surges, and a higher chance of erosion. This has wide-reaching implications, particularly given that most of Australia’s capital cities are near the coast, along with more than 85% of our population. Many critical services, including hospitals and wastewater treatment, are on the coast and likely to be affected. Indeed, the impact of climate change on coastal communities was the subject of a 2009 parliamentary inquiry. Coastal councils around Australia recently called for the Australian Government to implement the inquiry’s recommendations.

**Environment policy and biodiversity**

Climate change is increasing the extinction risk faced by non-human species and ecosystems. Many species, especially plants and small mammals, are unlikely to be able to move their geographical range fast enough to keep up with the current and forecast changes to climate. Climate change is also affecting habitat (for example, habitat loss caused by erosion and rising sea levels), food sources, reproduction and migration—all of which can adversely affect the survival of individuals and reproductive success.

These risks are demonstrated by the recent extinction of the Bramble Cay melomys (Melomys rubicola), a type of native rat.
which lived on Bramble Cay in the Torres Strait, Australia. It is believed to be the first mammal species globally driven to extinction by anthropogenic climate change.

Marine environment, fisheries and tourism
Climate change also affects the marine environment, including fisheries (which in turn can affect food security). Along with increased water temperatures, marine species need to cope with increasing acidification and lower levels of oxygen in the water. Climate change is already causing bleaching and loss of diversity in coral reefs, as evidenced by the recent severe bleaching event in the Great Barrier Reef (see the article on the Great Barrier Reef). These events are likely to become more common in the future. This threatens not only the species that depend on those ecosystems, but may also impact on Australia’s tourism industry.

Other implications
The projected increase in extreme weather events also has implications for the insurance industry, as well as emergency management including natural disaster relief and recovery arrangements.

Commentators have also pointed to the risk that climate change will cause large movements of people—especially from inundated coastal areas or regions affected by extreme weather events and food and water insecurity. This may in turn either trigger or exacerbate international conflict. Both issues have implications for Australia’s immigration, foreign affairs and defence policies. For example, in light of the impact of climate change on islands in the Pacific region, there have been calls for Australia to expand labour mobility opportunities for Pacific Islanders.

Climate adaption policies
While all these risks can be minimised by reducing GHG emissions (climate ‘mitigation’), some level of change is now inevitable. This means we also need to prepare for the effects of climate change, which is referred to as climate ‘adaptation’.

In 2007, the Council of Australian Governments endorsed a National Climate Change Adaptation Framework. In 2015, the Australian Government released a National Climate Resilience and Adaptation Strategy. The Strategy looks at a range of initiatives across key sectors (such as agriculture and health) and identifies principles to guide effective adaptation.

The Government also established the National Climate Change Adaptation Research Facility (NCCARF) in 2008, with $47 million funding. This funding initially ended in June 2013, but in 2014 the Coalition Government provided funding of $9 million to allow NCCARF to continue until 2017.

CSIRO and the Bureau of Meteorology are working together on climate change science as well as adaptation to help Australia better prepare for climate change. However, concerns have been expressed about the capacity of CSIRO to continue its climate science work as a result of a recent controversial restructure.

Further reading

Productivity Commission, Barriers to Effective Climate Change Adaptation, September 2012.
Climate Change—the international approach

Kate Loynes, Science, Technology, Environment and Resources

Key Issue

Australia was one of over 170 parties to sign the Paris Agreement on climate change in April 2016. Under the Agreement, most countries have pledged to reduce greenhouse gas emissions, with the aim to limit global warming to ‘well below’ 2 °C.

The first period of the Kyoto Protocol ran from 2008 to 2012. Australia met and exceeded its first period target of 108% of 1990 emissions levels by 2012. For the second period, 2013–2020, Australia has a target of 99.5% of 1990 emissions levels by 2020 (equivalent to 5% below 2000 emission levels by 2020).

In December 2015, the Prime Minister announced that Australia would ratify the second period of the Kyoto Protocol (as established by the Doha Amendment). Australia’s ratification will need to follow the same process as the Paris Agreement, outlined below. However, the Kyoto Protocol ends in 2020 and will be replaced by the Paris Agreement.

Paris Agreement

The Paris Agreement was agreed in 2015 by 175 parties. The aim of the agreement is to keep global warming to ‘well below’ 2 °C, and strive to limit warming to 1.5 °C.

The Paris Agreement also includes a global stocktake every five years to assess international progress, a ‘ratchet’ mechanism to increase emission reduction targets over time and an aim to peak global emissions as soon as possible.

Each party nominated an emissions reduction target. Australia proposed a target of 26–28% below 2005 levels by 2030. In comparison, the European Union pledged a target of 40% below 1990 levels by 2030. The United States (US) nominated a target of 26–28% below 2005 levels by 2025.

Comparisons are complicated by the use of different baseline years, but Australia’s 2030 emissions reduction target has been described as less ambitious than that of most
developed nations. The Climate Change Authority recommended a 30% reduction from 2000 emissions levels by 2025.

The Paris Agreement will come into effect when at least 55 parties that make up at least 55% of global emissions have ratified the Agreement. As of writing, 22 nations which emit 1% of global emissions have ratified. It is predicted that another 32 countries, including Australia, China and the US will ratify in 2016, covering 53% of global emissions.

**Ratifying the Paris Agreement**

Former Minister for the Environment Greg Hunt signed the Paris Agreement in April 2016. Signing expresses Australia’s intent to be bound by the terms of the Agreement. Australia must now ratify the Agreement, confirming its participation.

For ratification, a treaty is tabled in Parliament with a National Interest Analysis, which explains the impact of the treaty on Australia’s national interest. The Analysis for the Paris Agreement is currently being prepared by the Department of Foreign Affairs and Trade and the Department of the Environment and Energy.

Major treaties must be tabled for at least 20 joint sitting days to allow parliamentary scrutiny, including by the Joint Standing Committee on Treaties. From this point, the Prime Minister can recommend the Governor-General approve the ratification of the Agreement.

There are 23 joint sitting days scheduled for the rest of 2016. If Australia is aiming to ratify the Paris Agreement this year, as Minister Hunt stated in April, then the government will need to table the Agreement in the first week of sitting. The Library has been advised that the Doha Amendment will be tabled at the same time as the Paris Agreement.

The next COP, which will discuss the Paris Agreement, is in November this year.

**Montreal Protocol**

The Montreal Protocol on ozone-damaging gases does not directly address climate change, but ozone-damaging gases contribute to global warming. The 1987 Montreal Protocol binds 196 nations to reduce the emission of ozone-damaging gases, commonly used in fridges, foam and industrial applications. These gases thin the ozone layer, allowing more ultraviolet (UV) light to pass through the atmosphere. Increased exposure to UV light is linked to an increase in skin cancer.

Australia was one of the first nations to ratify the Montreal Protocol, and has met or exceeded all of its targets to date. In 2016, scientists reported the first signs of healing in the ozone hole over Antarctica.

In April 2016, the Government responded to a review of Australia’s actions on reducing the emission of ozone-damaging gases under the Montreal Protocol. The review made a number of recommendations, which the Government will implement and aims to have in place by the start of January 2018. Amendments to implement these proposed changes will need to be introduced into this parliament to meet the 2018 deadline.

**Further reading**


Climate change—reducing Australia’s emissions

Emily Hanna, Science, Technology, Environment and Resources

According to the most recent Quarterly Update, issued in May this year, Australia produced 535.7 million tonnes of carbon dioxide equivalent (Mt CO₂-e) emissions. These emissions came from various sectors:

- **Energy (Electricity)**—187.5 Mt CO₂-e (or 35% of the total emissions) were produced by fuel combustion to make electricity (on- and off-grid).
- **Energy (Direct combustion)**—94.5 Mt CO₂-e (18%) were produced by fuel combustion directly used in energy, mining, manufacturing, buildings and primary industries. Direct combustion excludes electricity use and transport.
- **Transport**—93 Mt CO₂-e (17%) came from fuel combustion used in road, rail, domestic shipping and aviation, off-road recreational vehicles and pipeline transport.
- **Agriculture**—68.5 Mt CO₂-e (13%) were produced from livestock (approximately 70% of agricultural emissions), application of fertilisers and soil additives, soil emissions and burning of agricultural residues.
- **Fugitive emissions**—39.6 Mt CO₂-e (7%) were produced from fugitive gas emissions from coal, natural gas and oil extraction, processing and supply. Fugitive emissions can be unintentional (for example, a leak) or intentional (such as the burning of waste gases). The main source is coal mines (66%), with underground coal mines producing more than surface mines.
- **Industrial processes**—33.7 Mt CO₂-e (6%) were produced from industrial and production processes that do not create energy. This includes metal production, chemical industry processes and synthetic gas production and use (for example, hydrofluorocarbons).

Key Issue

Climate policy continues to be controversial. Following the repeal of the carbon price in the last parliament, the Emissions Reduction Fund (ERF) is now Australia’s main mechanism to reduce greenhouse gas emissions. However, two-thirds of the ERF’s allocated $2.5 billion funding has now been spent. The ERF, and other policies, will need further funding to achieve our climate targets.

Under international climate agreements, Australia has two targets to reduce our greenhouse gas emissions:

- 5% below 2000 levels by 2020 (under the Kyoto Protocol) and
- 26-28% below 2005 levels by 2030 (under the Paris Agreement).

While Australia appears to be on track to meet its 2020 target, achieving the 2030 target may prove challenging. To achieve this target we need to know where our emissions are coming from and have effective policies to reduce those emissions.

Where do our emissions come from?

The Australian Government tracks our emissions of greenhouse gases (such as carbon dioxide and methane) through National Greenhouse Gas Accounts. The Department of the Environment and Energy publishes regular Quarterly Updates on Australia’s greenhouse gas emissions.
Waste—12 Mt CO$_2$-e (2%) were produced from waste decomposition, treatment and combustion. This includes solid waste in landfill (the major source in this category), waste in wastewater and compost.

Land use, land use change and forestry—6.5 Mt CO$_2$-e (1%) were produced from deforestation (such as land clearing), reforestation, revegetation and forest, crop and grazing lands management. There is a greater level of uncertainty in calculating emissions for this sector.

Australia’s climate policies

To meet our international climate targets we will need to reduce emissions across all the sectors outlined above. However, finding bipartisan agreement on the most appropriate policies to achieve these reductions has been challenging. Climate policy has been a polarising and highly political issue in Australia. Several proposals to establish an emissions trading scheme have come unstuck, with the former ALP Government finally establishing a carbon pricing mechanism in 2012. However, the ‘carbon tax’ was repealed by the Abbott Government in 2014. Instead, the Emissions Reduction Fund (ERF) is now the centrepiece of the Australian Government’s current policies to limit greenhouse gas emissions.

The government is relying on the ERF, as well as a number of other policies, to reduce our greenhouse gas emissions, and meet our 2030 climate target (see Figure 1). These policies are designed to reduce emissions, increase energy productivity, and boost the uptake of renewable energy.

However, questions have been raised as to whether these policies, particularly the ERF, are sufficient to achieve our 2030 target, particular given that many do not currently appear to have sufficient funding.

The Climate Change Authority (discussed below) is currently reviewing whether Australia should have an emissions trading scheme, as well considering the policies that Australia should implement to meet the Paris climate agreement. The Authority’s report on these issues will be released by the end of August 2016.

Figure 1: Australia’s climate policies

Source: Department of the Environment

Emissions Reduction Fund

The ERF is a voluntary scheme designed to provide financial incentives for businesses, landholders and communities to reduce emissions. Under the ERF, the Government purchases greenhouse gas abatement, quantified by Australian Carbon Credit Units through an auction process administered by the Clean Energy Regulator. Before a project can participate (or bid) in an ERF auction, it must be eligible and registered with the Clean Energy Regulator.

So far, three auctions have been held under the ERF, resulting in the purchase of 143 million tonnes CO$_2$-e in emissions reductions at an average price of $12.10 per tonne. Of the $2.55 billion allocated to the ERF, over $1.7 million, or around two-thirds, has now been spent, leaving $816 million remaining. Further funding for the ERF will apparently ‘be considered in future budgets’.
A range of projects to reduce emissions have been funded under the ERF so far. These include, for example, projects to replace Melbourne street lights with more energy efficient light bulbs, native forest and vegetation regrowth projects and the use of gas from waste to create energy.

However, the ERF has been criticised as an inefficient way of reducing our emissions, amid suggestions that the Government is paying polluters for emissions reductions that would have happened anyway even without the scheme. The Climate Change Authority concluded in a 2014 report that ‘by itself, and as currently funded, the [ERF] scheme is unlikely to deliver sufficient emissions reductions to reach even Australia’s minimum 2020 target’.

The ERF also includes a ‘safeguard mechanism’, which aims to ensure that emissions reductions achieved by the ERF are not offset by rises in emissions elsewhere. The safeguard mechanism came into effect on 1 July 2016, and encourages large businesses not to increase their emissions above historical levels. The mechanism applies to emitters with annual emissions of over 100,000 tonnes CO$_2$-e. While the mechanism has been criticised as weak, some commentators have suggested it could provide the basis for an emissions trading scheme. The mechanism will be reviewed in 2017.

### Energy productivity

To meet our 2030 emissions reduction target, the Government is also relying on the National Energy Productivity Plan (NEPP), which aims to enhance energy productivity by 40% between 2015 and 2030. Energy productivity combines traditional energy efficiency measures (such as more efficient appliances) with new technology and services (such as smart appliances and solar power). The main aims of NEPP are to encourage more productive consumer choices and promote more productive energy services.

Measures listed in the NEPP include, for example, improved vehicle efficiency; and improved residential building energy ratings and disclosure. The NEPP could result in reduced greenhouse gas emissions in numerous sectors including transport, agriculture, industry, and electricity.

The Government expects the NEPP to contribute over one quarter of the emissions reductions required to meet our 2030 target. However, as of July 2016, there does not appear to be any additional funding specifically allocated to implement this plan.

### Other policies and measures

Renewable energy is an important method of reducing emissions in the energy sectors, which produce over half of Australia’s emissions (see above). Policies to increase uptake of renewable energy are discussed separately in the brief on renewable energy policy.

The Government has also announced measures to further reduce emissions of hydrofluorocarbons (HFCs) by 85% by 2036, with measures planned to start by 2018. These potent greenhouse gases are commonly used in refrigeration and air conditioning. The Government has said it will implement measures to reduce HFC emissions by up to 80 Mt CO$_2$-e by 2030. These measures include banning imports of HFC containing equipment and working with business to encourage proper installation and maintenance of HFC-containing equipment to reduce gas leakage and energy use.

The Government is also exploring options for improving the fuel efficiency of Australia’s vehicle fleet, through the Vehicle Emissions Ministerial Forum, established in October 2015. The Forum released
a Discussion Paper in February 2016 to seek views on measures to reduce emissions from the road transport sector. This includes consideration of Euro 6 vehicle emissions standards, improved fuel quality standards and measures to increase the fuel efficiency of light vehicles.

**Climate advisory bodies**

As part of a package of measures along with the ‘carbon tax’, the former ALP Government created government agencies to review climate change policies and clearly communicate climate science to the public.

The Climate Change Authority is an independent statutory authority which came into effect in 2012. It provides the government and parliament with ‘rigorous, independent advice on climate change policies to improve the quality of life for all Australians’. It does this by carrying out reviews on climate change policies and initiatives such as the Renewable Energy Target.

The Abbott Government introduced legislation in the last parliament in an attempt to abolish the Climate Change Authority as part of its effort to dismantle the former ALP Government’s climate policy structure. However, the first abolition Bill was rejected by the Senate, while the second Bill eventually lapsed. Although the attempted abolition was not successful, one half (four) of the Authority’s Board member positions were left vacant for over a year from 2014. This occurred after the members quit because, according to some commentators, the then-Government:

... made it clear that it would not listen to its [the Climate Change Authority’s] advice (although it does seem to have been influenced by its recommendations on vehicle emissions standards and international permits).

These actions resulted in the Climate Change Authority’s future being questioned by commentators. Although new Board members were appointed in late 2015, the Authority’s future is still unclear, given that it is currently not funded beyond 2017.

In contrast, the Abbott Government successfully abolished the Climate Commission in 2013. The Climate Commission had been set up by the Gillard Government to communicate climate science to the Australian public in an understandable manner. Such was the public outcry after the Climate Commission’s dismantling, that a social media campaign to crowd-fund a replacement body raised nearly $1 million in under one week. The resultant independent Climate Council aims to:

... provide independent, authoritative climate change information to the Australian public. Why? Because our response to climate change should be based on the best science available.

As well as providing information on climate-related science and climate change impacts (for example, health), the Climate Council provides reports on policies related to climate change such as renewable energy. The not-for-profit Climate Commission continues to rely on public donations to support its work.

**Further reading**


Commonwealth Environmental Regulation
Sophie Power, Science, Technology, Environment and Resources
Juli Tomaras, Law and Bills Digest

Key Issue
The Government’s ‘One-Stop Shop’ has been implemented for environmental assessments. However, accrediting state approval decisions remains problematic, while other proposed changes to environmental legislation have stalled.

The Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) is the Commonwealth’s key environmental legislation. The EPBC Act is focused on the protection of nine ‘matters of national environmental significance’. These matters include World Heritage properties; threatened species; the Great Barrier Reef Marine Park; and water resources in relation to large coal mining and coal seam gas developments (the ‘water trigger’). Actions that are likely to have a significant impact on a matter of national environmental significance undergo environmental assessment and require approval from the Commonwealth Environment Minister. The Minister usually attaches conditions to any approval.

The One-Stop Shop
Most projects and developments that require approval under the EPBC Act also need separate approvals under relevant state or territory legislation. Some industry groups argue that this is unnecessary duplication which in turn results in additional costs and delays for those projects.

As a result, the Commonwealth Government has implemented a ‘One-Stop Shop’ to create a single environmental assessment and approval process for nationally protected matters. The aim is to simplify the approvals process for businesses, while maintaining high environmental standards. The Government suggests that it will result in savings to business, by reducing administrative costs and delays. A 2015 House of Representatives Committee report on Streamlining environmental legislation also supported the One-Stop Shop (although ALP members disagreed on this point).

The ‘One-Stop Shop’ relies on provisions in the EPBC Act that allow the Commonwealth to make bilateral agreements with the states, accrediting relevant processes under state legislation. There are two types of bilateral agreements:

- **Assessment bilateral agreements** accredit state and territory assessment processes for the purposes of the EPBC Act. A project is still referred to the Commonwealth, but assessed under the state processes and laws. The final approval decision is made by the Commonwealth Environment Minister. Assessment bilateral agreements were made in the past with states and territories, prior to the ‘One-Stop Shop’ proposal.

- **Approval bilateral agreements** accredit state and territory assessment and approval processes, where those processes meet certain standards. This means the final approval decision on a project is made by the state or territory government, not the Commonwealth. This mechanism has existed in the EPBC Act since it commenced, but has only been used once. Approval bilateral agreements cannot cover projects involving the water trigger.
By December 2015, assessment bilateral agreements were in place with all states and territories. Draft approval bilateral agreements for many states were published in 2014–15, but none have been finalised. The Commonwealth has released a condition-setting policy which aims to reduce duplicative conditions in projects that require both state and Commonwealth approval.

The EPBC Amendment (Bilateral Agreement Implementation) Bill 2014 did not pass in the last Parliament. Along with amendments to facilitate the operation of bilateral agreements, the Bill also initially proposed to allow the accreditation of state and territory approvals relating to the ‘water trigger’.

The ‘One-Stop Shop’ has been criticised by conservation groups, who argue that the delays and costs of federal environmental oversight are overstated. They would prefer the Commonwealth retain its regulatory powers over matters of national environmental significance, particularly matters where Australia has obligations under international agreements such as world heritage. There are also concerns that states may have a conflict of interest in approving projects which are of financial benefit to that state. Others suggest that the ‘one-stop shop’ may actually be a more complex system.

Other proposals for change

Another Bill that did not proceed in the last Parliament was the EPBC Amendment (Standing) Bill 2015. That Bill proposed to restrict the ability of certain individuals and organisations, such as conservation groups, to seek review of Ministerial decisions made under the EPBC Act. While supported by some industry groups, the Bill was criticised by lawyers, farming organisations and conservationists. Recent reports suggest this Bill may not be reintroduced this Parliament.

During the recent election campaign, both the ALP and Greens issued policies for stronger national environmental laws. Proposals included new ‘triggers’ (or matters of national environmental significance) such as a ‘climate’ trigger (to regulate land clearing) and a national parks trigger; as well as an independent environment protection agency. Another proposal was to extend the water trigger to cover all unconventional gas projects (such as shale and tight gas).

Conservation groups are also calling for a major overhaul of Australia’s environmental laws and have convened a panel of experts to develop new environmental legislation.

Meanwhile, many recommendations of a 2009 review of the EPBC Act (Hawke review) have not been implemented. The recommendations included, for example, establishing a National Environment Commission, responsible for advising on approvals, and monitoring and enforcement.

A 2014 audit by the Australian National Audit Office raised concerns about the Department of the Environment’s ‘passive approach’ to the management of non-compliance with the EPBC Act. The Department has since taken steps to improve its compliance monitoring. Nevertheless, questions remain as to whether the Department has sufficient resources to monitor the large number of projects referred and approved under the EPBC Act to date.

Further reading

Great Barrier Reef

Emma Knezevic and Bill McCormick, Science, Technology, Environment and Resources

Key Issue

Threats to the Great Barrier Reef from poor water quality and climate change urgently need to be addressed to maintain its natural values and ensure long term sustainable uses of the park.

The Great Barrier Reef (GBR) extends 2,300km along the coast of Queensland (see Figure 1) and is the world’s largest system of coral reefs. With great diversity of species and habitats, the GBR is one of the richest and most complex natural ecosystems on earth. It was inscribed on the World Heritage List in 1981. The reef is visited by more than two million people each year and the catchment region generates a value-added economic contribution of $5.7 billion annually.

Managing and conserving the GBR and its unique values is a challenge, and both the Australian and Queensland Governments have specific responsibilities.

The Great Barrier Reef Marine Park Authority (GBRMPA), a Commonwealth authority, manages the Great Barrier Reef Marine Park, as established by the Great Barrier Reef Marine Park Act 1975 (Cth). GBRMPA’s regulatory tools include zoning, plans of management, permits and policies.

The Queensland Government, through the Queensland Parks and Wildlife Service and Fisheries Queensland, works with the Commonwealth in managing adjacent state marine parks and islands.

Successful state and Commonwealth governments have referred to the GBR as the ‘best managed reef in the world’. They highlight GBRMPA’s multiple-use approach to balancing fishing, tourism and recreation, as well as maritime and transport access.

Figure 1: Great Barrier Reef and adjacent catchments

Source: Reef Plan Report Card Summary

Threats to the GBR

Threats to reef health include coral bleaching due to elevated sea temperatures, ocean acidification, outbreaks of Crown of Thorns Starfish (COTS), and cyclones. Threats also arise from coastal development, agriculture and industrial activities on adjacent land.
and the associated catchment run-off from these activities. As such, land and water management within or adjacent to the GBR contributes to cumulative impacts on the reef ecosystem.

A 2012 study, published by the National Academy of Sciences (NAS), found that coral cover had declined by around 50% since 1985. Tropical cyclones, predation by COTS and coral bleaching accounted for 48%, 42% and 10% of the estimated loss, respectively. The authors concluded that tropical cyclones and coral bleaching can be linked to climate change and mitigation measures are unlikely to be effective in the short term.

Water quality and reef management

In 2003, the Queensland and Australian Governments released the Reef Water Quality Protection Plan (Reef Plan) to address the issues of run-off from land. This plan was updated in 2009 and 2013.

Funding to implement the plan was sourced from the Natural Heritage Trust, Caring for our Country and Reef Rescue programs. The Reef Plan website states that, in 2013, the Australian and Queensland Governments collectively allocated $375 million over five years to its implementation. In 2015 a further $100 million was committed by each government.

The GBR Outlook Report 2014, prepared by GBRMPA, explains that run-off into the GBR from adjacent land carries increased nutrients found in fertilisers such as nitrogen and phosphorus, as well as pesticides and herbicides used in agriculture. Water quality is further reduced by sediments.

The impact of run-off is uneven across the GBR, and depends on pollutants and their concentrations, catchment sources and distance of reefs from the coast. Similarly, the effects of coral bleaching and COTS outbreaks vary by location and timing. The 2012 NAS study (above) reported that the remote northern region had relatively low mortality from COTS and cyclones, and coral cover was stable with the exception of a slight decline due to bleaching from 1998 to 2003. In contrast, a 2016 bleaching event has most severely impacted the northern region.

Crown-of-Thorns Starfish (COTS)

Occasional COTS outbreaks are considered natural, but outbreak frequency and intensity have increased as a result of reduced water quality. In particular, increased nutrient levels as a result of catchment run-off encourage plankton blooms, increasing the food available to COTS larvae. During COTS outbreaks, the starfish eat coral faster than it can regrow, leading to a decline in coral cover.

In addition to intensive efforts to manually control COTS during outbreaks, improving the water quality is expected to reduce the likelihood of COTS outbreaks.

Coral bleaching

Coral bleaching is caused by heat stress when water temperatures rise for prolonged periods. Coral bleaching is the term used when tiny marine algae that live in coral (zooxanthellae) are expelled. The coral tissue then appears transparent, revealing the white skeleton.

Significant coral bleaching outbreaks occurred on the GBR in 1998 and 2002. However, 2016 has seen the most extensive bleaching event with reports of up to 90% of some reefs affected to some degree. Impacts from this event are still unfolding, but coral mortality (at June 2016) is 22% across the GBR, with the most affected sites observed in the northern section. The Australian Institute for Marine Science explains:
Between February and May, the GBR experienced record warm sea surface temperatures. Extensive field surveys and aerial surveys found bleaching was the most widespread and severe in the Far Northern management area, between Cape York and Port Douglas. Here, bleaching intensity was ‘Severe’ (more than 60% community bleaching). Bleaching intensity decreased along a southerly gradient. While most reefs exhibited some degree of bleaching, this bleaching varied in intensity (from less than 10% to over 90% community bleaching) and was patchy throughout most of the management area. (View the GBRMPA map for more information.)

World Heritage in danger?

Since 2005, the World Heritage Committee has repeatedly warned Australia that the GBR was under consideration for inclusion on the List of World Heritage In Danger. ‘In danger’ listings are designed to:

…inform the international community of conditions which threaten the very characteristics for which a property was inscribed on the World Heritage List, and to encourage corrective action.

The World Heritage Committee’s decisions relating to the GBR in recent years have raised concerns about proposed and existing developments in and near the World Heritage Area, water quality issues (including sediment and agricultural nutrient run-off), and climate change.

The Australian and Queensland governments have responded to these concerns in a number of ways, to ensure the GBR is not placed on the ‘in Danger’ list. A key part of this response is the Reef 2050 Long-Term Sustainability Plan, which was informed by a strategic assessment of the impacts on the reef.

This Plan aims to put in place a long-term, comprehensive approach to improve the condition of the GBR. The Implementation Strategy identifies priority actions in the implementation of the Reef 2050 Plan.

Controversy arose in May 2016 when the Australian Government’s Department of the Environment successfully requested the removal of references to Australian sites, including the GBR, in a United Nations report, *World Heritage and Tourism in a Changing Climate*. The Department was reportedly seeking to avoid confusion over terminology.

Proposed Reef Fund

The Coalition’s 2016 Election policy proposes the creation of a $1 billion Reef Fund to finance clean energy projects in the GBR catchment region. The Clean Energy Finance Corporation will manage the Fund. It is unclear how the Reef Fund will directly benefit the health of the GBR in the short to medium term. It will not fund projects primarily designed to improve water quality, although improvements to water quality may arise as a secondary benefit from some of the clean energy projects.

The policy cites examples of projects that will be funded such as:

- solar panels to substitute for diesel on a farm and
- more energy efficient pesticide sprayers and fertiliser application systems.

Further reading


Australia has the third largest marine jurisdiction in the world, with an Exclusive Economic Zone (EEZ) covering 8.2 million square kilometres (km²). These oceans are home to 11 per cent of the world’s known marine species, and support over 5,000 species of fish, and about 30 per cent of the world’s sharks and rays. The economic and conservation value of these waters is considerable, as they contain valuable oil and gas fields and fisheries, as well as significant environmental assets such as the coral reefs, mangroves, sea grass beds, kelp forests and rocky reefs that are home to a diverse range of marine plants and animals.

It is essential that economic activity in the oceans can proceed while at the same ensuring that important marine ecosystems are protected from potential damage. For this reason, economic activity is regulated to minimise adverse impacts over much of the EEZ. A key regulatory tool is the declaration of marine reserves, which delineate marine areas of high conservation value where certain economic activities may be restricted. Such restrictions on fishing became an issue in the 2013 election. This led to a review of the recently proclaimed marine reserves (the Marine Reserves Review).

Marine reserves may be declared in coastal waters by the relevant state or the Northern Territory. In Commonwealth marine areas (generally from three to 200 nautical miles from the coast) the Commonwealth may proclaim reserves under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act).

The first Commonwealth marine reserve to be proclaimed was a section of the Great Barrier Reef Marine Park (GBRMP) in 1979. Other Commonwealth marine reserves have been declared on an ad hoc basis over the years. In 1998, the Commonwealth, state and Northern Territory governments committed to establishing the National Representative System of Marine Protected Areas by 2012 as a comprehensive, adequate and representative system of marine reserves. The Regional Marine Planning process was used to develop a system of Commonwealth marine reserves. The first plan to be developed was the South-east Regional Marine Plan in 2003, with the South-east Commonwealth Marine Reserves Network established in 2007. Over the next five years Marine Bioregional Plans and associated Commonwealth Marine Reserve Networks were developed for other regions.

After consulting marine and tourism businesses, environmental groups and the community, in November 2012 the Government proclaimed new reserve networks for the North-west, North, Temperate East and South-west Marine Regions, as well as the Coral Sea Commonwealth Marine Reserve (see Figure 1). Most existing marine reserves were incorporated into these networks. There are now 58 reserves in these networks, covering...
2,745 million km², plus the 344,400 km² GBRMP and the 71,200 km² Heard Island and McDonald Islands Marine Reserve.

Commonwealth marine reserves are assigned one or more zones:

- Sanctuary zone
- Marine National Park zone
- Habitat Protection zone
- Recreational Use zone
- Conservation Park zone
- Special Purpose zone and
- Multiple Use zone.

These zones must be managed in accordance with the Australian IUCN [International Union for the Conservation of Nature] management principles. Management plans outline what activities are permitted in each of the zones in the reserve.

For example, the South-east Commonwealth Marine Reserves Network Management Plan came into operation on 1 July 2013. Under the plan, petroleum exploration and production are only permitted in certain zones (Special Purpose and Multiple Use) and then only with a permit from the Director of National Parks. Fishing using bottom-trawling methods is not permitted in the marine reserves. However, other types of commercial fishing may proceed in Habitat Protection and Multiple Use zones if permitted by the Director of National Parks. Recreational fishing is permitted in all zones except for the Sanctuary and Marine National Park zones.

Management plans for the other networks and the Coral Sea reserve were scheduled to come into effect in July 2014. However, in response to concerns by commercial and recreational fishing groups about the loss of access to significant areas of the oceans, the incoming Coalition Government implemented its 2013 fisheries policy to suspend and review the management plans for the reserves. The management plans for the other networks and the Coral Sea Commonwealth Marine Reserve were invalidated when these marine reserves were revoked and ‘reproclaimed’ in December 2013. The marine reserves are still in place, but with no management plans in place for these reserves, the previous management arrangements were continued, pending the outcomes of the Marine Reserves Review.

Input to the review involved 13,124 submissions, 1,859 responses to an online survey and over 260 meetings and forums around Australia. Proposals were reportedly put forward by the review panel to allow commercial fishing in areas of the reserves where fishing had been banned under the suspended management plans.

The report of the review was given to the Minister for the Environment in December 2015, but has not yet been made public. The Government response to the report will be released later in 2016 and new management plans will then be prepared.

**Fishing**

The value of Australian fisheries and aquaculture production in 2013–14 was $2.5 billion, of which $1.5 billion came from the wild-catch sector of state, territory and Commonwealth fisheries. In that year, 3,594 people were employed in fishing enterprises and 5,111 in aquaculture. Recreational fishing is also significant, with 3.5 million people fishing annually. Eighty per cent of the recreational catch comes from estuaries, off beaches and in the ocean.

Under the Offshore Constitutional Settlement, coastal waters are managed by state and Northern Territory fisheries agencies.
The Australian Fisheries Management Authority (AFMA) manages Commonwealth fisheries that include deepwater or migratory species within the Australian Fishing Zone. These fisheries bodies set harvest strategies to maintain fish stocks at ecologically sustainable levels and aim to reduce bycatch to minimise impacts on the marine environment. For example, from 1 May 2017, all vessels in the South East Trawl sector and the Great Australian Bight Trawl sector will have to use seabird mitigation devices such as a ‘bird baffler’ to deter seabirds from foraging around the fishing vessels.

All export and all Commonwealth fisheries must be assessed and approved under the EPBC Act to ensure that these fisheries are managed in an ecologically sustainable manner and export approval can be granted. When fish products sourced from specific Commonwealth, state and territory fisheries are destined for export, these fisheries need to be assessed for their environmental performance before export approval can be granted under the EPBC Act. Over 110 fisheries have been approved for export.

The impact on the fishing industry of the new management arrangements for the marine reserves, as declared in 2012, resulted in a proposed Fisheries Adjustment Assistance Package worth around $100 million. After the Marine Reserves Review and the introduction of the revised management plans, it appears there will be a far smaller impact on the commercial fishing industry than under the management plans that were set aside.

Figure 1: Commonwealth Marine Reserves Networks

Source: Parliamentary Library

The impact on the fishing industry of the new management arrangements for the marine reserves, as declared in 2012, resulted in a proposed Fisheries Adjustment Assistance Package worth around $100 million. After the Marine Reserves Review and the introduction of the revised management plans, it appears there will be a far smaller impact on the commercial fishing industry than under the management plans that were set aside.

Figure 1: Commonwealth Marine Reserves Networks

Source: Parliamentary Library
The Commonwealth has allocated less than half this amount for fisheries adjustment assistance over the next four years.

**Offshore petroleum**

Significant offshore petroleum production started in Australia after ESSO/BHP Billiton discovered the first offshore gas and oil fields in Bass Strait in the 1960s. At present, production is occurring in waters off Victoria and Western Australia. As well as production licences, there are retention leases and exploration permits in waters off every state and the Northern Territory.

The National Offshore Petroleum Safety and Environmental Management Authority regulates all offshore petroleum facilities in Commonwealth waters in relation to health and safety, structural integrity and environmental management.

Unlike with commercial fisheries, petroleum licences that already exist at the time a marine reserve is declared, continue in operation irrespective of the zoning and management plans.

Since the management plans for the new marine reserves have been invalidated, the Commonwealth has issued petroleum exploration permits in some of these reserves with the approval of the Director of National Parks. In addition to permits granted in Multiple Use and Special Purpose zones, one permit was granted that overlaps the Habitat Protection Zone of the Gascoyne and Carnarvon Commonwealth Marine Reserves. Such a permit could not have been granted if the proposed management plan had been in place.

Public concerns about the potential impacts of petroleum exploration in the Great Australian Bight (GAB) on critical marine habitat due to seismic activity and deep water drilling led to the establishment in February 2016 of the Senate Standing Committee on Environment and Communications Inquiry into Oil or Gas Production in the Great Australian Bight. The inquiry lapsed with the dissolution of the Senate on 9 May 2016. There are 11 petroleum titles that have been granted in the GAB which overlap Multiple Use and Special Purpose zones of the GAB and the Western Eyre marine reserves.

**Climate change and marine reserves**

Marine reserves are essential to protect ecosystems, but are not always able to prevent habitat loss due to issues that cannot be directly managed, such as climate change. For example, recent research indicates that the range of the kelp forests of Western Australia has contracted south by 100 km due to several years of heatwaves which started in 2011. This will potentially adversely affect the important lobster and abalone fisheries along the coast.

**Further reading**


Australian Fisheries Management Authority (AFMA), ‘Ecological risk management strategies for Commonwealth commercial fisheries’, AFMA website.
Key Issue
Under the Murray-Darling Basin Plan, the Minister will make adjustments to limits on water use in the Murray-Darling Basin during the next year.

The Commonwealth will be contributing to the construction of new dams around Australia through grants and concessional loans.

Water use in Australia varies year by year. In 2013–14, 23,500 gigalitres (GL) were used, principally for irrigation (13,400 GL or 57%) and urban use (3,900 GL or 17%).

Australia’s annual rainfall is highly variable, both in volume and geographic distribution. This variability affects runoff, streamflow, groundwater recharge and water availability for human use. There is high rainfall in parts of the northern tropics, the east coast and western Tasmania. However, 40% of Australia has rainfall of less than 300 millimetres (mm) per year. Rainfall has also declined in some areas due to the failure of autumn and early winter rains, with a decrease since 1950 of 15–40 mm per decade in south-western Western Australia (WA) and 20–50 mm per decade in eastern Australia and Tasmania.

While 72% of Australia’s water runoff occurs in northern Australia, coastal Queensland and Tasmania, only 7% is generated in the Murray–Darling Basin (MDB) where more than two-thirds of Australia’s irrigation water is used.

Water harvesting, storage and distribution have therefore been a vital factor in urban and regional development in Australia. The building of dams and associated irrigation areas has increased water availability but has also damaged the environment, causing the long-term ecological decline of rivers, wetlands and floodplains. The community and industry has suffered from the adverse environmental effects and poor water quality.

Murray-Darling Basin
The decline in river health in the MurrayDarling Basin (MDB) triggered the development of the Basin Plan 2012, which sets environmentally sustainable limits for the consumptive use of water. The Murray-Darling Basin Authority (MDBA) is implementing the Basin Plan in concert with the Basin states (Queensland, New South Wales, the Australian Capital Territory, Victoria and South Australia) and other stakeholders.

A fundamental challenge for the Basin Plan will be achieving the long-term average sustainable diversion limit (SDL) of surface water of 10,873 GL per year for urban, industrial and agricultural use in the MDB. To reach the SDL, the Australian Government has committed to recovering 2,750 GL of water for the environment by 2019. This recovery will be achieved through both investment in infrastructure efficiency (for at least 600 GL of the water) and water buybacks. By 30 June 2016, 1,981.4 GL, or 72% of this water target, had been recovered.

The Basin Plan contains a SDL Adjustment Mechanism which allows the Minister for Agriculture and Water Resources, on the advice of the MDBA, to change the SDL up or down by up to five per cent (544 GL) as long as environmental and socio-economic outcomes are not compromised.
The 2,750 GL of environmental water can be decreased by up to 650 GL through ‘supply measures’ that increase the quantity of water available to the environment (for example, by reducing evaporation losses at storages). Alternatively, it can be increased by up to 450 GL through ‘efficiency measures’ that recover additional water for the environment by making water delivery systems for irrigation more efficient. There are also ‘constraints measures’ that ease or remove structures or rules that constrain the delivery of environmental water.

Basin states provided an agreed package of supply, efficiency and constraint measures under the SDL adjustment mechanism to the MDBA in May 2016. The MDBA will publish a draft of the proposed SDL adjustment in late 2016 or early 2017. The Minister will then table the final SDL adjustments, which will be disallowable by Parliament.

Dams and water infrastructure projects

Over the past twenty years the construction of significant dams has been limited for a variety of reasons. These include lack of economic viability and environmental impact.

A 2014 CSIRO study of potential dams in northern Australia found that the best sites had been already developed and the next best sites have limited areas of soils suitable for irrigated agriculture. It did identify other potential dam locations, including up- and downstream of the existing Burdekin Dam, in the Herbert River Gorge in Queensland and in the Fitzroy catchment in WA. The report estimated that if 15 of the ‘most promising large dams’ outside of national parks and other protected areas were developed, they could irrigate 350,000 hectares.

In 2013 the Coalition committed to plan for new dams. The 2014 Water Infrastructure Options Paper identified 31 water infrastructure projects with potential for Commonwealth involvement, including those already funded by the Commonwealth.

The Commonwealth has established the National Water Infrastructure Development Fund, with $59.5 million allocated to 40 feasibility studies. Funding of $450 million will be available from 2017–18 for water infrastructure projects, including $170 million for northern Australian projects.

In addition, the $2 billion National Water Infrastructure Loan Facility, announced in the 2016 Budget, will support major water infrastructure projects proposed by states and territories with private sector partners over 10 years. Concessional loans aim to stimulate and accelerate economically viable dams, weirs, pipelines and managed aquifer recharge schemes. The first five years of the loans will be interest only, with the principal and interest repaid over the next ten years.

The 2016 Coalition election policy also commits the Commonwealth to providing funding for other water infrastructure projects, including up to $130 million for the Rookwood Weir in Queensland (if economically viable).

Further reading


Native vegetation, such as forests, has many benefits including supporting biodiversity, reducing land degradation and salinity, improving water quality, storing carbon, and contributing to on-farm production.

*Australia’s State of the Forests Report 2013* said that there are over 19,000 species of vertebrates and plants found in Australia’s forests. 1,431 forest-dwelling species are listed as threatened due to habitat loss from land clearing for agriculture, grazing, and urban and industrial development as well as predation and competition from pest and unsuitable fire regimes. The report said that forestry operations pose a minor threat to these threatened forest-dwelling fauna and flora species.

**Regional Forest Agreements**

Issues associated with native forestry have been controversial for the past forty years; Commonwealth involvement in native forestry activities started with the regulation of woodchip exports in the 1970s. Conservation groups have sought to convince state and federal governments to include old growth forest and wilderness in conservation reserves. In 1995, the Comprehensive Regional Assessment process aimed to find a long-term solution by identifying areas for protection and areas to be open for harvesting in order to enable certainty of future wood supply. Regional Forest Agreements (RFAs) were then agreed between the federal and state governments, protecting 90% of wilderness and 60% of old-growth forests in reserves. Ten RFAs were signed between 1997 and 2001, covering four states:

- New South Wales (Eden; North East; Southern)
- Tasmania
- Victoria (Central Highlands; East Gippsland; Gippsland; North East; West) and
- Western Australia.
RFAs apply for 20 years, with five-yearly reviews. As such, they are due to expire in the next few years. However, each RFA may be extended for a further period after the third five-year review of the RFA.

The 2013 Coalition forestry policy stated that it would extend the RFAs for five years following each five-year review, starting with the Tasmanian RFA. The third five-year review of the Tasmanian RFA has been finalised. In its response, the indicated they would extend the RFA into a rolling 20-year agreement. Tasmania will be entering formal negotiations over the RFA extension with the Australian Government.

The agreed process for the Tasmanian RFA may be a template for the RFAs in other states. All three other states have agreed to pursue their reviews in 2016. However, the Victorian Government has not decided its position about the extension of its RFAs.

It is still considering whether to establish more national parks in forest areas of Victoria. In November 2015, it established a Forest Industry Taskforce, which has yet to report.

The establishment of RFAs has not halted significant public opposition to the continued logging of old growth forests and there are now campaigns from conservation groups to end all logging in native forests. While both the Coalition and the ALP support the continuation of the RFAs, the Greens want to phase out logging in native forests.

Vegetation clearing

Clearing of native vegetation can have a number of serious consequences such as biodiversity decline, dryland salinity, reduced water quality and quantity, difficulty in flood control, increased erosion, increased greenhouse gas emissions and reduced ecosystem functioning (facilitating biological insect pest control).

Figure 1: Annual woody vegetation clearing rate in Queensland (1988–2014)

Source: Land cover change in Queensland 2012–13 and 2013–14 Statewide Landcover and Trees Study

Note that HVR stands for high value regrowth vegetation
High levels of land clearing in the early 1990s led Commonwealth, state and territory governments to set the goal of reversing the decline in the quality and extent of native vegetation by 2001. Australia’s Native Vegetation Framework updates a 2001 framework that aimed to implement this goal.

The 2001 target was not met and more than 400,000 ha was still being cleared annually, with the great majority being cleared in Queensland along with significant areas in NSW. These states implemented more stringent vegetation management controls from 2006. They resulted in a decrease in land clearing with greenhouse gas emissions (GHG) from deforestation across Australia decreasing from 98 megatonnes (Mt) of carbon dioxide equivalent ($\text{CO}_2\text{-e}$) in 1991 (19% of Australia’s GHG emissions) to just 34 Mt $\text{CO}_2\text{-e}$ in 2014 (6.5%).

Change of governments in Queensland (2012) and NSW (2011) resulted in a loosening of the restrictions on land clearing in both states.

In the case of Queensland there was a tripling in the rate of land clearing from less than 100,000 ha in 2011 to 300,000 ha in 2014 (see Figure 1 above). According to the Queensland Government, land clearing in Queensland is now generating a substantial proportion of Australia’s GHG emissions from deforestation.

The newly elected Queensland government is attempting to reverse this trend, and protect the Great Barrier Reef, by introducing new legislation that will:

- reinstate the protection of high-value regrowth on freehold and Indigenous land
- remove provisions permitting clearing for high-value agriculture
- broaden protection of regrowth vegetation in watercourse areas to cover all Great Barrier Reef catchments
- reinstate compliance provisions for vegetation clearing offences and
- regulate against the destruction of vegetation in watercourses.

The Australian Conservation Foundation welcomed the changes. However AgForce Queensland criticised the new legislation as a ‘knee-jerk action’ and is concerned that Departmental mapping is ‘wildly inaccurate’.

New South Wales also plans to overhaul its vegetation management by establishing a new risk-based framework for clearing native vegetation. The framework proposes to remove the requirement for a farmer to obtain an approval to clear native vegetation on their property if it is zoned as exempt or the clearing is carried out according to a code of practice.

Conservation groups are concerned that the new proposals would see a return to broad-scale clearing. However NSW Environment Minister Mark Speakman indicated that there would be strong caps to stop overclearing.

Further reading

Department of Agriculture, Regional Forest Agreements – an overview and history, 2015.

Energy market challenges
Kai Swoboda, Economics

Key Issue
There are a number of emerging issues in energy markets that have an impact on the price and reliability of energy supply.

Addressing these challenges is complex; it requires joint action by the Australian and state and territory governments and regulators to provide the appropriate incentives in energy markets.

The supply of energy to households and businesses in Australia involves complex interactions between governments and privately-owned businesses. These interactions typically occur in markets regulated under a national co-operative approach between governments and involve national, regional and state-based regulators.

Energy markets are affected by a range of factors including the historical development of energy supplies in each state, market and weather conditions, as well as exposure to international markets. There are several specific issues that affect some energy markets.

East coast gas exports
The recent development of export-oriented liquefied natural gas (LNG) terminals in Queensland has provided significant economic benefits through the scale of investments and export revenues. However, the increase in gas prices that are an outcome of the link to international gas markets has created problems for domestic gas users. Indeed, a recent analysis of industrial gas prices conducted for the Department of Industry, Innovation and Science found significant price increases for industrial gas users in recent years.

Gas prices, as determined at key ‘hubs’, have increased in association with the commencement of LNG exports from Gladstone in January 2015 (Figure 1).

Figure 1: Recent LNG exports from Gladstone and Adelaide and Brisbane gas hub prices

Source: Thomson Reuters Eikon and Australian Energy Regulator (AER), STTM quarterly prices, AER website.

While monthly LNG export quantities from Gladstone have stabilised since the start of 2016, future volumes will be largely dependent on Asian LNG prices. These in turn, will be affected by changes in oil prices and competition from other exporters, including the United States which has recently commenced exporting LNG.

Policy prescriptions for addressing the potential for higher gas prices as a result of LNG exports include: the development of additional gas resources, restrictions on LNG exports, more and higher capacity interconnections, improved access arrangements for gas pipelines and improved market information for participants.
Wholesale electricity markets

The national electricity market (NEM) covers eastern Australian states and the ACT. In this market generators compete to supply electricity to electricity retailers. Wholesale prices in the NEM are typically determined in each state and are influenced by demand conditions, the mix of generation technologies in place and the extent of interconnections with states. Consumer behaviour and industrial demand are also factors that influence the market.

Between July 2012 and June 2014 there was a period of relative stability and declining wholesale electricity prices in the NEM as a result of the repeal of the carbon price arrangements. Since that time, however, prices in some states—particularly Tasmania, Queensland and South Australia—have been more volatile (Figure 2). This is particularly the case since mid-2015.

Figure 2: National electricity market wholesale prices, 2009-10 to July 2016 ($ per MWh)

![Graph showing wholesale electricity prices](image)


Recent changes in wholesale prices are related to jurisdiction-specific events as well as to broader policies that specifically apply within a jurisdiction. For example, fluctuation in prices in Tasmania in the past 12 months was related to the interconnection between Tasmania and Victoria being unavailable between December 2015 and June 2016. It was also the result of low levels of water storages available for hydroelectricity generation and the need to use imported diesel generation to meet demand.

In South Australia, recent rises in wholesale prices are the result of a combination of state-specific factors and broader policies that specifically pertain to the state. These include:

- the high share of wind energy in electricity generation that displaces other sources of generation when conditions are favourable
- a reliance on two capacity-constrained interconnections with Victoria to import and export electricity
- the closure of uneconomic, older, higher-cost fossil fuel generation as demand remains flat and renewable generation capacity has been added and
- the historically wider use of gas-fired generation in the state and the impact on LNG export-related higher gas prices.

Policy prescriptions for addressing the issues faced in South Australia, and to a lesser extent, Tasmania’s reliance on the interconnector to Victoria include addressing competitive pressures through more and higher capacity interconnectors between states. Other proposed approaches include recognising the role of fossil fuel generation in providing supply reliability and developing market signals to incentivise such generation.

Electricity retailers and industrial customers can use long-term supply contracts and financial instruments to manage the risks of volatility in wholesale prices. However, should higher prices persist over the medium to long term, these higher prices need to be passed on to consumers.
Security of supply issues associated with an increasing share of renewable generation

A secure electricity supply generally requires a system that can quickly adjust to changes in the level of demand and supply across the system (such as when air conditioners turn on or where a generator fails). Another important element of supply security requires the frequency and voltage in the system to be maintained within an acceptable level.

The addition of renewable wind and solar rooftop generation is generally not able to provide this stability of frequency and voltage. Therefore it needs to be supported by ‘synchronous’ generation—which is typically supplied by fossil fuel generation.

The challenge of incorporating additional renewable generation will need to be accommodated by the market. The 44th Parliament reduced the legislated renewable energy target (RET) from 41,000GWh to 33,000GWh by 2020. It was estimated by the Clean Energy Council in mid-2015, however, that meeting this lower target would require approximately 6,000 MW of additional renewable generation capacity to be built.

A recent summary by the Office of the Chief Economist noted that 320MW of renewable generation capacity had been completed in the year to October 2015. In addition, 3,747MW of renewable generation capacity was at the committed stage—where projects are either under construction or preparing to commence construction—and a further 20,000MW was at the feasibility stage.

Electricity retail markets

Electricity retail markets, where retailers compete for residential and business customers, have seen progressive removal of price regulation since the early 1990s. However, at present, only Victoria (from 2009), South Australia (from 2013) and New South Wales (from 2014) have fully deregulated retail markets—although South East Queensland had price regulation removed from July 2016.

Higher network prices largely drove the increase in electricity prices between 2007 and 2012. In contrast, the repeal of the carbon price arrangements—in place between July 2012 and June 2014—and a moderation in regulated network costs have combined to provide a period of relative stability or decline in household electricity prices in most capital cities (Figure 3). Electricity price increases for households in most jurisdictions are expected by the Australian Energy Market Commission in December 2015 to be relatively flat in 2016–17 (except in South Australia where a rise of seven per cent is predicted). A rise of between two to four per cent in most jurisdictions is anticipated in the following year.

Figure 3: Nominal household electricity price changes, selected capital cities, 2007 to 2016

Although switching between retailers in a competitive market applies some pressure on prices, there are a number of issues in retail markets that will have an impact on the ability of customers and retailers to reduce electricity prices. These include technological changes such as time of use ‘smart’ electricity metering and the widespread use of roof top solar generation. In the medium term, the availability of affordable household battery storage will also affect retail markets.

Role of energy policy in meeting emissions reductions targets

There is a degree of complementarity but also tension between emissions reduction policies and objectives for low-cost and secure energy supplies.

The consumption of non-transport energy is a significant contributor to Australia’s domestic greenhouse gas emissions, accounting for 53 per cent of emissions in 2015 as estimated by the Department of the Environment.

In recent years, emissions from electricity generation have been falling; a consequence of the closure of several energy-intensive industrial facilities, flat or declining consumer demand in response to rising electricity prices and a shift to higher renewable generation. Contributing to this fall has been the closure of a number of ageing fossil fuel power stations, including:

- the Northern power station in May 2016, (capacity 520MW, operating since 1985) and the Playford B power station in 2012 (capacity 240MW, operating since 1960) in South Australia
- the Anglesea power station in Victoria in August 2015 (capacity 160MW, operating since 1969), and
- the Munmorah power station in New South Wales in July 2012 (capacity 1,400MW, operating from between 1967 and 1969).

There are several existing policies in place, such as the RET and the Government’s ‘safeguard mechanism’, that will exert some influence on incentives for generators and retailers. State-based policies that support renewables will also be a factor. There are also a number of policies under development or being proposed that may assist emissions reductions targets and these will need to be considered in terms of their energy market impact. These include policies such as:

- measures to improve energy efficiency and productivity, such as the ‘National Energy Productivity Plan 2015–2030’
- programs that aim to encourage the adoption of more energy efficient technologies and practices by consumers and
- the encouragement of technological innovation in energy supply through entities such as the Clean Energy Finance Corporation and Australian Renewable Energy Agency.

Further reading

Australian Competition and Consumer Commission, Inquiry into the east coast gas market, April 2016.


Renewable energy policy: retreat, renewal and revitalisation?

Juli Tomaras, Law and Bills Digest

Key Issue

The renewable energy sector seeks sufficiently stable policy settings to ensure the necessary investment to meet Australia’s emissions reduction target.

Renewable energy has an important role to play in cutting carbon pollution and meeting Australia’s emissions reduction target (26–28 per cent below 2005 levels by 2030), given that the energy sector accounts for both the largest proportion and biggest growth of greenhouse gas emissions created by people.

Renewable Energy Target

The Renewable Energy Target (RET) aims to reduce emissions from the electricity sector, and the Turnbull Government has stated that it aims to achieve a minimum of 20 per cent of energy from electricity coming from renewable sources by 2020. Currently, the commitment is for renewable energy to supply 33,000 gigawatt hours (over 23.5 per cent) of Australia’s electricity by 2020. Minister Frydenberg has locked in the 23.5 per cent renewable energy target by 2020, in what has been described as a ‘marked change from the avowedly pro-coal rhetoric of the Abbott government.’

The RET is made up of two schemes: the Large-scale Renewable Energy Target, and the Small-scale Renewable Energy Scheme. The Large-scale RET financially supports the creation and expansion of renewable energy power stations (for example, solar or wind) while the Small-scale RES creates a financial incentive for individuals and small businesses to install eligible small-scale renewable energy sources such as residential solar panels. The Large-scale RET is expected to create the majority of the renewable energy needed by 2020.

However, concern has been raised by some commentators that the Coalition Government has no renewables target beyond 2020. And Australia’s carbon dioxide emissions from electricity are on the rise, mainly due to a rise in black coal consumption after several years of falling or flat demand due to commencement and expansion of Liquid Natural Gas (LNG) exports from Queensland. Furthermore, concern has been expressed about the lack of clear, stable and sufficient long-term policy settings required to provide incentive and ensure the necessary investment in the large-scale renewable energy sector. It is notable that, between mid-2013 to 2015, there was negligible investment in the large-scale renewable energy sector in Australia. It is too early to see whether initiatives announced since then will address these concerns.

Renewable energy policy

Since gaining power in 2013, the Coalition Government has sought to make adjustments to policy and action in the renewable energy space.

In response to the 2014 Warburton Review and the Climate Change Authority RET Review, in June 2015 the then Abbott Government legislated to reduce the renewable energy target by 20 per cent from 41,000 GWh per year to 33,000 GWh by 2020. Meeting this lower target was estimated by the Clean Energy Council in mid-2015 to require approximately 6,000 MW of additional renewable generation capacity be built.
The Clean Energy Finance Corporation (CEFC) co-finances and invests, directly and indirectly financing renewable energy and energy efficiency projects. ‘The CEFC focuses on projects and technologies at the later stages of development which have a positive expected rate of return and have the capacity to service and repay capital.’ However, they also engage with ‘earlier stage projects which have significant support’ and an appropriate risk profile. The CEFC’s 2014–15 annual report shows clean energy investment in Australia was $3.171 million in that financial year—falling 31 per cent from $4,596 million on the previous financial year under the Labor Government.

Prime Minister Turnbull shelved the plan by former Prime Minister Abbott to abolish the Clean Energy Finance Corporation and the Australian Renewable Energy Agency (ARENA). ARENA works to reduce emissions in the electricity sector by providing grants to projects in the research and development phase that would improve the affordability and increase the supply of renewable energy in Australia. In a joint statement with former Environment Minister Hunt, Prime Minister Turnbull announced new plans to retain and reinvigorate the CEFC and ARENA as part of a commitment to supporting jobs and innovation through investment in clean and renewable energy.

This development and shift in position follows the issue of a new investment mandate to the CEFC in December 2015 by former Environment Minister Hunt and Minister Cormann. The mandate directed the CEFC to focus its attention on emerging and innovative technologies, energy efficiency and clean energy technologies. This was a change to, and a tempering of, a draft mandate put to the CEFC in June 2015 by the then Treasurer Joe Hockey and Minister Cormann that would have largely precluded further investments in wind and small-scale and changed the mix in favour of large-scale solar. The emphasis was, instead, to be on investment in new and emerging technologies and not in established, mature technologies with existing access to mainstream finance.

In early 2016, the CEFC announced that it would be providing $9.1 million to the University of Melbourne to fund renewable energy and energy efficiency projects at the University.

Ramping up solar

Concern had been raised that where ‘Australia falls behind in the global solar rankings, is in the large scale sector.’ It had also been reported that ‘Australia still sources more of its power from fossil fuels than other comparable countries in the world and we’re not even in the top 10 for wind and [large scale] solar capacity.’ In September 2015, the CEFC and ARENA stated that they were targeting an additional 300 MW of large scale solar in two new funding programs.

In April 2016 Ministers Hunt and Porter announced that the Turnbull Government would provide $3.3 million funding to support the Alkimos Beach residential storage trial from 2016-2020, which combines community-scale battery energy storage and solar. The media release also noted that Australia has the ‘highest per capita rate of household solar in the world’. Minister Hunt has previously stated that the Government was investing in emerging battery storage technologies and had plans to accelerate the deployment of battery storage in Australian households. Minister Hunt has also said he wants Australia to become number 1 in the deployment of battery storage.
Clean Energy Innovation Fund

In March 2016 Prime Minister Turnbull and Environment Minister Hunt announced the creation of a new Clean Energy Innovation Fund (CEIF) which will be allocated $100 million annually for ten years and funded out of the CEFC’s $1 billion allocation. This coincided with what some commentators described as a corresponding defunding of ARENA. The CEIF will be jointly managed by the CEFC and ARENA. The CEIF will provide loans to businesses rather than grants, and will ‘support emerging technologies which make the leap from demonstration to commercial deployment.’ The CEIF’s focus will be on projects such as ‘large-scale solar with storage, offshore energy, biofuels and smart grids.’ The announcement of this initiative would also seem to align with Australia’s Paris commitment to invest ‘new money’ in clean energy innovation.

Low Emissions Technology Roadmap

In May 2016, Minister Frydenberg announced that the Government was commissioning the CSIRO to develop a ‘technology neutral’ Low Emissions Technology Roadmap that will highlight areas of potential growth in Australia’s clean technology sector and map the development of new emissions reduction technologies. However, there was no detail about what this may involve; whether there will be ongoing funding to support these technologies, and if they will be developed in time to meet Australia’s 2030 emissions reduction target. Also necessary for an investment in these technologies is a consideration of the relative price of coal, which is falling.

State and territory renewable energy

Also of significance in the renewable energy sector are the actions and initiatives of state and territory governments. State and territory governments have announced their own targets to support the renewable energy sector.

In June 2016, the Victorian Government announced ‘ambitious renewable energy targets to create thousands of new jobs and cut the state’s greenhouse gas emissions.’ The Victorian Renewable Energy Target (VRET) will commit the state to generating 25 per cent of its electricity from renewable energy by 2020, and 40 per cent by 2025. It is expected that VRET will be based on a similar mechanism to the scheme used in the Australian Capital Territory, which has managed to avoid the uncertainty that has affected the renewables industry in recent years.

In 2014, South Australia announced a target of sourcing 50 per cent its electricity from renewable energy by 2025, although it is already above 40 per cent at present and this policy is dependent on federal policies. In 2015, Queensland committed to generating 50 per cent of its energy from renewable sources by 2030 and to ensure that one million of its homes had rooftop solar by 2020.

These commitments translate to a considerable expansion of the future supply of electricity from renewable sources.

Further reading

National Broadband Network

Emma Knezevic, Science, Technology, Environment and Resources

**Key Issue**

The rollout of the National Broadband Network (NBN) will continue using a mix of technologies. While technology choices, cost and pace of the rollout attract the most attention, decisions about an important NBN policy setting are still to be made.

The policy of uniform wholesale prices is under review by the Government. The outcome of these considerations could lead to differences in retail prices between metropolitan, regional and remote locations.

Australia’s National Broadband Network (NBN) was announced in 2009 by the Labor Government. The policy aimed at addressing Australia’s broadband availability and performance and to facilitate the structural separation of Telstra by providing an optic fibre alternative to its copper access network.

The original NBN plan was to reach 93 per cent of premises with an optic fibre connection. The remaining 7 per cent of premises would be served by either a new satellite service or terrestrial fixed wireless service (that is, a service to a fixed location, like a home, rather than a mobile service).

The Coalition won Government in 2013 with a policy it said would provide sufficient speeds for most users, be less costly and faster to build, and have lower prices for customers.

The Coalition’s plan retains the same solution for the 7 per cent but uses a mix of technologies for the other 93 per cent of premises.

**Important policy settings**

**Structural separation of Telstra**

Before the NBN (and in areas where the fixed line NBN has not yet reached) internet access was provided mainly over Telstra’s copper lines. Telstra’s competitors provide retail services by gaining access to services provided by Telstra over those lines. Telstra provides retail services in competition with those other providers and so has the incentive and ability to favour its own retail arm over its competitors.

Structural separation is considered the best solution to this policy problem and is the policy of all major parties.

The original plan was that, as the fibre network was rolled out, customers would be migrated onto the fibre connection and Telstra would cease to provide services over the copper access network, consistent with the statutory formulation of structural separation — that Telstra not provide retail services over an access network that it controls. Telstra would then stand on the same footing as other retail providers. Under the new NBN model, the process is similar.

**NBN is wholesale only**

The NBN is being built and run by a government-owned enterprise, NBN Co (now known as nbn™). A fundamental policy setting is that nbn™ provides only wholesale services to retail service providers (RSPs), and does not serve end-users. This policy is set out in legislation so any proposed change would need to be brought before parliament.
**Uniform wholesale prices**

A cornerstone of the original NBN policy was that nbn™ would charge uniform wholesale prices to RSPs. That meant wholesale prices would be uniform for a given service within a technology footprint (for example, all 25 megabit per second services within a fixed wireless area would have the same wholesale price). Further, for at least the basic service, the wholesale price would be identical across all technology footprints.

The policy recognised the historical disparities in broadband availability and price between commercially attractive metropolitan areas and often commercially unviable regional and remote areas. Uniform wholesale prices were intended to promote uniform retail prices across the country.

In 2013, the Abbott Government initiated several reviews of the NBN, including three by Dr Michael Vertigan. The *Market and Regulation Report* recommended that the system of uniform wholesale pricing be replaced with a pricing structure involving price caps on all NBN-type services. It stated that the caps need not necessarily be uniform across the country and that an industry levy could be used to subsidise the cost of the provision of services to less profitable areas.

The Government’s response in December 2014 stated:

> The Bureau of Communications Research will undertake an assessment of the costs of NBN Co’s fixed wireless and satellite services, which serve many non-commercial parts of Australia, and provide options to Government for replacing the current opaque NBN Co cross-subsidy embedded in its wholesale access prices with more transparent funding arrangements.

This assessment is ongoing. During the course of the new Parliament, the Government will decide how to implement the Vertigan recommendation about uniform wholesale prices.

The original uniform wholesale price policy was not established in legislation, but in a *Statement of Expectations*, a non-legislative direction given by shareholder Ministers to NBN Co in 2010. It is likely that the government would give effect to any changes in this policy area in the same manner.

**Australia’s broadband performance**

The Australian Bureau of Statistics’ (ABS) website *states* that the number of households with access to the internet at home increased to 7.7 million in 2014–15, representing 86 per cent of all households (up from 83 per cent in 2012–13).

According to the authoritative Akamai report *State of the Internet: 1st Quarter 2016*, Australia’s average peak connection speed is 43.8 Mbps, with a global ranking of 56th (down from a global ranking of 30th in the 3rd quarter of 2013).

Further reading

Department of Communication and the Arts, *National broadband network*

NBN Co Limited nbn™

Government’s initial response to Vertigan Report, 2014
Infrastructure decision making
Rob Dossor, Economics

Key Issue
The Commonwealth faces competing demands for the funding of national infrastructure, most involving large amounts of money, and requiring difficult decisions around which to prioritise.

Many of these decisions are highly controversial and there have been renewed calls for changes to the process.

The Commonwealth funds a significant amount of infrastructure covering roads, rail, ports and airports. Development of this infrastructure is recognised as being critical to Australia’s economic growth and competitiveness across many sectors, ranging from increasing the number of shipping containers moved through ports, to reducing the travel time for motorists on urban roads.

Infrastructure projects generally involve large sums of money. In the 2016–17 Budget, for example, the Government will spend over $5 billion on infrastructure projects through the Investment Road and Rail Programme.

Current institutional arrangements
There are few formal requirements around how funding decisions are made by the Commonwealth.

To return to the earlier example, the Infrastructure Road and Rail Investment Programme is legislated under the National Land Transport Act 2014 (the Act). The Act gives the Minister wide discretion about the investment projects that may be funded. These include:

- construction of a road or railway in a state or some external territories
- maintenance of a road or railway that is part of the National Land Transport Network
- construction of an inter-modal transfer facility in a state or some external territories and
- acquisition or application of technology that will or may contribute to the efficiency, security or safety of transport operations in any state or some external territories.

The Minister may ‘have regard’ to some broadly described considerations in deciding whether it is appropriate to approve a project. These include any assessments of the economic, environmental or social costs, or benefits of the project. There is no requirement, however, that a project will produce benefits that exceed the cost.

Infrastructure Australia (IA) was established in July 2008. One of IA’s functions is to evaluate nationally significant infrastructure proposals (as well as other infrastructure as determined by the minister). It is not a requirement, however, that IA evaluates all nationally significant infrastructure proposals before the Government provides funding for those proposals.

Calls for reform
A number of projects have attracted criticism on the basis that a comprehensive assessment was not conducted or made available to the public. For example, in its audit of the approval and

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Calls for reform
A number of projects have attracted criticism on the basis that a comprehensive assessment was not conducted or made available to the public. For example, in its audit of the approval and
administration of the federal funding for the Victorian East West Link project, the Australian National Audit Office found:

…neither stage of the East West Link project had proceeded fully through the processes that have been established to assess the merits of nationally significant infrastructure investments prior to the decisions by the Government to approve $3 billion in Commonwealth funding and to pay $1.5 billion of that funding in 2013–14.

The Grattan Institute and the Productivity Commission (PC) have called for better governance arrangements and institutional oversight in infrastructure decision making. The Reserve Bank of Australia outlines the importance of rigorous and transparent project selection and planning processes. IA states that ‘instances of publicly committing to a project before a detailed analysis has been completed and published can undercut confidence in government decision making…’, and recommends:

Government [needs] to establish a more rigorous evidence base for infrastructure investment decisions. Key steps include: increasing the quality and consistency of long-term infrastructure planning; deepening stakeholder engagement; allocating increased funding for project development work, such as business cases; improving the transparency of decision-making and ensuring the consistent delivery of post-completion reviews.

According to the PC, best practice includes:

- that decisions are taken in the public interest
- the incorporation of effective processes, procedures and policy guidelines for planning and selecting public infrastructure projects, including
- the establishment of mechanisms for the transparent review or audit of the decision-making process by an independent body.

Major party proposals for reform

Before the 2013 election, the Coalition proposed that IA assess infrastructure expenditure exceeding $100 million before funding decisions were made. However, it did not implement this proposal and did not expressly take it to the 2016 election.

Before the 2016 election, Labor committed to ensuring that IA would ‘independently [assess] all major infrastructure projects on the basis of the benefits they provide to the economy, the way they fit in with existing infrastructure, their commercial viability and their capacity to enhance national productivity.’ Labor also committed to ensuring that road projects incorporated smart infrastructure and considered the alternative option of using technology to improve the existing roads, and that IA would administer a $10 billion infrastructure financing facility.

Further reading


Infrastructure Australia, Australian infrastructure plan, February 2016.

Revenue from road use
Rob Dossor, Economics Section

Key Issue
Revenue from the primary road user charge, fuel excise, has been falling for some time due mostly to improvements in vehicle efficiency.

The pressure to secure other revenue streams to replace fuel excise presents Governments with an opportunity to design a system to replace existing road related revenue charges with one that solves the revenue decline and better reflects individual driver’s use of roads, with the added potential to address traffic congestion.

Decline in road related revenue
Public sector road-related revenue primarily comprises state-levied vehicle registration fees and stamp duty and the Commonwealth-levied fuel excise and GST. Although few of these charges are hypothecated to road funding, they form a significant part of total government revenue.

Fuel excise is the largest source of road-related revenue but it has been falling for some time.

According to the Bureau of Infrastructure, Transport and Regional Development, in 2013–14, public sector road related revenue totalled $27.8 billion. Fuel excise contributed about $10.8 billion or 39 per cent, down from about 44 per cent in the early 2000s.

The decline in fuel excise revenue is attributed to improvements in fuel efficiency of conventionally powered vehicles and the increase in alternatively powered vehicles like electric and hybrid vehicles. This trend can be expected to continue.

This decline will add pressure for governments to find alternative sources of revenue.

However, it also presents opportunities to design better systems for charging for road use that more closely align with the use that individuals make of roads—road use being a rare exception to the general proposition that the more we use of something, the more we pay. A feature of stamp duty and registration charges, in particular, is that they are fixed and do not vary with the extent to which a person uses roads.

Absence of strong price signal
A system that puts a price on road use offers a tool that can be used to address public policy issues such as traffic congestion.

It is estimated that during the morning peak period, over 20 per cent of Sydney road users travel for discretionary reasons—for example, shopping, recreation or other personal reasons—rather than for non-discretionary work or educational purposes. In the afternoon that rises to 39 per cent.

At the same time, there are no strong price signals to provide people with an incentive to modify their vehicle use by, for example, travelling in off-peak times. Stamp duty and registration charges do not vary at all with use. Fuel excise does vary with use, but few are aware how it is levied (it is about 39.6
cents per litre for petrol and diesel), plus it does not vary with time or place, so it is ineffective device for moderating behaviour.

Possible solutions

Infrastructure Australia recommends reform to the whole system; that is, that all existing government road use taxes and charges be removed and replaced with ‘direct charging that reflects each user’s own consumption of the network, including the location, time and distance of travel, and the individual characteristics of their vehicle such as weight and environmental impact.’

This system is also recommended by Infrastructure Partnerships Australia, which says it ‘offers strong opportunities to rationally price access to, and usage of, the road network—providing a mechanism to fund network additions, fund maintenance and improve network performance by aligning supply and demand.’ Australia motoring lobby group, the Australian Automobile Association is in favour of this reform.

Other policy options include the introduction of zone pricing, particularly in cities, and corridor-specific charging.

Zone pricing

Zone pricing (also known as a congestion charge or tax) charges road users to use certain road systems. Zone pricing has broad support from economists, and has been implemented in a number of places, notably in London, Singapore and Stockholm.

Corridor-specific charging

Corridor-specific charging, works in the same way as city toll roads. A fee is levied on users who access a particular road, much the same as a toll road, except the corridor may be publicly, rather than privately, owned.

Equity effects of road pricing reform

In considering these policy options, one of the relevant considerations is the equity effect of the system. Elements of the current system tend to operate against the interests of those lower incomes. Fuel excise, for instance, falls more heavily on those who to drive less efficient vehicles, commute further and have few alternative commuting options. Fuel efficient or alternatively powered vehicles, like electric and hybrid vehicles, tend to have initial high costs which deters low income purchasers.

The equity effects of road pricing reform are complex and uncertain, however. For example, lower income workers—generally having longer commuting distances, fewer alternative means of transport and less flexible work times—would likely continue to pay higher road use charges. However, the reduction of discretionary travel by others in peak times could benefit those same people through reduced travel times. The interactions are complex and deserve close consideration.

Further reading

M de Percy, 'Road users must pay, sooner rather than later', The Conversation, blog, 16 June 2015.

Deloitte, Road pricing and transport infrastructure funding: reform pathways for Australia, Discussion paper, 2013.

Infrastructure Australia, Australian infrastructure Plan, February 2016.
Financing infrastructure by value capture
Rob Dossor, Economics

Key Issue
Land value capture is a method of financing investment in infrastructure.

Most recently, it is seen by its proponents as the key to developing the mega-project that is the east coast high speed rail. This is due, at least in part, to the Prime Minister’s ‘plans for a new approach to infrastructure funding’. Value capture features prominently in the Government’s Smart Cities Plan.

Value capture describes a range of financing mechanisms that ‘capture’ some of the increase in property values generated from transport infrastructure improvements, for the purpose of funding that investment.

Value capture as a financing method is not a new idea but its explicit use in Australia for large-scale government-sponsored projects appears set to become more common.

Improvements in transport infrastructure tend to cause property prices to rise due to improvements in accessibility.

Value capture seeks to capture some of the increase in value that would otherwise accrue to the (usually private) property owner. By capturing some of this value, only those who directly benefit from the infrastructure will contribute to it, rather than all taxpayers effectively subsidising the value increase.

Value capture mechanisms
There are many commercial and legal arrangements that can be characterised as value capture. The Bureau of Infrastructure, Transport and Regional Economics (BITRE), however, identifies four types:

Tax increment financing (TIF)
TIF captures value through taxes levied on property value.

Under this approach, a ‘TIF zone’ is established in the vicinity of proposed infrastructure, where property values are expected to rise. Pre-investment, or base property values, in the zone are determined by the government, as is base tax revenue.

When property values rise in the TIF zone due to infrastructure investment, the increased tax revenue above the base rate is directed to repaying loans used to finance the investment.

TIF was developed in the United States in the 1950s as a policy mechanism to invigorate depressed areas. It is now more widely used, including for funding infrastructure necessary for population growth.

In recent years, however, its use has slowed. Several academic reviews have called into question its effectiveness. Some state, for example, that growth in TIF zones often comes at a cost to surrounding areas. Also, while generally generating a ‘solid and robust’ revenue base, TIF zones may not result in increased business activity or a rise in property prices.
Betterment tax

Betterment taxes, in their most common form, are taxes on property owners considered to be direct beneficiaries of infrastructure investment. They are usually based on unimproved capital value.

The Henry Tax Review said that betterment taxes must ‘isolate the increase in value attributable to the zoning decision or the building of infrastructure from general land price increases at the local level’. According to Anastasia Roukouni and Francesca Medda of University College London, ‘betterment tax is considered an equitable and efficient levy due to the fact that it can recover the increased value on private land assets accrued with transport investment’.

Betterment taxes have a long history in Australia. They contributed to the funding of the Sydney Harbour Bridge, Melbourne’s City Loop rail system and the Gold Coast Rapid Transit Light Rail.

Transaction taxes

Transaction taxes, such as capital gains tax (CGT) and stamp duty, are an existing form of value capture. CGT, a Commonwealth tax, is a tax on the difference in the price of a property and the price received when it is sold (except when the property is the seller’s main residence).

Stamp duty, on the other hand, is a state tax levied on the purchase of certain assets, including property. Stamp duty has been heavily criticised, with the Henry Tax Review, for example, stating:

...stamp duties are poor taxes. As a tax on transferring land, they discourage land from changing hands to its most valuable use. Stamp duties are also an inequitable way of taxing land and improvements, as the tax falls on those who need to move.

Joint development

Joint development covers several kinds of arrangements between government agencies and private firms. A common example is an arrangement for the redevelopment of a train station under which the Government grants a private firm the right to develop the site and surrounding land in return for a contribution to the redevelopment of the train station.

Other things to consider

Not all investment in transport infrastructure causes property prices to rise. Some relevant factors are:

- There may be a negative relationship if a transport line runs through or near an industrial area.
- The closeness of a property to the actual line may reduce the benefit (due to noise and disturbance).
- Properties in high crime areas may not see the growth in values which may otherwise be associated with infrastructure provision.
- There may be little appreciation in prices if development does not increase accessibility (for example, when a light rail line replaces a rapid bus line).
Unconventional gas
Rowan Drinkwater, Science, Technology, Environment and Resources

What is unconventional gas?

Natural gas is combustible gas that is formed and held in underground deposits. This gas is composed mainly of methane—up to 98 per cent—with varying amounts of other trace gases depending on how and where it is formed. Some sources of natural gas are called ‘unconventional’ because they are more difficult to extract and require additional technology or effort beyond that required for more ‘conventional’ gas.

The different types of unconventional gas, and the naming conventions, vary depending on their geological origin. There are three main types. CSG—or coalbed methane—is found in shallow coal seams. Tight gas is found in sandstone layers that are not sufficiently porous—or too ‘tight’—for the gas to flow through and hence trap the gas. Shale gas is found in shale layers (see Figure 1).

Unconventional gas production, almost exclusively from CSG, from 2011–12 accounted for about 13 per cent of all gas production in Australia.

Australia’s main CSG projects are located in Queensland and New South Wales (see Figure 2). There are also significant potential volumes of shale and tight gas, across all states and territories except the ACT, with the largest basins located in Western Australia, the Northern Territory and in the Cooper Basin, which straddles Queensland and South Australia. States and territories are all at different stages in developing their regulatory frameworks for shale and tight gas, but these industries are still emerging, with preliminary exploration currently underway.

How is it different to conventional gas?

From a consumer perspective unconventional gas may seem practically identical to conventional sources of natural gas, but there are a few important differences.

Most sources of conventional gas are located offshore, while many onshore sources are not located near other land users and local communities. In contrast, CSG developments are often close to, or even co-located with other industries, such as agriculture. In addition CSG developments can be located close to regional towns and cities.

Key Issue

The development of coal seam gas (CSG) and exploration for other unconventional gas sources has been highly controversial. This controversy is focussed mainly on environmental impacts and land access issues. This brief outlines some of the key terms and concepts underlying the debate.
Co-location at times has resulted in conflict between landowners and resource interests.

In addition, the extraction of unconventional gas typically requires more wells and more access roads and pipelines. This means more land is needed than for conventional gas developments. Significant volumes of water are also produced through the CSG extraction process. This water contains salts and other contaminants that need to be treated at the surface and used or disposed of appropriately.

For shale and tight gas, hydraulic fracturing is usually required to enable gas production. Hydraulic fracturing is a process where fluid and sand is injected at high pressure in order to re-open natural fractures and create pathways for gas to flow.

Hydraulic fracturing, or ‘fracking’, has become synonymous with CSG production. However, this is somewhat of a misnomer, as fracking is not always used in CSG production in Australia. Of all the CSG wells in Australia, fewer than 10 per cent have been hydraulically fractured, but this number may increase over time. Hydraulic fracturing also requires significant volumes of fresh water—typically in quite dry areas—which can present its own challenges and risks.

Consequently, these projects can often be more complex and costly than conventional gas ventures.
Why were these resources developed?

In Queensland, gas production from the two main CSG basins—Bowen and Surat—began in 1998 and 2005 respectively. Production from these sources began in part as a result of the reduction of conventional gas production from existing fields.

The production also coincided with a Queensland government policy in place at the time that required up to fifteen per cent of electricity to be sourced from gas-fired generation. This policy, in part designed to reduce the state’s greenhouse gas emissions, also helped create a fixed gas demand in the initial stages of development. Later expansion of the CSG industry has been due primarily to the Liquefied Natural Gas (LNG) export market. The high export value of LNG also precipitated the exploration of shale gas resources in other states.

Risks and concerns

There have been a number of concerns raised about the risks of unconventional gas development including: human and environmental health impacts, threats to water resources, air quality concerns, land use competition and social impacts.

Comparing the impacts observed in Australia with overseas industries is challenging because of the influence of local conditions on the potential risks. However, issues around well integrity, environmental and human health risks as well as more general concerns have been found to be similar.

The scarcity of baseline environmental data has also hindered efforts to understand the potential impacts of CSG developments and establish causal links between certain activities and observed impacts. Research into these impacts and their management is continuing.

The water trigger and the IESC

The regulation of onshore gas resources is primarily the responsibility of states and territories. However, in 2013, the Australian Government amended the Environment Protection and Biodiversity Conservation Act 1999 to require CSG and large coal mining developments to obtain Commonwealth approval where they would have a ‘significant impact’ on water resources. This is known as the ‘water trigger’.

This Commonwealth approval is separate to state approvals and must take into account advice from the Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development (IESC). Future shale gas or tight gas projects in Australia will not be regulated under this trigger as it only applies to CSG and large coal mining developments. The water trigger is currently under review. The review report was due to the Minister for the Environment by 31 March 2016.

Further reading


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Radioactive waste management

Sophie Power, Science Technology Environment and Resources

Key Issue

After a history of unsuccessful attempts to find a suitable site, the Commonwealth has now identified a possible new site in South Australia for a national radioactive waste management facility. A recent Royal Commission has proposed a separate waste facility, also in South Australia.

Radioactive waste in Australia

Australia's radioactive waste is produced by the use of radioactive materials in scientific research and industrial, agricultural and medical applications. This includes the operation of the Open Pool Australian Lightwater (OPAL) research reactor at the Australian Nuclear Science and Technology Organisation (ANSTO) in Sydney.

Radioactive waste is classified into categories—including low, intermediate and high—based on how much radiation it emits and for how long. Low-level waste contains small amounts of radioactivity and generally requires minimal shielding during handling, transport and storage. Intermediate-level waste emits higher levels of radiation and requires additional shielding.

Australia produces mostly low-level waste (laboratory items such as paper, plastic, gloves and filters) and some intermediate radioactive waste (for example, from the production of nuclear medicines). Australia does not produce any radioactive waste classified as high-level.

Some of Australia’s waste comes from the former High Flux Research Reactor (HIFAR) at Lucas Heights in Sydney. HIFAR operated for around 50 years but was retired in January 2007 and replaced by the OPAL reactor. During its life, HIFAR supplied millions of doses of nuclear medicine and provided neutron beams to study the structure of materials. In the 1990s, the Australian and French Governments entered into agreements for France to reprocess HIFAR’s spent nuclear fuel. Reprocessing removed residual uranium and plutonium and made the waste safer to manage. This reprocessed spent fuel was returned to Australia at the end of 2015. This waste is now being temporarily stored by ANSTO at Lucas Heights until a national facility is completed.

Australia has accumulated almost 5,000 cubic metres of radioactive waste (around the volume of two Olympic size swimming pools). This does not include uranium mining wastes, which are disposed of at mine sites.

Australia does not have a central facility for the storage or disposal of radioactive waste, which is currently held at more than 100 locations around Australia. Many organisations are using storage areas that were not designed for long term storage of radioactive waste. For example, under international safety standards, long term waste management facilities should be in geologically stable areas with low population density and not prone to flooding.

Past attempts to site a national waste repository, including near Woomera in South Australia and Muckaty in the Northern Territory, were unsuccessful, due to community concern, and resistance from state governments and affected local and Indigenous communities. This time, however, site selection has been underpinned by a voluntary nomination process.
Proposed national facility

The process for selecting and establishing the Commonwealth’s national radioactive waste management facility is set out in the National Radioactive Waste Management Act 2012 (Cth) (NRWM Act). The proposed facility will be for long-term disposal and storage of Australian’s radioactive waste. Under the Act, any new site for such a facility must be voluntarily nominated.

The current process began in May 2015, when 28 sites were nominated by landholders around Australia. These sites were evaluated against technical, economic, social and environmental criteria. Six sites were then shortlisted. Public consultation on those sites closed in March 2016.

On 29 April 2016, the Commonwealth announced it had identified a possible site in Barndioota, South Australia. This site has already proved to be controversial. A $2 million ‘Community Benefit Package’ was also announced to provide grants for projects in communities in and around Barndioota. Further community consultation will now occur along with more detailed site studies. The Government has stated that agreement with the community on hosting the facility is essential and it ‘will not impose the facility on an unwilling community, noting no individual or group has a right of veto’.

The facility is scheduled to be in operation by 2020 and will require licences and approvals under other Commonwealth legislation, such as the Environment Protection and Biodiversity Conservation Act 1999 and the Australian Radiation Protection and Nuclear Safety Act 1998. Australia’s regulatory framework for nuclear activities is based on standards and obligations under a number of international conventions. This includes, for example, the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management.

South Australian Royal Commission

In May 2016, the South Australian Nuclear Fuel Cycle Royal Commission released its final report. One of its 12 recommendations was that the South Australian Government ‘establish used nuclear fuel and intermediate level waste storage and disposal facilities in South Australia’. The Commonwealth has committed to ‘seriously consider’ this report.

The proposed facility would require changes to South Australian legislation and permits and approvals under relevant Commonwealth legislation.

Although both proposed facilities may be located in South Australia, they are separate. A key difference is that the Commission’s proposed facility would manage also international used nuclear fuel and waste. In contrast, the NRWM Act does not allow the storage of foreign-generated or high-level radioactive waste at Commonwealth facilities.

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Australia and the South China Sea: debates and dilemmas

**Dr Cameron Hill, Foreign Affairs, Defence and Security**

**Key Issue**

Intensifying disputes in the South China Sea present an acute challenge to Australia’s key interests and relationships in the Indo-Pacific.

The South China Sea disputes have entered a dangerous new phase in the last several years. Alongside China’s unprecedented construction and fortification of artificial features, incidents at sea involving clashes between various combinations of fishermen, coast guards and, occasionally, naval assets, are occurring on a routine basis. With the nationalist credentials of authoritarian and democratically-elected claimant governments at stake, the potential for miscalculation and escalation (whether inadvertent or intended) is growing.

Australia’s aspirations for a viable ‘rules-based’ strategic order in the Indo-Pacific are under significant pressure as regional powers contest the very nature and scope of these rules via the disputes. Key Australian interests and relationships are being tested.

**China: a revisionist power?**

As Australia’s largest trade partner since 2007, China’s rise and pursuit of its ‘legitimate interests’ have been supported by successive Australian governments. A key question emerging from China’s recent actions in the South China Sea is where do these ‘legitimate interests’ begin and end—do they include the establishment of ‘spheres of influence’, the revision of existing regional and global norms, and the right to resort to unilateral action to achieve these ends? From Beijing’s perspective, these are all strategic behaviours that have been exhibited by previous great power aspirants, including the US.

Whether coming to terms with China’s rise should involve an element of genuine strategic ‘accommodation’, as opposed to simply ‘engagement’, is a question that Australian policymakers often appear reluctant to publicly canvass. In response to recent Chinese actions in the South China Sea, Australia’s current strategy might be best described as one of ‘dissuasion’—working with others to convince China of the costs of unilateral actions, while simultaneously using engagement to reinforce the benefits of the existing, US-led regional order.

Even though the pay-offs thus far might appear slight, the alternatives are perhaps even less appealing. Whether this calculus would hold in the face of even more forceful Chinese actions—such as Beijing proclaiming an Air Defence Identification Zone in the South China Sea—or provocative moves by other claimants, remains to be seen.

**United States: ‘abandonment’ or ‘entrapment’?**

The longstanding alliance with the US is routinely invoked as the foundation of Australia’s security. The South China Sea disputes have forced a sharper consideration of the benefits and risks of the alliance and the conditions under which these could manifest. This has been most prominent in debates surrounding whether Australia should replicate several recent ‘freedom of navigation operations’ (FONOPs) undertaken by the US Navy through the contested waters; in particular, whether Canberra should authorise naval FONOPs within the 12-nautical-mile limit of China’s newly constructed artificial islands. China has
recently intensified warnings of ‘serious measures’ should Australia seek to challenge Beijing’s claims though naval operations.

The FONOPs debate reflects a dilemma common to all alliances—the alternating anxiety between the fear of ‘abandonment’ by an ally in the event of a conflict, versus the fear of ‘entrapment’ in an ally’s conflict that is contrary to one’s own interests. Whilst some argue that Australia’s interests demand FONOPs of the kind conducted by the US, others counter that such actions could draw the ire of China, with whom Australia also seeks to maintain a good relationship.

These anxieties persist. The result has been a form of ‘strategic ambiguity’ in which Australia has communicated its intention ‘continue to traverse the water and the skies around the South China Sea in accordance with international laws’ without saying whether it would breach the limit of any claimed Chinese boundaries. Again, whether this position could withstand a significant escalation of the conflict remains to be seen.

ASEAN: a house divided?

Efforts by the Association of Southeast Asian Nations (ASEAN) to engage both China and the US in multilateral institution-building through venues such as the East Asia Summit are a key focus of Australia’s diplomatic and strategic planning. However, the failure to produce a long-awaited ‘code of conduct’ for managing the disputes bodes poorly for multilateralism. Indeed, some contend that China has deliberately delayed the code in order to ‘buy-off’ non-claimants such as Cambodia and Laos through increased aid and investment while ramping up construction in disputed areas.

There is now a view that ASEAN is irrevocably split on the South China Sea disputes following several recent failures to agree on consensus language. In the face of these divisions, some ASEAN claimants have resorted to appeals to international arbitration (which China says it will not abide by), as well as more traditional power balancing strategies—upgrading alliances and military cooperation, and intensified acquisition of advanced maritime weaponry.

A former senior Australian official has warned that ‘it is not in Australia’s interest for ASEAN to be divided into different camps’. ASEAN’s inability to collectively endorse the international Permanent Court of Arbitration’s July 2016 ruling against China’s claims has prompted some experts to argue that the organisation must reform its emphasis on consensus-based decision-making.

Looking ahead…

Facing difficult choices in its relations with China and the US and the prospect of a divided ASEAN, Australia is likely to pursue complementary initiatives to advance its maritime security interests. These could include intensified ‘mini-lateral’ cooperation with other non-claimant states such as India, Japan, Singapore and Indonesia, all of whom share misgivings about China’s ambitions and actions. Indonesia will likely be a focus given Jakarta’s increased concerns with recent Chinese incursions into its maritime domain. Australia may also face continued calls to reconsider its approach to its maritime border issues with East Timor. In the meantime, the risk of conflict continues to rise.

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China’s ‘One Belt, One Road’ initiative

Geoff Wade, Foreign Affairs, Defence and Security

The ‘One Belt, One Road’ (OBOR) initiative is a Chinese economic and strategic agenda by which the two ends of Eurasia, as well as Africa and Oceania, are being more closely tied along two routes—one overland and one maritime. Supporters suggest that the initiative permits new infrastructure and economic aid to be provided to needy economies. Critics claim that it facilitates Chinese economic and strategic domination of the countries along these routes. OBOR provides a global context for China’s growing economic links with Australia.

Key Issue

The ‘One Belt, One Road’ (OBOR) initiative is a Chinese economic and strategic agenda by which the two ends of Eurasia, as well as Africa and Oceania, are being more closely tied along two routes—one overland and one maritime. Supporters suggest that the initiative permits new infrastructure and economic aid to be provided to needy economies. Critics claim that it facilitates Chinese economic and strategic domination of the countries along these routes. OBOR provides a global context for China’s growing economic links with Australia.

On land, the plan is to build a new Eurasian land bridge and develop the economic corridors of: China-Mongolia-Russia; China-Central Asia-West Asia; the China-Indochina peninsula; China-Pakistan; and Bangladesh-China-India-Myanmar… On the seas, the initiative will focus on jointly building smooth, secure and efficient transport routes connecting major sea ports along the belt and road.

Formally, OBOR emphasises five key areas of cooperation:

- coordinating development policies
- forging infrastructure and facilities networks
- strengthening investment and trade relations
- enhancing financial cooperation and
- deepening social and cultural exchanges.

But it is infrastructure such as railways, roads, ports, energy systems and telecommunications networks which is receiving most attention.

The overland ‘Belt’ involves the creation of an economic and trade corridor extending from China’s west through Central Asia, and finally to Europe. The first step is to further link Central Asian states to the Chinese economy, while the longer-distance initiatives include railway connections between China and Europe. The ‘Belt’ initiative calls for the integration of the Eurasian land mass into a cohesive economic area.

The initiative envisions the building of six major economic cooperation corridors and several key maritime pivot points across Eurasia:

1. On land, the plan is to build a new Eurasian land bridge and develop the economic corridors of: China-Mongolia-Russia; China-Central Asia-West Asia; the China-Indochina peninsula; China-Pakistan; and Bangladesh-China-India-Myanmar… On the seas, the initiative will focus on jointly building smooth, secure and efficient transport routes connecting major sea ports along the belt and road.

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5. The initiative envisions the building of six major economic cooperation corridors and several key maritime pivot points across Eurasia:
Myanmar, Pakistan, Kenya, Tanzania, Oman and Djibouti are intended to provide China with maritime access and economic benefit across the Indian Ocean. These will connect to Piraeus, Greece’s major port, which has been bought by Chinese shipping group COSCO and which will allow direct access to the markets of Europe.

Foremost among the key projects which have been promoted as focal parts of the OBOR initiative are the China-Pakistan Economic Corridor which provides China’s western provinces with access to the Indian Ocean through the Pakistani port of Gwadar, and the Bangladesh China India Myanmar Corridor, which will give Yunnan Province access to the Bay of Bengal.

Funding for the initiative is a key issue. China’s policy banks are providing massive funds for Chinese enterprises to operate along these axes, while further funding will be provided through the Asian Infrastructure Investment Bank (AIIB), funded by countries globally. The AIIB was created precisely to service projects under OBOR. The projects funded by the first loans issued by AIIB were in Indonesia, Bangladesh, Pakistan and Tajikistan, all countries which China is trying to include within its OBOR initiative.

Hong Kong is also being tapped. In his policy address in January 2016, the Chief Executive of the Hong Kong Special Administrative Region, CY Leung, underlined that Hong Kong would play an active financial role in OBOR and would facilitate educational exchanges between Hong Kong and ‘OBOR countries’. A ‘Hong Kong Belt and Road Summit’ was also convened in May 2016 to allow Zhang Dejiang, Chairman of the Standing Committee of the National People’s Congress, to outline ‘Hong Kong’s Four Unique Advantages’ as a hub for OBOR projects. Then in July 2016, the Hong Kong Monetary Authority launched the Infrastructure Financing Facilitation Office, a new entity to facilitate fundraising for projects related to the OBOR initiative. The Hong Kong Trade Development Council has also arranged visits to Thailand for Chinese investors to promote OBOR investment.

Singapore is also essential to promoting offshore economic activities by Chinese entities. The China Construction Bank signed an MOU with International Enterprise Singapore in April 2016, providing S$30 billion in financial support to Singaporean and Chinese companies jointly investing in OBOR projects. A new centre in Singapore to provide project financing and related services to projects is also being planned.

While China claims that OBOR will ‘include 65 countries, 4.4 billion people and about 40 percent of global GDP’, the current realities are much more pedestrian. China has reportedly established 75 overseas economic and trade cooperation zones in 35 countries as part of the OBOR initiative. OBOR, however, remains inchoate and still strives for external endorsement and support.

China’s other OBOR interests

It is clear that China has broader uses for the increased influence it hopes to enjoy through the OBOR initiative.

The Bank of China has clearly noted that OBOR is intended to make the Renminbi the main trading and investment currency in the countries involved. The expansion of Chinese banks into new OBOR markets to serve the globalisation of the Chinese economy is also being promoted, OBOR is further intended to facilitate online retailing and the collection and use of big data across OBOR countries. China has also been stressing the role of Overseas Chinese in promoting OBOR projects.

The expansion of China-controlled telecommunications networks is an important aspect of OBOR. CITIC Telecom CPC recently acquired Linx Telecommunications, which services Russia, Kazakhstan and
the ‘Stan’ region, the Baltic Sea and Eastern Europe. This will provide China with telecommunications services across much of its targeted ‘Belt’ region. Visits by journalists from OBOR countries to China, and publishing arrangements with newspapers abroad are intended to promote China’s views over a broader sphere.

Mining and energy projects are also central to this endeavour, with China widely purchasing mines as well as generation and transmission projects across OBOR states. Chinese companies now own almost a quarter of Kazakhstan’s oil production, while over $15 billion of oil, gas and uranium deals have recently been signed with Uzbekistan.

And in this year’s white paper on its satellite navigation and location service, China says that it plans to launch another 30 Beidou satellite navigation system satellites over the next five years, with the first 18 satellites being launched before 2018 to cover OBOR countries.

Reactions

Reactions to the OBOR proposal have varied globally. Ethnic Chinese business figures in Southeast Asia and their political representatives have generally been enthusiastic about the business possibilities. Malaysia has been active in accepting and promoting the idea, with a 162-member Malaysian delegation heading to Beijing in July 2015 to participate in an OBOR dialogue.

Pakistan and Sri Lanka have also been particularly welcoming of Chinese capital and infrastructure projects, as have the various Central Asian states. Vietnam, meanwhile, has expressed grave doubts about the initiative. With few exceptions, India has been stridently suspicious of the overall OBOR initiative and has repeatedly expressed its concerns about China’s growing economic and strategic power being pursued through OBOR. Russia needs funding assistance for developing its resources and appears to see OBOR as an avenue for this.

Western reactions have been mixed. Business people are generally positive, while strategists have been less sanguine. In Europe, China has talked up OBOR’s possible integration with the EU’s €315 billion investment plan (the Juncker plan). China is simultaneously pushing for an EU-China FTA that would make it easier for PRC companies to invest in European markets. Central and Eastern Europe are a major focus for OBOR programs, with the Czech Republic, Serbia and Poland receiving major financial inputs.

Australia and OBOR

Within Australia, enterprises, banks and law firms are promoting the OBOR initiative as an economic opportunity for the country and, with Chinese endorsement, an Australia-China OBOR Initiative has been established to promote Chinese engagement in the Australian economy. China is also utilising the concept to promote its growing economic engagement with northern Australia. Another avenue for encouraging Australia’s further engagement with OBOR is China’s funding and support of various related local academic conferences and seminars.

Criticisms

Not all reactions to OBOR have been enthusiastic. Former World Trade Organization chief, Supachai Panitchpakdi, has stated that the OBOR initiative and, specifically, its projects along the Mekong River, all serve China’s own interests. On the economic front, China has been criticised for using its massive financial assets to dominate smaller economies through long-term control of infrastructure, natural resources and associated land assets, and through offering less than desirable credit terms for infrastructure loans. Further, the
‘production capacity cooperation’ which China lauds as an integral aspect of OBOR, often involves the simple transfer of Chinese-owned production capacity to countries where production is cheaper and markets are closer. Such processes can also result in China exerting some control over local markets, labour and export policies.

Despite the claimed economic nature of the OBOR agenda, critics see the initiative as being simultaneously a strategic program. China clearly portrays OBOR as both being premised on and further validating China’s claims to the islands of the South China Sea, while on the other side of the Indian Ocean, Djibouti is providing China with both a trade port as well as its first overseas military base. It has been repeatedly noted in China that OBOR is also intended as a regional security mechanism, and the future role of the People’s Liberation Army in protecting China’s OBOR facilities abroad has been widely discussed. The two ‘economic corridors’ now being developed provide China with direct access to the Indian Ocean.

Broader concerns relate to the longer-term aims of China, with the possibility that the OBOR agenda is aimed at creating a Eurasia-wide, China-led bloc to counter the US. At the June 2016 Shangri-la Dialogue in Singapore, Professor Xiang Lanxin, director of the Centre of One Belt and One Road Studies at the China National Institute for SCO International Exchange and Judicial Cooperation, spoke of OBOR as being an avenue to a ‘post-Westphalian world’. As such, some see this initiative as a profound challenge to the current global political and economic status quo.

Conclusion

China’s wielding of this economic statecraft strategy derives from several collocations. On the political front, since late 2012, President Xi has been promoting the ‘Chinese dream’ (中国梦), involving the ‘great revival of the Chinese nation’. Such revival requires a restored global position and identity for China. Earlier iterations of OBOR involved the catch-phrases ‘common development’ and ‘win-win cooperation’ to characterise the relations between China’s development and that of its neighbours. China also promoted a ‘China-ASEAN community of shared destiny’ (中国-东盟命运共同体). But these smaller initiatives have burgeoned into the Eurasia-wide OBOR, bringing into play the PRC’s massive capital reserves—both state and private—achieved through 40 years of rapid economic growth, and offering an outlet for the vast excess production capacities which exist today in China.

Regardless of the credence which one assigns to the various interpretations of the OBOR initiative, progress thus far makes it clear that as Australia becomes increasingly tied economically with China, there is a need to maintain a close watch on the progress of the OBOR initiative globally. It also suggests that Australia needs to adopt a more economically and strategically prudent attitude in determining how the Australia-China economic relationship is to further develop.

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The 19th National Congress of China’s Communist Party

Stephen Fallon, Foreign Affairs, Defence and Security

Key Issue
Given the consequences for Australia of Chinese economic and strategic decision-making, it is timely to consider China’s forthcoming 19th Party Congress, scheduled to take place in October or November 2017.

How does it work?
The National Congress of the Communist Party of China takes place every five years, bringing together approximately 2,200 Party delegates from across the country. Some delegates are selected in provincial elections while others are drawn from bodies such as state-owned enterprises, the military and financial institutions. The role of the Congress is to elect the Central Committee and approve the General Secretary’s outline of the Party’s agenda for the next five years. However, given the opaque nature of Chinese politics, it is difficult to assess how decisions announced at the Congress are reached. It is commonly assumed that most, if not all, key decisions are made by senior leaders before the Congress.

Background
The 18th Congress, held in 2012, anointed Xi Jinping as China’s leader and it is expected that he will serve for a second five-year term, scheduled to conclude in 2022. According to convention, Xi will then be replaced by a new younger ‘sixth generation’ leader who will have been promoted to the Politburo Standing Committee (PSC) in next year’s Congress.

The PSC is China’s supreme decision-making body and is currently comprised of seven men, among whom Xi Jinping is supposedly first among equals.

This institutionalised process was established and refined by Chinese leaders of the post-Mao reform era in order to prevent power from becoming concentrated in the hands of one individual. Mao’s leadership, punctuated by disasters such as the Great Leap Forward, the Great Famine and the Cultural Revolution, provided ample evidence of the dangers inherent in a dictatorship buttressed by a cult of personality. By promoting limited terms and collective leadership through the PSC, the Party has sought to avoid the emergence of another Mao.

However, since Xi ascended to the presidency (he is also the General Secretary of the Communist Party of China), some critics have argued that he has begun to construct a cult of personality reminiscent of that wielded by Mao. He has taken command of several small working groups—affording him great influence over policy formulation—and appears to have marginalised the Premier, Li Keqiang, who would typically be responsible for economic policy but whose leading role in this sphere has been eclipsed by Xi.

Xi has also prosecuted an anti-corruption campaign that has ensnared both ‘tigers and flies’, powerful officials and lowly functionaries. Among the most notable of those convicted of graft are Bo Xilai, former party chief of the city of Chongqing, who sought to parlay his popularity into a position on the PSC; Zhou Yongkang, a former PSC member responsible for internal security; and in July 2016, Ling Jihua, a close advisor to Xi’s predecessor, Hu Jintao, and head of the United Front Work Department.
Though corruption is endemic in China and widely recognised as a threat to the Party’s legitimacy, many believe that Xi has used corruption as an excuse to purge opponents. A February 2016 *Economist* article, however, noted that recent prosecutions have tended to focus on individuals who are not linked to identifiable factions.

Nevertheless, Xi’s concentration of power, growing cult of personality and penchant for eliminating rivals through corruption trials has not gone unremarked in China. In March 2016, a letter was published on a government-linked website condemning Xi. Signed by ‘loyal Communist Party members’, it criticised him for abandoning the principle of collective leadership, concentrating power in his own hands and called upon him to step down. Though the letter was quickly removed from the internet, it did lead to a number of arrests.

**What to look out for**

This is the environment in which the 2017 Congress will be held. Observers will parse its announcements for clues about Xi’s intentions. If he does wish to overturn the conventions that have guided China’s senior leaders, one indication would be a failure to promote to the PSC any candidates who could be groomed to succeed him when his second term ends (traditionally such future leaders are selected by the current General Secretary’s predecessor). If no such candidate is promoted, it may indicate that Xi has amassed sufficient power to ignore Party conventions.

Academic Willy Lam has argued that it is no secret that Xi wishes to buck the tradition of having his predecessor pick his successor, and is grooming his own protégés. That they lack sufficient stature to be promoted to the PSC may, Lam contends, be a convenient excuse to delay handing over the baton for at least one additional term.

Supporting the thesis that no heir apparent will be appointed, the analysis and advisory consultancy, Oxford Analytica, has highlighted that the 2012 Party Congress promoted two sixth generation figures to the Politburo (one level below the PSC). The elevation of these up-and-coming leaders, Hu Chunhua and Sun Zhengcai, was seen as preparing the ground for them to replace Xi and Li Keqiang at the 2022 Party Congress. However, both are linked with the Communist Youth League (CYL) faction, a network that Xi has marginalised. He has criticised the CYL, describing it as ‘paralysed from the neck down’, cut its funding and slashed staff. It therefore seems unlikely that he would welcome the promotion of Hu and Sun to the PSC.

Moreover, Xi’s anti-corruption campaign has destroyed the convention that new leaders do not persecute their predecessors, family members and associates. It is plausible Xi may fear that stepping down could enable the incoming leadership to investigate him and those linked to him. The notion that it may be advantageous to extend the duration of his leadership in order to cement a faction loyal to his interests will likely have occurred to him.

**Why does this matter to Australia?**

The political direction of China matters to Australia because of the strong economic relationship between them. China buys Australia’s resources, invests large sums in its property market and is a lucrative source of foreign students for Australian universities. Meanwhile, its foreign policy is becoming increasingly assertive and promotes norms contrary to those long espoused by Australia.

Australia therefore has a profound interest in the kind of leader Xi seeks to become. The forthcoming Congress may demonstrate whether Xi will be bound by convention or chart a bolder, less predictable path.
External powers in the Pacific: implications for Australia

Dr Cameron Hill, Foreign Affairs, Defence and Security

Key Issue
The international relations of the Pacific have become more complex as a wider array of external powers pursue diverse interests and increased influence.

For reasons of geography, size and history, Australia has long been recognised as having a leadership role when it comes to advancing the prospects and priorities of its Pacific Island neighbours. Whilst Australia and New Zealand, alongside the US, France, the EU and Japan, remain the most significant security, trade and aid partners for most Pacific countries, a wider range of external powers are playing a bigger role in shaping the region’s international relations.

Pacific Island countries are leveraging this diversity to advance their own strategic, economic and development goals.

China

China has continued to increase its engagement in the Pacific. According to one estimate, China’s bilateral aid in the Pacific over the last decade totalled around US$1.4 billion, around one-fifth of that provided by Australia. In 2013, China offered US$2 billion in concessional loans for regional infrastructure development. China’s aid projects in the Pacific, such as the current renovation of the prime minister’s office in Vanuatu, are often very high profile. Fiji, estranged from Australia and New Zealand until recently, has been a prominent beneficiary of China’s assistance.

China’s interests in the Pacific include port access, fisheries, natural resources and, more recently, deep sea exploration. They also include garnering support for Beijing’s position on core interests such as ‘one China’ and the South China Sea disputes (see separate brief). Both PNG and Vanuatu have recently expressed positions on the latter that closely align with those of China.

Russia

Russia’s contemporary interests in the South Pacific stretch back to the Soviet era and the Cold War, during which Moscow’s Pacific Fleet was deployed across the wider region. Although Russia’s current interests and influence are more modest, it has stepped up its Pacific engagement in recent years. Russia has increased its military presence in the region, including through plans to strengthen its Pacific Fleet and several recent high-profile deployments of military assets. Some analysts have speculated that over the longer term, Russia may be seeking naval basing rights in the region.

Russia also attracted attention in early 2016 following revelations of an arms supply deal with Fiji. This deal—which included ammunition, small arms, spare parts and mechanical workshop trucks—has been described as ‘the first shipment of lethal aid into the Pacific by a non-traditional partner’ and attracted some criticism within Fiji.

India

India is also becoming a more prominent player in the Pacific. Given the country’s large Indian diaspora, Fiji has been a particular focus. Indian Prime Minister Narendra Modi’s 2014 visit to Fiji included promises of increased bilateral aid and investment, as well as commitments to
enhance cooperation with Pacific Island countries on climate change, trade, and space and satellite technologies.

While India’s links with the Pacific remain relatively modest, New Delhi is actively pursuing enhanced engagement with the region as part of a wider ‘Indo-Pacific’ maritime outlook. From the perspective of the Pacific Island countries, ‘India’s presence offers the prospect of greater balance in the South Pacific’.

**Indonesia**

Indonesia’s recent engagement with the Pacific has been dominated by its concerns over alleged ‘interference’ in the West Papuan issue by some members of the Melanesian Spearhead Group (MSG). Jakarta has been particularly keen to ensure that groups promoting independence for West Papua do not gain full membership of the MSG. Indonesia continues to deploy extensive diplomatic resources in the Pacific to avert this outcome.

As part of its wider development diplomacy, Indonesia has also sought to pursue greater ‘South-South’ cooperation through increased aid and people-to-people links with Pacific Island countries. This included assistance to Fiji in the wake of 2016 Tropical Cyclone Winston.

**Implications for Australia**

While not as contested as maritime East Asia, the international relations of the South Pacific have become more complex as a wider array of external powers pursue diverse interests and increased influence.

Australia’s traditional leadership role in the Pacific is not being directly challenged. Indeed, increased international trade, investment and aid are regional goals that Australia has long advocated and pursued.

But Australia will need to adapt to this new environment if it is to ensure it remains a partner of choice for its Pacific neighbours. This may mean being more responsive when it comes to the priorities of these countries in areas such as climate change, labour mobility, and fisheries management.

It may also mean working harder to ensure that greater engagement by external powers does not undermine gains in areas such as governance, anti-corruption and inter-communal peace. Recent instability in PNG shows the fragility of these gains. Some critics contend that Australia’s emphasis on maintaining offshore detention and resettlement agreements with PNG and Nauru has undermined its credentials and capacity in these areas.

It has also been argued that Australia needs to be more flexible when it comes to the region’s multilateral architecture. Groupings such as the MSG and the Pacific Islands Development Forum, both of which exclude Australia and New Zealand, are seen by some of their members as more responsive to regional priorities and more attuned to enduring local sensitivities concerning sovereignty and ‘neo-colonialism’. Australia may need to think more creatively about how to engage with these groupings.

**Further reading**


Australia and Iran: post-nuclear agreement

Renee Westra, Foreign Affairs, Defence and Security

Key Issue

The relaxation of Iranian sanctions under the Joint Comprehensive Plan of Action will re-open trade opportunities with Iran—a historically significant market in the Middle East. Increased trade ties may also present an opportunity to influence Iran’s behaviour on a range of other non-nuclear matters. However, monitoring Iran’s adherence to the nuclear agreement and amending Australia’s sanctions accordingly will be an ongoing process.

The Joint Comprehensive Plan of Action

The Joint Comprehensive Plan of Action (JCPOA) came into force in July 2015, following extensive negotiations between Iran and the P5+1 (permanent UN Security Council members plus Germany/EU). While Iran did not agree to end its nuclear program, it did agree to give up critical elements of its program that will put its progress towards nuclear weapons back by at least a decade. In return, Iran gets relief from some, though not all, sanctions that have crippled its economy, especially in recent years.

Australia-Iran relationship

Over the decades, Australia has attempted to balance its trade and economic objectives in the Middle East with its non-proliferation and global security objectives. One of the more challenging aspects has been the Australia-Iran relationship, which, prior to the last decade, was mostly cordial, bolstered by strong commercial and trade links. For much of the period following the 1968 opening of Australia’s embassy in Tehran, Iran was Australia’s largest trading partner in the Middle East and the ninth largest overall.

Academics have described Australia’s approach to Iran during this time as being distinctive for its constructive trade-focused nature which differed from the periodically hostile relationships with other Western countries. Academic Shahram Akbarzadeh notes that ‘historically, Australia maintained a bipartisan consensus on keeping trade with Iran separate from other political considerations’. Successive Australian governments have pointed to the diplomatic and political advantages of maintaining strong trade ties. Former foreign minister Gareth Evans put this succinctly in 1995:

The Australian government has found these positions [support for Hezbollah and Hamas, opposition to Israel, and nuclear and chemical weapons] deeply unpalatable and has consistently said so … But our generally cordial relationship with Iran and the strong trade and commercial links between our two countries have put us in a strong position to maintain a much more direct and critical dialogue with the Iranians on these issues than would otherwise have been possible.

However, over the past 15 years, increasing international concern over Iran’s nuclear program and state-sponsored terrorism resulted in international sanctions. Australia implemented both sanctions and from 2008, additional autonomous measures. Specific regulations introduced in 2014 also imposed restrictions on financial transactions with Iran.
Iranian sanctions

After the International Atomic Energy Agency declared Iran in 2005 to be noncompliant with its Non-Proliferation Treaty obligations, the UN Security Council developed targeted sanctions that are binding on all member states, including Australia.

Sanctions against Iran vary across different countries, have multiple objectives and look to counter multiple perceived threats from Iran. But it is those directly related to Iran's nuclear (and missile) program that have recently been relaxed. Australia's adoption of the UN sanctions and its own autonomous sanctions were largely aimed at addressing this specific nuclear threat, rather than a wider spectrum of issues.

Conversely, the US has a long history of sanctions against Iran—stretching back to the Iranian Revolution in 1979—that cover a broader spectrum, namely ‘Tehran’s support for terrorism and destabilizing regional activities’, and which remain current. Collectively, Iranian sanctions are still the toughest the world community has imposed on any country.

Outlook

The Australian Government has implemented changes in line with its international obligations, but while it has repealed certain autonomous sanctions on Iran (including the financial restrictions), others remain in place. In May 2016, the Foreign Affairs, Defence and Trade References Committee recommended that the Department of Foreign Affairs and Trade explain the reasoning behind this selective approach and ensure that its website clearly states what trade is still restricted or prohibited.

The Government has expressed strong interest in trading with Iran, and plans to reopen a trade office in Tehran—which it closed in 2010—noting that the office will ‘establish a permanent presence within the Australian Embassy in Tehran from the second half of 2016’. The Foreign Minister has also indicated on multiple occasions that she regards Iran as an important element of the fight against the Islamic State.

However, the Opposition has not been quite so enthusiastic, with former shadow foreign minister, Tanya Plibersek, stating earlier in 2016:

The Foreign Minister has been … so prepared to turn a blind eye to the antiAmerican rhetoric of the Iranian government, the anti-Israeli rhetoric of the Iranian government, to the human rights abuses, where people are locked up for their sexuality, for following a religion that’s not approved of by the regime, and most particularly, for political organisation against an oppressive government.

Although there is enthusiasm to capitalise on new opportunities afforded by the deal, the Brookings Institution notes that while ‘there will be a trickle of new business with Tehran … the floodgates remain firmly shut for the foreseeable future’. The attitude of the next US President towards the sanctions regime will also be key to the long-term success of the deal. This uncertainty is a key impediment to doing business with Iran in the near future.

For now at least, the deal may provide Australia with an opportunity to reinvigorate its human rights dialogue and efforts against the Islamic State. To do this, Iran needs to see benefits from the deal, and the initial suspension of sanctions is just that.

Further reading

United Nations: whither reform?
Nicole Brangwin, Foreign Affairs, Defence and Security Section

The United Nations provides a platform for Member States, both large and small, to have a voice. UN membership has grown from its original 51 members in 1945 to 193 members in 2011, with the newly formed state of South Sudan becoming the most recent member.

Membership and the work of the UN are guided by its Charter drafted in 1945. Amendments to the Charter can be made by ‘a vote of two thirds of the members of the General Assembly’, which has occurred on three occasions (1963, 1968 and 1971). Predictably, many Member States have argued that UN structures—its Charter—are outdated. While it is widely accepted that changes are needed, reforming the UN is no easy matter—although not impossible. Reforming the UN has in fact been debated since its formation. Nevertheless, while it is an imperfect system, the work of the UN remains vital for many people in need around the world.

Australia has a long history of active involvement in the UN: as a founding member in 1946, to various stints as a non-permanent member of the Security Council. Successive Australian governments have placed varying degrees of importance on the UN system and its subsidiary organs, but continuously support reform.

Revitalising the UN: glacial pace of reform
In the 71 years since the UN’s formation, the organisation’s structure and operations have been subject to significant scrutiny. Despite this, reforms have been slow or difficult to implement. The use of veto by the Permanent Five (P5) members of the UN Security Council remains a particularly contentious issue. Numerous proposals for reform have been put forward. Some of these have been accepted, including a resolution adopted on 3 October 1995 by the UN General Assembly on strengthening the UN system. This resolution noted the work already underway at that time by numerous working groups on specific reform topics.

Two years later, Secretary-General Kofi Annan, presented a report to the UN General Assembly, Renewing the United Nations: a Programme for Reform: Report of the Secretary-General, that sought to build on the work of these working groups and transform the leadership and management structure of the UN. Annan’s aim was to ‘renew the confidence of Member States in the relevance and effectiveness of the Organization and revitalize the spirit and commitment of its staff’.

Many of Annan’s proposals were adopted in UN General Assembly Resolution 52/12 of November 1997, which included:

- establishing the Deputy Secretary-General position
- revitalising the working methods of the General Assembly
- prescribing a time frame for concluding status-of-forces agreements between the UN and the host government for peacekeeping operations
- revising the work undertaken by the Disarmament Commission and the First Committee of the General Assembly with the intent of updating, rationalising and streamlining and
- discontinuing the High-level Advisory Board on Sustainable Development.

Resolution 52/12 recognised the need for ongoing UN reform and invited the Secretary-General to present further proposals.

At the 2005 World Summit, Annan presented his most ambitious report, *In Larger Freedom: towards Security, Development and Human Rights for All*, which contained broad proposals for reforming many aspects of the UN’s work. Some of the key proposals included expanding membership of the Security Council, replacing the Commission on Human Rights with a standing Human Rights Council and overhauling the Secretariat.

Many of Annan’s proposals were adopted at the World Summit and some have been implemented, including the creation in 2006 of the Human Rights Council. However, Security Council reform remains a major hurdle.

Efforts to reform the UN are not only internal. For some prominent people, UN reform remains a key issue. For example, in July 2005, former foreign ministers from Canada, Italy, Spain, Thailand, the United Kingdom and the United States, wrote an open letter to the *Wall Street Journal* calling for UN reform. The letter supported the establishment of the Human Rights Council, acceptance of the Secretary-General’s definition of ‘terrorism’, recognition of the ‘Responsibility to protect’, better support for the Community of Democracies (an international organisation comprising the government, civil society and private sector to promote democracy) and a greater commitment of aid from developed countries.

Each year since the 2005 World Summit, the UN General Assembly has continued to support the Ad Hoc Working Group on the revitalisation of the General Assembly. This has produced numerous changes that are mostly administrative in nature.

In November 2015, UN Secretary-General, Ban Ki Moon, remarked on the program to revitalise the work of the UN General Assembly, noting in particular, improvements to the functions of the Office of the UN General Assembly President following allegations of corruption against the President of the 68th Session. Moon called for greater transparency and accountability arguing that ‘the United Nations should embody the highest level of integrity and ethical standards’. He acknowledged the work already achieved under the revitalisation program and welcomed the General Assembly’s involvement of civil society and others ‘whose voices and actions can add great value to our work’. Part of the revitalisation program includes measures for selecting and appointing future UN secretaries-general.

**Who will be the new UN Secretary-General?**

The position of UN Secretary-General will be vacated by Ban Ki-Moon on 31 December 2016. It is expected that the next Secretary-General will be appointed no later than one month before this date. The selection process was initiated via a joint letter issued on 15 December 2015, signed by the presidents of the Security Council and General Assembly, which outlines the process to be undertaken. The letter specifies that candidates present:

…proven leadership and managerial abilities, extensive experience in international relations, and strong diplomatic, communication and multilingual skills.
While the letter ‘invites’ Member States to present candidates, there is no explicit rule about who can nominate a candidate. However, UN processes tend to follow convention and the twelve candidates nominated to date have all been endorsed by their respective governments.

The joint letter also emphasised gender considerations and noted ‘regional diversity in the selection of previous Secretaries-General’. This has been interpreted by many commentators, including the Security Council Report, to mean preference might be given to a woman and/or a candidate from the Eastern European regional group.

Since the UN’s formation, eight men have served as Secretary General: three from Western Europe, two from Asia, two from Africa, and one from Latin America.

In the past, very few women have been considered for the role. According to the Security Council Report, *Appointing the UN Secretary-General: the Challenge for the Security Council*, female candidates were ‘seriously considered’ in 1953 (Vijaya Lakshmi Pandit from India), 1991 (Gro Harlem Brundtland from Norway) and 2006 (Vaira Vike-Freiberga from Latvia). Half of the candidates currently being considered are women:

- Srgjan Kerim (Macedonia)
- Vesna Pusić (Croatia)
- Igor Lukšić (Montenegro)
- Danilo Türk (Slovenia)
- Irina Bokova (Bulgaria)
- Natalia Gherman (Moldova)
- António Guterres (Portugal)
- Helen Clark (New Zealand)
- Vuk Jeremić (Serbia)
- Susana Malcorra (Argentina)
- Miroslav Lajčák (Slovak Republic)
- Christiana Figueres (Costa Rica)

For the first time, candidates are undergoing an informal public dialogue, which also involves participation by civil society groups. The first nine candidates took part in this process from 12 to 14 April 2016. Two more candidates took part on 7 June. The twelfth candidate was nominated on 7 July and participated in an informal dialogue on 14 July.

The first informal ‘straw poll’ was held by the Security Council on 21 July 2016 which considered all 12 official candidates. Straw polls are traditionally held in secret and take place prior to the formal ballot in order to assess the viability of candidates. The straw polls will ‘continue until there is a majority candidate without a single veto from a permanent member of the Council’. Polling outcomes are not publicly communicated—a decision that has drawn criticism about the lack of ‘openness and transparency’, including from the current President of the General Assembly, Mogens Lykketoft.

In July 2016, former prime minister, Kevin Rudd, sought government support for UN Secretary-General nomination. On 29 July, the government announced that it ‘will not be nominating any person’ for this position.

**Security Council reform**

Security Council reform has been one of the most persistent and contentious UN reform issues over the last 70-odd years. The use of the veto power by the Permanent Five (P5) members of the Security Council and proposals for expanding the Council’s membership (permanent and/or non-permanent seats) remain the main points of debate.

Substantial pressure to reform the Security Council has been building in recent years, with reform proposals being promoted by groups such as the Global Centre for the Responsibility to Protect (GlobalR2P) and
The Elders (an influential group founded by Nelson Mandela and currently chaired by former UN Secretary-General Kofi Annan).

In May 2013, under the GlobalR2P umbrella, the Accountability, Coherence and Transparency (ACT) Group was formed, with 27 small and mid-sized countries promoting UN Security Council reform. In July 2015, the ACT Group circulated a Code of Conduct that called on Security Council members ‘to not vote against any credible draft resolution intended to prevent or halt mass atrocities’. On 7 February 2015, The Elders adopted a statement on strengthening the UN.

In an unprecedented move, two P5 members, France and the UK, recently demonstrated their willingness to promote veto restraint in cases where genocide or mass atrocities are being reported.

In September 2013, the Government of France put forward a proposal to regulate the P5 veto. France proposed that the P5 ‘would voluntarily and collectively undertake not to use the veto where a mass atrocity has been ascertained. Being a voluntary measure, it would not require a revision of the United Nations Charter’. The Government of Mexico supports France’s position on veto restraint. In August 2015, France and Mexico launched their Political Declaration on Suspension of Veto Powers in Cases of Mass Atrocities which seeks to secure voluntary restraint of the P5’s use of veto.

On 1 October 2015, the UK Permanent Representative to the UN announced the UK’s support for the ACT Group’s Code of Conduct and explicitly promised the UK ‘will never vote against credible Security Council action to stop mass atrocities and crimes against humanity’. The UK also supports expanding the Security Council’s membership to include Brazil, Germany, India, Japan and more African nations. The ACT Code of Conduct was officially launched in the UN General Assembly on 23 October 2015.

Russia opposes any attempt to restrain its use of the veto. The Security Council Report notes that in September 2015, Russia’s Ambassador to the UN stated that the veto is ‘a tool which allows the Security Council to produce balanced decisions’ and that ‘sometimes the absence of veto can produce disaster’.

Saudi Arabia made a bold statement about Security Council reform in October 2013 when it declined its seat as a non-permanent member for 2014–15. The Saudi Arabian Government stated it would not accept membership until the Council was reformed. The Saudi representative to the UN accused the Security Council of double standards in relation to mandating peace and security in the Middle East and asserted that reforms of the Security Council’s working methods were needed.

In July 2015, the Intergovernmental Negotiations on Security Council Reform released text that proposed options to improve the Council’s membership categories; the use of the veto; acceptable regional representation; the size and working methods of the Security Council and the relationship between the Security Council and the General Assembly.

Australia has served as a non-permanent member of the Security Council on five occasions (most recently in 2013–14) and publicly supports UN Security Council reform.

Further reading


Iraq and Syria: far from simple
Renee Westra and Nathan Church, Foreign Affairs, Defence and Security

Key Issue
The nature and scope of military operations in Iraq and Syria are significant issues for Australia given the evolving, long-term threat from the Islamic State. However, as Australia’s recent commitment in the Middle East has escalated, there have been increased calls for the Government to clearly articulate its long-term strategy and allow a parliamentary debate on this complex issue.

In June 2014, Islamic extremists seized control of Iraq’s second largest city, Mosul, and routed the Iraqi army before sweeping south and threatening Baghdad. These militants, known as the Islamic State in Iraq and the Levant (ISIL, or the Islamic State), declared an Islamic state or caliphate in this captured territory and claimed political and theological authority over the world’s Muslims. The speed and extent of the group’s success took the world by surprise, but the group had been building for some time, capitalising on Sunni disenfranchisement in Iraq and Syria, and the ungoverned territory in Eastern Syria resulting from a weakened Syrian regime. In June 2014, the Iraqi Government formally requested US and UN assistance to ‘defeat ISIL and protect our territory and people’. Australia was one of the states that joined the coalition in response to this request.

Loss of territory does not equal defeat
According to RAND experts, the Islamic State has lost around 36 per cent of its former territory in Iraq and Syria since the beginning of coalition military operations in 2014. This includes key cities in Iraq like Fallujah and Ramadi. But while the Islamic State’s territorial losses in Iraq may continue, eliminating the group entirely will almost certainly be a much more difficult, if not impossible, prospect.

It is broadly recognised that while the Islamic State’s core territory is shrinking, it has managed to expand the reach and territory of its formal and informal branches outside the Levant. The Islamic State has already declared affiliates in parts of Afghanistan, Algeria, Egypt, Libya, Nigeria, Pakistan, Saudi Arabia, Yemen, and the Caucasus. This will help the group continue to lay claim to a territorially-based caliphate, and conduct attacks worldwide, despite its losses in the Middle East.

To deflect attention from its shrinking territorial control and counter any perceived weakness, the Islamic State has increased the number of violent, terrorist or insurgent-style attacks throughout its core Middle Eastern territories and its affiliate groups worldwide. So while the group’s losses in Syria and Iraq may weaken its position in one sense, this alone is unlikely to precipitate the group’s destruction. Many experts also argue that we are already seeing the first stages of the group’s adaptation as it returns to its roots as an adaptive insurgent terrorist network. RAND analysts Howard Shatz and Erin Johnson note: ‘ending the ability of the Islamic State to operate openly in an area does not mean victory—it simply means that the nature of the fight has changed’.
Efforts to counter the Islamic State long-term have, confusingly, also been complicated by the speed and success of military operations in Iraq. Operations are moving too fast for the Iraqi Government to consolidate its control in recaptured areas by addressing the population’s political grievances—a key factor in the Islamic State’s initial success. The willingness and ability of the Iraqi Government to address these issues will be critical to any lasting solution in Iraq; however, the current government is paralysed by sectarian infighting and tensions between different groups are running high. These conditions are unfortunately all too familiar to those watching Iraq as the Islamic State gained its foothold in the lead-up to the height of its success in 2014.

The Islamic State’s presence in Syria will also continue to provide the group with a claim to territorial control in its core territories, even if it loses further ground in Iraq. Airstrikes alone will not destroy the group’s presence and there is no political resolution in sight that will end the violence or re-establish some alternative form of central control in Eastern Syria. Without a substantial challenge to its hold in Syria, the group will retain this sanctuary and survive—as it did prior to 2014.

Australian Defence Force (ADF) operations in Iraq and Syria

On 14 August 2014, the Australian Government announced that ADF operations in Iraq had begun with the delivery of humanitarian aid to civilians targeted by Islamic State forces. As the US-led operations against the Islamic State in Iraq gathered pace and a broad international coalition was established, the Royal Australian Air Force (RAAF) also began transporting military equipment (including arms and munitions) to Iraq to support local forces. This action was taken in response to the Iraqi Government’s request for assistance, under the auspices of a UN resolution condemning the violence.

On 14 September 2014, the Chief of the Defence Force, Air Chief Marshal Mark Binskin, announced the deployment of approximately 600 ADF personnel to the Middle East—since known as Operation OKRA. The deployment included strike, early warning and refuelling aircraft, Special Forces personnel to assist Iraqi forces, and other ADF personnel attached to coalition headquarters as part of broader international efforts. Foreign Minister Julie Bishop reiterated this commitment in her address to the UN Security Council later that week, noting that the Islamic State ‘poses a threat to Australia, our friends in South East Asia, and beyond’.

In October 2014, the anti-Islamic State coalition was formalised under US designator Operation INHERENT RESOLVE. The coalition has 66 members; however, only a core group of nations conduct military operations in Iraq and Syria, which includes Australia. The Operation’s mission is described as: ‘by, with and through regional partners, to militarily defeat DA’ESH (the Islamic State) in the Combined Joint Operations Area (Iraq and Syria) in order to enable whole-of-coalition governmental actions to increase regional stability’.

Australia’s Air Task Group has had a prominent role throughout the conflict in nearly two years of combat operations. It has completed over 1,600 strike missions and delivered almost 1,300 munitions. This is in addition to other Australian command and control and refuelling missions. The ADF notes that these have been ‘essential in enabling the Iraqi ground forces to continue their mission to defeat Daesh’. In late 2014, the Special Operations Task Group also commenced its advise-and-assist mission in support of the Iraqi Counter-Terrorist Service, the special forces wing of the Iraqi military. Australian troops have also joined with New Zealand forces in a Combined Task Group as part of the coalition’s Building Partner Capacity mission. This is designed...
to build Iraqi resilience and capacity through the training of Iraqi forces. As at July 2016, more than 23,000 Iraqi personnel have received training through this program. The Government recently announced it will also expand Australia’s efforts to include training for law enforcement officers in line with efforts to improve other elements of the Iraqi state needed for long-term stability.

Operations extended into Syria

On 9 September 2015, Prime Minister Tony Abbott indicated that Australia would expand its commitment to Syria, with RAAF airstrikes to be extended to Islamic State targets there, following a request from the US Government. Prime Minister Abbott noted that the extended operations would mirror the efforts of other allied nations already operating in Syria to ‘help protect Iraq and its people from [Islamic State] attacks inside Iraq and from across the border’. The expansion of operations to Syria was justified on the basis that the anti-Islamic State effort directly relates to Iraq’s collective selfdefence and the continued commitment of humanitarian efforts in the region. The Syrian state’s inability to exert control over that area and address the Islamic State threat, negates its right to object under the circumstances.

Humanitarian assistance

Addressing a different dimension of the conflict, Australia has also continued to provide humanitarian relief to civilians inside Syria and the almost five million Syrian refugees located in Turkey, Lebanon, Jordan, Iraq and Egypt. Since 2011, the Australian Government has given $213 million in aid in response to this crisis and has pledged a further $220 million over the next three years, making it one of Australia’s most significant aid efforts.

Bipartisan—mostly

The Labor Party has consistently underscored its bipartisan support for the war against the Islamic State. However, as the scope of Australia’s commitment has expanded, the Labor Party has reiterated its calls for the Government to allow a parliamentary debate on the issue and sought clarification regarding its longterm strategy, especially following the expansion of the mission to Syria. Specifically, in September 2015 the Opposition called on the Prime Minister to address Parliament and outline Australia’s long term strategy in Iraq and allow for appropriate parliamentary discussion. It also highlighted that ‘our role militarily must be matched by renewed efforts toward a long-term, multilateral strategy to resolve the Syrian conflict’. But the Opposition has been careful to note it is not questioning the Government’s prerogative powers.

The Australian Greens objected to the initial combat operations in Iraq, stating in September 2014 that ‘if we want to make Australia safer the best thing to do is bring all Australians together and not follow the United States into an unwinnable conflict in the Middle East’. To this end, the Greens introduced Defence Legislation Amendment (Parliamentary Approval of Overseas Service) Bills in 2014 and 2015. These amendments proposed making it mandatory for Parliament to approve the deployment of troops overseas (rather than it being a decision by the Executive). The Greens have also flagged their intention to reintroduce the Bill during the 45th Parliament.

Independent MP Andrew Wilkie, and Senator Jacqui Lambie, have also spoken out against the ADF deployment to the Middle East.
Debating the issue

In Australia, the Government of the day is not required to consult Parliament before declaring war or deploying military forces overseas. Under Australian law this is the Government’s prerogative.

In the United Kingdom, Canada and New Zealand, the governments of the day similarly do not have to seek approval from Parliament before deploying troops. However, in the UK and New Zealand, conventions have developed that see such matters generally debated in Parliament. In Canada, if the Parliament is not already in session, then it is summoned when such a decision is made. In the United States and some European countries, the Parliament’s consent must be obtained to send troops overseas, or the Parliament is at least notified of such action.

As Australia’s involvement in Iraq and Syria continues, so too is it likely that political opposition to Australia’s military commitment will persist, together with concerns over how Australia’s troops are deployed in the first place.

Further reading

H Shatz and E Johnson, The Islamic State we knew: insights before the resurgence and their implications, RAND Corporation research report, 2015.

D McKeown and R Jordan, Parliamentary involvement in declaring war and deploying forces overseas, Background note, Parliamentary Library, Canberra, 22 March 2010.

Figure 1: Islamic State influence (as at July 2016)
Defence capability
David Watt, Foreign Affairs, Defence and Security

Key Issue
The 2016 Defence White Paper set out a substantial expansion of Australian defence capability. This will require consistency in funding and timeliness in the decision-making and implementation processes. A cohesive relationship between the Department of Defence and defence industry will also be crucial to ensure that projects are appropriately managed.

The 2016 Defence White Paper (DWP) set out the Turnbull Government’s commitment to the acquisition of a wide range of defence capability. This includes an ambitious naval shipbuilding program with 12 new submarines, nine Future Frigates and 12 offshore patrol vessels. The maritime focus will be deepened with the acquisition of fifteen P-8A Poseidon surveillance aircraft and seven MQ-4C Triton unmanned surveillance aircraft. The maritime capabilities will join the purchase of seventy-two F-35A Joint Strike Fighters and the LAND 400 Program delivering new vehicles for the Australian Army.

In fact, the Integrated Investment Program (IIP), released in February 2016 alongside the white paper, lists 200 ‘key investment decisions’. Of these, 35 had been approved by the Government at the time of publication with a further four approved by the end of the 2015–16 financial year.

The ability of Defence to deliver this ambitious program will be reliant on three key factors: funding, process and skills.

Funding
The first is money. The 2016 DWP promised additional funding of $29.9 billion in funding for Defence across ten years to 2025 and linked this to a total expenditure of $195 billion in defence capability across the same period.

There are two potential problems with this largesse. The first is that historically Defence has sometimes found it difficult to effectively spend substantial increases in funding. The Australian Strategic Policy Institute’s Mark Thomson has pointed out that in the eight years after the 2000 DWP, more than $8.4 billion of capital expenditure was deferred. Similarly, between the 2009 and 2013 DWPs, over $10 billion of expenditure was deferred.

The second problem is that the spending commitments of DWPs have, at best, a mixed record of fulfilment. DWPs were published in 1976, 1987, 1994, 2000, 2009 and 2013 and 2016 and of these, only the 2000 version could claim to have fully implemented its planned expenditure. However, the 2000 DWP notably coincided with a period of sustained economic growth, which substantially aided the Government’s ability to deliver appropriate funding.

Other Australian governments have not always been so fortunate. In the late 1980s poor economic conditions led to the Hawke Government not meeting its funding commitments to defence and instead seeking to fund capability via internal savings from within the Defence. Similarly, the Global Financial Crisis (GFC) coincided with the 2009 DWP, making it difficult for the Rudd Government to live up to its substantial funding commitments. Conversely, the Government’s response
to the GFC led to restraint in defence funding and the search for savings via efficiencies within defence itself.

Process

A further potential impediment to the fulfilment of the DWP program is the timeliness of decision-making by the Government.

The First Principles Review of Defence criticised project approval processes for being lengthy and expensive. The Review stated that the ‘the average government submission is 70 pages long and takes 16 weeks to move through the Cabinet preparation process and an average of 46 months to progress from first pass initiation through to second pass approval’. The Review recommended a revised process which simplified some aspects of the decision-making process, albeit introducing a new ‘Gate Zero’ entry point (the point in the approval process where a concept is given initial approval to progress for potential consideration at first pass). It also recommended an increase (to $250 million) in the level at which Cabinet consideration is required. The Government agreed to 75 out of 76 of the Review’s recommendations (albeit accepting only in principle the raising of the threshold for Cabinet consideration).

The 2016–17 Defence Portfolio Budget Statement lists 33 Unapproved Capital Projects for first or second pass approval during the year. There are a further 11 in the IIP which were expected to be decided during 2015–16 but do not appear to have been.

Defence annual reports for the last ten years list 208 first and second pass approvals which would suggest that the Government might struggle to process the number of projects mentioned above. Not all projects are of equal importance and, presumably, high priority will be given to the naval shipbuilding program first announced during August 2015. This brought forward the production of the Future Frigate (to 2020) and the Offshore Patrol Vessels (starting in 2018).

The IIP does not provide assistance in judging progress on project delivery because it contains timeframes which appear to reflect the expected life of a project, but does not contain information about milestones within those timeframes. In addition, Defence has had to implement the changes to process while also making a variety of internal structural changes recommended by the Review.

Skills

Much of the white paper capability will be imported from overseas but there is also a growing emphasis on local industry. The capacity of Australian defence industry to deliver on time and on budget is an important aspect to this. This is particularly true of the shipbuilding industry where overlapping programs will place strain on Australian shipyards and the flow of skills necessary to staff them. In the Industry Policy Statement which came with the white paper, the Government sets out its approach to Defence industry and has promised $1.6 billion in funding to ‘build industry skills’ and lift Australian industry competitiveness.

Further reading


The current state of trade policies in Australia

Paul Davidson, Economics

Key Issue

Given continuing difficulty in striking multilaterally agreements, Australia has increasingly pursued bilateral and regional trade agreements to further its interests.

Some issues for the 45th Parliament include whether the agreements are in the national interest, having regard to the relative magnitude of benefits generated, and additional protections provided to foreign investors. An additional issue is the recent rise in protectionist measures—partly as a result of recently formed trade agreements—and whether such measures are in the national interest.

As one of the 163 members of the World Trade Organization (WTO), Australia benefits from the mostfavoured nation and nondiscrimination provisions when engaging in international trade with other member nations. In practice, this means that Australia is treated the same as another country’s most-favoured trading partner would be, and that Australian products are treated analogously to the identical domestically produced products of our trading partners. In addition to being a WTO member, Australia has negotiated a number of bilateral and regional trade agreements with other nations (Table 1).

Australia is currently negotiating a number of trade agreements, from separate bilateral agreements with India and Indonesia, and regional agreements with the Gulf Cooperation Council and the European Union; to multilateral agreements via the WTO on environmental goods.

In Australia and overseas, trade is currently being disrupted by a significant rise in protectionist measures. In part, these are as a direct consequence of the changing nature of trade agreements. Trade agreements now frequently provide significant trade obligations in areas such as investment, the environment, and other areas of public regulation. Protectionist measures include the application of trade-restrictive measures (particularly anti-dumping), as well as the treatment of foreign investment.

Anti-dumping measures

The latest report by the WTO on G20 trade measures highlighted that between mid-October 2015 and mid-May 2016, some 145 new trade-restrictive measures were introduced. This was the highest number of new measures introduced since the report series begin since 2008 during the global financial crisis.

Although Australia’s initiations of antidumping investigations had fallen slightly from the previous year, 17 matters were still initiated. As noted in a recent Productivity Commission (PC) report, anti-dumping measures have recently been strengthened and there have been calls to strengthen it further. A direct link was found between countries with highly protectionist anti-dumping systems and the level and value of imports subject to duties.

The PC report also found that anti-dumping measures were more than three times higher than Australia’s remaining maximum tariff rates. Anti-dumping measures were mainly imposed on base metals, paper and wood, and plastics and polymers products.
In particular, it was noted that Australian antidumping measures currently in force are predominantly in the steel sector.

Foreign investor protections

Concerns have been raised by a number of academics, the Productivity Commission, and even the Chief Justice of the High Court about protections granted to foreign investors under trade agreements, principally investor-state dispute settlement (ISDS) provisions.

ISDS provisions in trade agreements provide a mechanism for foreign investors (including Australian investors investing overseas) to seek recourse in an international tribunal in the event that a host government to the agreement breaches its investment obligations.

Trans-Pacific Partnership (TPP)

One of the most high-profile trade agreements—the Trans-Pacific Partnership (TPP)—contains ISDS provisions. The TPP was signed on 4 February 2016 and includes 12 signatories: Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, Peru, New Zealand, Singapore, the United States, and Vietnam. These 12 nations account for around 40 per cent of global GDP.

Although concerns have been raised, many of Australia’s existing trade agreements contain ISDS provisions, including some with other TPP nations. Of the ten trade agreements above, only the agreements with New Zealand, Malaysia, the United States, and Japan do not contain ISDS clauses. Table 2 illustrates that Australia already has ISDS provisions with the vast majority of TPP nations.

A provision in the TPP provides that the agreement cannot enter into force without the acquiescence of the United States (and also Japan). However, the TPP has faced staunch opposition in the United States and its passage through the current Congress is in doubt. Both American presidential nominees have explicitly ruled out adopting the TPP in its current form. There have

Table 1: Trade agreements currently in force in Australia

<table>
<thead>
<tr>
<th>Agreement</th>
<th>Entry into force</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australia New Zealand Closer Economic Relations Trade Agreement</td>
<td>1 January 1983</td>
</tr>
<tr>
<td>Australia-US Free Trade Agreement</td>
<td>1 January 2005</td>
</tr>
<tr>
<td>Australia-Thailand Free Trade Agreement</td>
<td>1 January 2005</td>
</tr>
<tr>
<td>Australia-Chile Free Trade Agreement</td>
<td>6 March 2009</td>
</tr>
<tr>
<td>Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area</td>
<td>1 January 2010</td>
</tr>
<tr>
<td>Singapore-Australia Free Trade Agreement</td>
<td>2 September 2011</td>
</tr>
<tr>
<td>Malaysia-Australia Free Trade Agreement</td>
<td>1 January 2013</td>
</tr>
<tr>
<td>Agreement between Australia and Japan for an Economic Partnership</td>
<td>15 January 2015</td>
</tr>
</tbody>
</table>
therefore been calls from some quarters, including Australia’s Ambassador to the United States, for the TPP to be passed during a ‘lame duck’ session of Congress, which occurs between the presidential election on 8 November and the inauguration of the new president on 20 January 2017.

Table 2: Existence of ISDS provisions with TPP nations, outside of the TPP agreement

<table>
<thead>
<tr>
<th>TPP country</th>
<th>ISDS provisions currently exist in:</th>
<th>ISDS provisions in force, ignoring the TPP</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Bilateral Investment Treaty</td>
<td>Australia-New Zealand-ASEAN Agreement</td>
</tr>
<tr>
<td>Brunei Darussalam</td>
<td>n/a</td>
<td>✓</td>
</tr>
<tr>
<td>Canada</td>
<td>n/a</td>
<td>x</td>
</tr>
<tr>
<td>Chile</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Japan</td>
<td>n/a</td>
<td>x</td>
</tr>
<tr>
<td>Malaysia</td>
<td>x</td>
<td>✓</td>
</tr>
<tr>
<td>Mexico</td>
<td>✓</td>
<td>x</td>
</tr>
<tr>
<td>New Zealand</td>
<td>x</td>
<td>✓</td>
</tr>
<tr>
<td>Peru</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Singapore</td>
<td>x</td>
<td>✓</td>
</tr>
<tr>
<td>United States</td>
<td>x</td>
<td>✓</td>
</tr>
<tr>
<td>Vietnam</td>
<td>✓</td>
<td>✓</td>
</tr>
</tbody>
</table>

n/a means not applicable.
* ISDS provisions are not explicit although there is explicit scope for their future inclusion in the trade agreement.
** Does not apply between Australia and New Zealand.

Further reading


LAW, JUSTICE AND NATIONAL SECURITY
Countering terrorism and violent extremism
Cat Barker, Foreign Affairs, Defence and Security

Key Issue

Terrorism continues to evolve and several factors have resulted in increased threats internationally and domestically in recent years. This is a persistent threat that will require ongoing attention and resources.

Domestic coordination and international cooperation, particularly within the region, are important components of an effective response. Australia will need to remain responsive in a rapidly changing environment. However, consideration could be given to a strategic plan that would provide direction for, and foster coordination of, countermeasures over the longer term.

During the 44th Parliament, many countries, including Australia, became increasingly concerned about, and took additional steps to counter, domestic and international threats. These include nationals fighting with overseas terrorist and insurgent groups (‘foreign fighters’) and different forms of ‘homegrown’ terrorism—whether it be individuals associated with particular groups, or so-called ‘lone wolf’ or ‘lone actor’ threats.

The conflicts in Syria and Iraq, the rise of the ‘Islamic State’ group (IS) and its declaration of a caliphate in June 2014 are key factors in the heightened terror threat the world currently faces. While a small number of countries in the Middle East, South Asia and Africa continue to account for a high proportion of attacks and resulting deaths, terrorist attacks around the world (including in Western nations) have increased in both their frequency and, somewhat less consistently, their severity.

Domestic situation and outlook

In September 2014, Australia raised its terror threat level for the first time since the system was introduced in 2002. The decision was made in light of the number of Australians who were joining conflicts in Iraq and Syria (and potentially returning); supporting overseas extremist groups from Australia; and potentially planning domestic attacks (including those ‘prevented from travel’). The National Terrorism Threat Level remains at ‘probable’, meaning there is credible intelligence indicating individuals or groups have both the intent and capability to conduct an attack.

Since the threat level was raised, there have been several successful and foiled attacks in Australia. These have included the stabbing of two police officers in Melbourne in 2014, the murder of a police accountant in Parramatta in 2015 and the disruption of attacks allegedly planned for Anzac Day and Mother’s Day in 2015.

The number of Australian civilians involved in the Syrian and Iraq conflicts has plateaued, remaining at around 110 for around 18 months. This is due to a range of factors, including battlefield deaths and people being prevented from travel by the interventions of families, communities and authorities.

Police and security agencies are particularly concerned about a trend towards individuals becoming involved with extremist groups and ideologies at younger ages. This presents particular challenges, and even the Australian Security Intelligence Organisation (ASIO) has...
emphasised the need for an approach that is ‘far broader and more sustained than simply a security and law enforcement response’.

ASIO has assessed that while the more likely form of terrorist attack in Australia remains a ‘low capability attack against a “soft” target [such as a shopping centre or sporting event], perpetrated by a lone actor or small group’, the threat of a more complex attack remains. The recent completed and foiled attacks have been of the smaller scale, lower capability type. Lone actors and smaller informal networks are more difficult for police and security agencies to detect in advance, and low-capability attacks can move quickly from idea to action as they require less planning.

Challenges for the coming years include managing the threats associated with returning foreign fighters and individuals prevented from travel, potential radicalisation in prisons, and managing the release of terrorism offenders back into the community.

Regional situation and outlook

Many existing terrorist and extremist groups throughout Southeast Asia have pledged their allegiance to or support for IS, and some have indicated a wish to establish an official IS province in the region. IS has recently increased its propaganda efforts in the region, including through videos featuring Indonesians and Malaysians—at least one of which urged militants in the region to unite behind the leader of the Philippines-based Abu Sayyaf Group—and the release in June 2016 of its first Malay language newspaper. In 2016, both Indonesia and Malaysia have experienced successful IS-related attacks.

In Indonesia, after largely successful counterterrorism efforts over several years, the al-Qaeda aligned group, Jemaah Islamiyah, is reportedly rebuilding and preparing for attacks. It has been recruiting again—with membership estimated to be back to around 2,000 (matching pre-Bali bombing levels)—raising funds, and sending fighters to train in Syria.

The number of foreign fighters in Iraq and Syria originating from Southeast Asian nations is estimated to be in the range 700–1,000. While this is small proportionally, authorities are nonetheless concerned about the threats posed by returning fighters.

There have also been concerns raised about how effective Indonesia’s deradicalisation efforts are, with the head of an organisation that assists parolees estimating that around 40 per cent of 400 militants released as at December 2015 have returned to a

Some key figures

- 16 counter-terrorism operations in Australia since September 2014, resulting in more than 40 people being charged with terrorism and other offences and disruption of nine attacks.
- ASIO managing around 400 high-priority counterterrorism investigations.
- Around 110 Australians fighting or engaged with terrorist groups in Iraq and Syria, and 190 people providing support (such as recruiting, funding) from Australia.
- About 40 Australians have been involved in those conflicts and since returned, while at least 50 Australian foreign fighters have been killed.
- 177 Australian passports have been cancelled and 33 suspended.
radical network. One of the attackers in a January 2016 incident in Jakarta had been released from prison several months earlier.

**Domestic countermeasures**

In light of increased threats and activity, the Australian Government provided additional funding of $630.0 million for counterterrorism and countering violent extremism (CVE) in August 2014, supplemented by an additional $326.4 million (excluding defence spending) in the 2015–16 Budget. The bulk of that funding went to the intelligence and law enforcement agencies for counterterrorism purposes. Less has been allocated to CVE measures, though the spending and focus on this area has also increased compared to previous years. The 2016–17 Budget included an additional $5.0 million for CVE, including $4.0 million to ‘establish and trial community support and advice services’ with the states and territories.

Specific funded initiatives included:

- interventions to prevent Australians becoming foreign fighters, including a Community Diversion and Monitoring Team in the Australian Federal Police, a multi-agency disruption group and additional investigators and analysts for the Australian Crime and Intelligence Commission
- the Australian Border Force establishing counterterrorism units at Australia’s eight international airports
- a revised and expanded CVE programme and
- funding for the establishment and initial operations of the Australian Intervention Support Hub (AISH).

There has been increasing recognition of the need to work effectively across the spectrum, from prevention and early intervention, through to responding to actual attacks. This is reflected in the revised CVE programme, which comprises four main streams of work—social inclusion; targeted work with vulnerable communities and institutions; addressing online terrorist propaganda; and diversion and deradicalisation. This has generally been welcomed by experts in the field, though there have also been calls for Australia not to repeat the mistakes of the UK’s Prevent strategy. Prevent, the CVE component of the UK’s counterterrorism strategy, has been criticised by the Independent Reviewer of Terrorism Legislation, amongst others, as having become ‘a more significant source of grievance in affected communities than the police and ministerial powers’.

CVE initiatives are relatively new in Australia, with Australian Government efforts dating back only to 2010. It will be important during the process of expanding Australian CVE and deradicalisation initiatives to deal with the current and future threat environment to continue learning from overseas experience. Interventions need to be adapted to the Australian context and tailored to each individual’s particular circumstances. However, lessons can be drawn from the UK’s experience as well as European countries, such as Germany and Denmark, which have had some success addressing far-right, far-left and religious extremism.

Some work remains in responding to the recommendations of the Review of Australia’s Counter-Terrorism Machinery and the report on the joint Commonwealth-NSW review of the Martin Place siege (both released February 2015). The ongoing coronial inquest into the deaths that occurred during the Martin Place siege may identify further issues requiring a response. In addition, in July 2016, the Prime Minister asked the National Counter-Terrorism Coordinator for advice on several matters to guide efforts to prevent lone actor attacks. Among the matters the Coordinator will report on are the vulnerability of soft targets and the means to protect them; measures to ensure
vulnerable individuals who come into contact with the justice and health systems are identified by security authorities; and how agencies are responding to the challenges presented by rapidly radicalised lone actors.

While many of the fundamentals remain the same, Australia’s counterterrorism framework underwent significant changes during the last parliament, and many of those changes took place quickly in a reactive environment. While it will remain important for Australia to be responsive in this policy area, the Australian Strategic Policy Institute has suggested it is time for Australia to take a step back and spend some time formulating a strategic plan for counterterrorism. Such a plan would go beyond the Counter-Terrorism Strategy agreed to by governments in 2015, by providing a framework to guide future work across different levels of government and ensuring it remains coordinated and directed towards shared goals.

Regional cooperation

Australia has been working for some time with countries in the region both bilaterally and multilaterally through forums including the Association of Southeast Asian Nations (ASEAN), the Jakarta Centre for Law Enforcement Cooperation and more recently, the Global Counterterrorism Forum (GCTF). Australia and Indonesia’s joint investigation of the 2002 Bali bombings built a strong foundation for cooperation, and Indonesia has been a key focus of Australia’s bilateral capacity-building and cooperation on counterterrorism. Australia has also worked closely with Malaysia, Thailand, and the Philippines.

Mirroring international developments and attention, there was somewhat of a shift in Australia’s regional engagement during the last parliament, with a greater focus on: CVE, including online; deradicalisation; foreign fighter issues; and countering terrorism financing. Australia hosted a regional summit on CVE in June 2015 and co-hosted a counterterrorism financing summit in November 2015 with Indonesia. The latter will become an annual summit, with the next one to be held in Indonesia in August 2016. Australia and Indonesia also co-chair the GCTF Detention and Reintegration Working Group and Australia has been keen to learn from Malaysia and Singapore about their approaches and programs for deradicalisation.

The current security environment highlights the importance of Australia’s continued engagement and cooperation with regional partners.

See also the separate articles in this Briefing Book on national security and counterterrorism laws, and Iraq and Syria (for information on military involvement).

Further reading


Council of Australian Governments (COAG), Australia’s counter-terrorism strategy, COAG, 2015.


National security and counter-terrorism laws
Monica Biddington, Law and Bills Digest

Key Issue
Domestic responses to terrorism are increasingly focused on enhancing jurisdictional cooperation between law enforcement agencies and building resilience and social cohesion in the community.

The Government has flagged further legislation to develop and maintain a rigorous national security program with a number of legislative initiatives and review of existing regimes.

Key events in the 44th Parliament
Significant changes were enacted to national security and counter-terrorism laws during the last parliament, including:

- establishment of a data retention regime
- the introduction of a Special Intelligence Operation regime for Australian Security Intelligence Organisation (ASIO) officers, which allows immunity from prosecution if a crime is committed during the course of the operation. The regime also introduced a prohibition on the publication of information about special intelligence operations (the oft-called 'journalist’s offence')
- increases to the powers of ASIO and the Australian Security Intelligence Service
- the expansion of both the purposes of the control order regime and the grounds on which orders may be made and
- the introduction of an offence of entering a declared area in which a terrorist organisation is engaging in hostile activity.

The Government attempted to abolish the Office of the Independent National Security Legislation Monitor (INSLM). The repeal Bill was removed from debate following strong opposition. In December 2014, Roger Gyles AO QC was appointed to the Office.

Issues for the new Parliament
Australia’s national security legislation is subject to oversight by multiple independent and parliamentary scrutiny mechanisms. These include: the INSLM, the Parliamentary Joint Committee on Intelligence and Security (the PJCIS), the Senate Legal and Constitutional Affairs Committee, the Senate Foreign Affairs, Defence and Trade Committee, the Parliamentary Joint Standing Committee on Foreign Affairs and Trade and the Parliamentary Joint Standing Committee on Treaties.

While there is generally bipartisanship on matters relating to national security, there is a continued imperative for the detailed scrutiny, oversight and accountability of the Parliament’s response to national security.

As part of this, there are also a number of statutory reviews that will be considered during the life of the 45th Parliament.

The PJCIS must complete a review of the following counterterrorism and national security legislation by 7 March 2018: questioning and detention powers that arise under Part III of the Australian Security Intelligence Organisation Act 1979 (ASIO Act), Division 3A of Part 1AA of the Crimes Act 1914 (Crimes Act) (terrorism-related stop, search and seizure powers), Divisions 104 and 105 of the Criminal Code Act 1995 (control orders and preventative detention orders) and other...
provisions of the Criminal Code including sections 119.2 and 119.3 (relating to foreign incursions and recruitment).

The Government accepted a recommendation from the PJCIS’s report on the Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014 that the INSLM also review the regime. The INSLM is required to review the same specified legislation by 7 September 2017. The INSLM is presently conducting a review of Division 3 of Part III of the ASIO Act (questioning and detention for terrorism matters), the powers of the Australian Federal Police under Part IC of the Crimes Act (relating to the investigation of Commonwealth offences), and the coercive powers of the Australian Criminal Intelligence Commission. The INSLM has also indicated that he will be conducting a review of the effectiveness of the legislative changes in connection with the terrorist threat posed by Australians who may travel to participate in conflicts abroad.

The PJCIS is required to commence a review of the data retention regime by 13 April 2019 and to complete a review into the operation, effectiveness and implications of the revocation of citizenship provisions in the Australian Citizenship Act 2007 by 1 December 2019.

Pre-charge detention

In December 2015, COAG agreed to prioritise work to implement nationally consistent legislation on pre-charge detention, consistent with recommendations of the Australia-New Zealand Counter-Terrorism Committee (ANZCTC).

In April 2016 COAG agreed, in principle, to the NSW model as the basis for a strengthened, nationally consistent, pre-charge detention scheme for terrorism suspects, with the ACT retaining its position. NSW will introduce the legislation and consult with other jurisdictions.

The Commonwealth has not stated its position on this, nor whether it is considering changes to the detention provisions in Division 2 of Part 1C of the Crimes Act.

Post-sentence detention of convicted terrorists

In April 2016, at a COAG meeting, there was agreement to establish a regime that would ensure the continued detention of convicted terrorists past their sentence end date. Attorney-General George Brandis has said that these laws could be similar to those in some states which keep sex offenders in jail after they have served their sentence, if they still pose a serious risk to the community. On 5 August 2016, the Attorney-General announced that all Australian Attorneys-General had reached an in-principle agreement to the proposed scheme. He indicated that the Government intends to introduce legislation to enact the proposed scheme in the Commonwealth Criminal Code, and to refer this to the PJCIS for inquiry and report.

This legislation may raise constitutional issues, particularly with respect to its compatibility with the judicial power of the Commonwealth in Chapter III of the Constitution. In Fardon v Attorney-General (Qld) 2004 the High Court upheld the validity of state legislation authorising the post-sentence detention of dangerous sex offenders, but much will depend on an assessment of the provisions of the particular legislation.

The catalyst for this policy has been twofold. Firstly, the incarceration of terrorism offenders from more than 10 years ago is due to end and there may be evidence that could be presented to a court that demonstrates that there are continued and varied risks that a terrorism offender poses once released back into the community. Secondly, Prime Minister Malcolm Turnbull
is advocating for changes and greater diligence in the wake of atrocities overseas in Orlando, United States and Nice, France.

If a regime is introduced to continue a convicted terrorist’s time in prison, there would need to be safeguards for the individual, including periodic review and evidence presented to a court that shows the person continues to pose an unacceptably high risk to the community. The proposal raises questions around how flexible that period of extended detention might be and whether penalties for terrorism offences should be increased in the first instance.

In contrast, the United Kingdom (UK) has a notification regime where a person who has been released after serving a sentence for terrorism offences is required to notify police of changes to personal detail and travel plans.

Lapsed legislation from the previous Parliament

The Government has confirmed it will be reintroducing national security legislation that lapsed at the prorogation of Parliament. This includes the Counter-terrorism Legislation Amendment Bill (No.1) 2015, which, among other things, would reduce the minimum age at which a control order may be imposed from 14 to 16 years of age. The Transport Security Amendment (Serious or Organised Crime) Bill 2016 also lapsed at prorogation and is likely to be reintroduced to enhance the preventive mechanisms in place to target those who engage in serious or organised crime through the use of aviation and maritime transport.

Recent developments

In the area of telecommunications security, the Government is further pursuing the information sharing and obligations between government and telecommunications carriers and carriage service providers to ‘ensure greater consistency, transparency and accountability for managing national security risks across all parts of the telecommunications sector’. The Government will continue to work to manage risks in this sector of espionage, sabotage and foreign interference and legislation is anticipated to be presented to the new Parliament.

The Australian Government may also consider prohibiting the publication of terrorist’s names and images. France is currently deliberating whether this would deny the terrorists the glorification that many of them may seek from their acts. Questions of censorship, balanced with the reporting of facts, would prompt a robust debate in the Australian Parliament.

See the separate article in this Briefing Book for further detail on countering terrorism and violent extremism.

Further reading


C Barker, J Mills and J Murphy, Counter-Terrorism Legislation Amendment Bill (No.1) 2015, Bills digest, 80, 2015–16, Parliamentary Library, Canberra, 2016.


G Brandis, Meeting of Attorneys-General on post-sentence preventative detention, meeting communique, Canberra, 5 August 2016.
National security—cybersecurity

Nicole Brangwin, Foreign Affairs, Defence and Security

Key Issue
The cybersecurity environment is a constantly evolving and complex issue that affects numerous sectors. Strategic level policies and programs are struggling to keep up with threats as technology rapidly advances. The Cyber Security Strategy released in April 2016 is Australia’s response to the threat but its implementation is now urgent.

What is cybersecurity?
In simple terms, cybersecurity involves the protection of computer systems connected to the Internet.

Entities such as government, business and organisations, as well as millions of individuals in Australia, rely on these connections every day.

What are we protecting these systems from?
According to the Government’s Australian Cyber Security Centre (ACSC), threats might include cyber espionage that gathers intelligence in support of state-sponsored activities; cyber attacks that aim to destroy critical infrastructure; or criminals using the Internet as a means to defraud, or steal individual identities.

How serious is the threat?
According to the ACSC Threat Report, from 2011 to 2014, the number of cybersecurity incidents to which the Australian Signals Directorate (ASD) responded rose by around 260 per cent (from 313 incidents in 2011 to 1,131 in 2014). These incidents involved Australian Government and other networks of national interest.

Needless to say, the cyberthreat is vast, traversing many jurisdictions—and it is not just a technical ICT (information, communication and technology) issue. Effective threat mitigation requires action across sectors including government (not just defence and policing, but all government entities); industry (large, medium and small businesses); academia and science (research and development) and the community (personal security awareness), just to name a few.

What is being done?
As a policy issue, concerns about Australia’s cyber resilience were initially raised in the Howard Government’s 2000 Defence White Paper, Defence 2000: our future defence force. A number of initiatives flowed from this policy including cooperation among key national security agencies to assess and deal with emerging threats. In the 2009 Defence White Paper, Defending Australia in the Asia Pacific century: Force 2030, the Rudd Government elevated the cyberthreat to one of national security priority, and in 2010, established the Cyber Security Operations Centre (CSOC) within the Defence Signals Directorate (now ASD). In 2013, under the Gillard Government, the CSOC evolved into the Australian Cyber Security Centre as ‘the hub of the government’s cyber security efforts’. The 2013 Defence White Paper recognised that dealing with cyberthreats requires not only a whole-of-government approach, but industry involvement as well.

The Department of Defence continues to play the primary role within the ACSC, which also hosts the Attorney-General’s
Computer Emergency Response Team Australia (CERT Australia); the Cyber Espionage Branch of the Australian Security Intelligence Organisation; components of the High-Tech Crime Operations unit of the Australian Federal Police; expertise from the Australian Criminal Intelligence Commission (formerly the Australian Crime Commission) and key industry participants.

Is Australia prepared?

In September 2011, the Gillard Government announced the development of a cyber white paper, which was meant to address issues ranging from safety, crime, and consumer protection, to national security and defence. The initial impetus eventually morphed into an overarching update of the National Digital Economy Strategy, released in June 2013.

Following the 2013 election, cybersecurity was not part of the Abbott Government’s public focus on national security issues until the cybersecurity review announced in November 2014. The review was originally intended to take six months but it was not until 17 months later when, under the Turnbull Government, Australia’s new cybersecurity strategy was finally announced—effectively replacing the 2009 cyber security strategy. While the 2016 strategy recognises cybersecurity as a strategic issue for Australia’s economy and national security, the emphasis placed on this issue appears less significant than in 2009 when cybersecurity was considered ‘one of Australia’s top tier national security priorities’.

The Government’s commitment to the strategy is demonstrated by the April 2016 announcement of an Ambassador for Cyber Issues (yet to be appointed), a Minister Assisting the Prime Minister on Cyber Security (Dan Tehan) and a Special Advisor to the Prime Minister on Cyber Security (Alastair MacGibbon).

Offensive capabilities

Given the escalation of cyber attacks and Defence’s role in responding, it is unsurprising to learn that Australia has an offensive capability. However, this was not publicly acknowledged until the release of the 2016 Cyber Security Strategy. No further details about Australia’s offensive capabilities are publicly available, but ASD now openly recruits for offensive and defensive cyber specialists.

Could this lead to cyberwarfare?

Debate surrounds the exact nature of cyberwarfare as a sole undertaking. The 2016 Defence White Paper highlights the ‘complex non-geographic threats’ in cyberspace and space, and how military capabilities can be adversely affected.

The Australia-United States alliance also acknowledged these threats during Ministerial talks in 2011 (AUSMIN) where it was agreed that the ANZUS Treaty could be invoked in response to a cyber attack. But when does a cyber attack constitute an armed attack? The US considers, on a case-by-case basis, the ‘nature and extent of injury or death to persons and the destruction of, or damage to, property’. The threshold for, say, an armed response to a cyber attack is not clear or publicly discussed by Australian or US officials.

Further reading


Money laundering and terrorism financing
Cat Barker, Foreign Affairs, Defence and Security

Key Issue

Two major reviews of Australia’s anti-money laundering and counter-terrorism financing regime, released in 2015 and 2016, identified continuing weaknesses in the current framework.

One of these is the lack of coverage of a range of non-financial businesses and professions that can be exploited to launder illicit funds and support terrorism. Consultations on laws to extend the regime to include them began in 2007, but the work was later put on hold and a Bill is yet to eventuate.

Money laundering is the processing of the proceeds of crime to disguise their origins, making the funds appear to have been legitimately obtained. It is a key enabler of serious and organised crime and can undermine the financial system and distort the economy.

Australia’s anti-money laundering efforts are guided by international legal obligations and the International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation (FATF Recommendations) developed by the Financial Action Task Force (FATF), of which Australia is a founding member.

The Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (AML/CTF Act) and related regulations and rules provide the framework for the Australian regulatory regime aimed at preventing and detecting money laundering and terrorism financing.

The Act applies to ‘designated services’ provided by financial institutions, bullion dealers and the gambling industry, as well as designated remittance service providers. The obligations imposed on these organisations include registering with Australia’s regulator, the Australian Transaction Reports and Analysis Centre (AUSTRAC); conducting risk assessments and maintaining a program to respond to identified risks; undertaking customer identification and due diligence; and reporting certain transactions and matters to AUSTRAC. In its other role as Financial Intelligence Unit, AUSTRAC analyses the information contained in those reports, along with other inputs, to develop financial intelligence that it shares with partner agencies, including law enforcement agencies, the Australian Taxation Office and international counterparts.

Draft legislation to extend the coverage of the AML/CTF Act to include all ‘designated non-financial businesses and professions’ (DNFBPs), as required by the FATF Recommendations, was released for public consultation in 2007. This would have brought real estate agents, dealers in precious metals and stones, lawyers, accountants and trust and company service providers under the scheme. However, the
process was put on hold to allow time for recovery from the Global Financial Crisis and appears not to have recommenced. While other improvements have been made in the meantime, these outstanding reforms represent a significant gap in Australia’s anti-money laundering and counter-terrorism financing (AML/CTF) regime.

Exploitation of DNFBPs

AUSTRAC has stated that high value goods such as real estate are a significant money laundering channel in Australia, and also that laundering through commercial and residential real estate is relatively simple compared to many other methods. Its typologies and case studies reports outline some of the specific methods it has uncovered.

Reports by AUSTRAC and the Australian Criminal Intelligence Commission have also highlighted a trend towards the use of professionals such as lawyers, accountants and company and trusts service providers to (knowingly or unwittingly) facilitate money laundering. Criminals have been using increasingly complex and sophisticated money laundering schemes to evade detection, drawing on the specialised skills and advice of these professionals to do so.

Media reports over several years have pointed to the use of Australian real estate and professional facilitators to launder illicit funds obtained through corruption in other countries in the region, including Papua New Guinea and Malaysia.

The FATF’s report

FATF released its third evaluation of the effectiveness of Australia’s AML/CTF measures, as assessed against the FATF Recommendations, in April 2015. FATF found that Australia has strong legislative, enforcement and operational measures in place, including effective national coordination and international cooperation, but that improvements were required in several key areas. Overall, Australia was found to be compliant with 12 standards, largely or partially compliant with 22 and noncompliant with six. The six standards included those relating to DNFBPs, not-for-profit organisations, correspondent banking, and transparency and beneficial ownership of legal arrangements (such as trusts).

While several of the eight priority actions identified for Australia can be addressed at the operational level, others may require legislative amendments. Extending the regulatory regime to all DNFBPs would require amendments to the AML/CTF Act. Other priority actions that could result in legislative amendments include:

- ensuring supervision of financial institutions’ compliance with targeted financial sanctions
- a targeted approach to preventing the abuse of not-for-profit organisations by terrorist financing and
- measures to improve transparency and information about ‘beneficial ownership’ of legal structures.

Beneficial ownership refers to the individual who ultimately owns or controls a customer, or on whose behalf a transaction is being conducted. Misuse of corporate vehicles can be reduced where accurate information is available on both their legal and beneficial owners.

The Coalition Government undertook to take account of FATF’s findings in the statutory review outlined below.
Statutory review

The Government commenced a statutory review of the AML/CTF Act and associated rules and regulations in December 2013 and reported in April 2016. The review considered the FATF’s findings; submissions; consultations with representatives from industry groups, private and not-for-profit organisations and government agencies; and the fit of the AML/CTF regime with broader policy considerations such as the ‘better regulation’ agenda and responding to national security threats.

The detailed review produced 84 recommendations designed to strengthen the regime and ensure it can be responsive to future challenges, and also simplify and streamline the framework. The report includes several general recommendations, including simplifying the AML/CTF Act, simplifying and rationalising the associated rules, embedding the principle of technology neutrality and reviewing counter-terrorist financing measures in light of international developments. Some of the key recommendations on more specific matters include:

- bringing additional high risk services and payment types and systems within the regulatory scheme, including developing options for bringing the remaining DNFBPs within the scheme and conducting a cost-benefit analysis of those options (Recommendations 4.6–4.10)
- reconsidering the current inclusion of some services that are now lower risk (such as travellers cheques) (4.1–4.2)
- simplifying obligations relating to ‘correspondent banking’ (provision of banking services by one financial institution to another) and bringing them into alignment with FATF standards (10.1–10.3)
- strengthening the reporting regime for cross-border movements of cash and bearer negotiable instruments (12.1–12.7) and
- simplifying secrecy and access provisions to facilitate improved sharing of AUSTRAC information. (14.1).

While the review produced a long list of recommendations, many of them address only what should happen, not how. This provides a clear framework for modernising the AML/CTF regime, but means that a lot of work remains to be done before amendments to implement the recommendations are ready to be brought before the Parliament. A staggered approach might be one way to act quickly on priority issues while work continues to address the remaining recommendations.

Further reading


FATF, Australia: mutual evaluation report, FATF, April 2015

D Heriot, ‘Australia’s anti-money laundering report card: could do better’, FlagPost, Parliamentary Library blog, 28 April 2015
Corruption and integrity issues
Cat Barker, Foreign Affairs, Defence and Security

Key Issue
Corruption and integrity issues remained in the spotlight during the last two parliaments amid continued revelations of corrupt conduct and misconduct across various sectors.

Issues for the new parliament will include continued consideration of a national integrity commission and other potential agencies, improvements to foreign bribery and public interest disclosure laws, and Australia's international obligations.

Australia continues to be perceived as one of the least corrupt countries in the world. Its score of 79/100 in Transparency International’s latest Corruption Perceptions Index gave it a ranking of 13 out of 168 countries. However, its decline on this index in recent years (from a score of 85 and a rank of seven in 2012), and continued revelations of corrupt conduct in the public and private sectors and some unions, highlight the need for continued attention to Australia’s anti-corruption and integrity framework.

Public sector and parliamentary integrity
Unlike each of the Australian states, which have established dedicated standing anti-corruption agencies, the Commonwealth has taken a multi-agency approach to combating corruption within or affecting the public sector. Within this system, a range of agencies have complementary roles. These include promoting integrity across the public service and investigating misconduct (Australian Public Service Commission), detecting and investigating law enforcement-related corruption issues (Australian Commission for Law Enforcement Integrity (ACLEI)) and preventing, detecting and investigating serious corruption that may constitute an offence under Commonwealth law (Australian Federal Police (AFP)).

Recent measures to improve public sector integrity have tended to focus on law enforcement, border protection and immigration agencies, which face particular corruption risks due to the nature of their work. ACLEI’s jurisdiction has gradually expanded since it began operations in 2007, most recently to include the Department of Immigration and Border Protection (DIBP) from July 2015. The Australian Customs and Border Protection Service (now the Australian Border Force, part of the DIBP) commenced reforms in 2013 to improve integrity and better combat corruption that have since been rolled out across the DIBP as part of its professional standards framework.

The Parliamentary Joint Committee on the ACLEI recommended in May 2016 that ACLEI’s jurisdiction be further expanded to include the whole of the Department of Agriculture and Water Resources, and that an independent assessment be undertaken to determine whether ACLEI should also oversee the Australian Taxation Office. The Government-chaired committee considered it preferable for ACLEI to retain its law enforcement focus instead of being expanded into an agency with anti-corruption oversight of the whole public sector. However, it was open to ‘further examination of the advantages and disadvantages of a broad-based federal anti-corruption agency’.
The Senate Select Committee on the Establishment of a National Integrity Commission was established in February 2016 to consider that very issue. However, it was only able to produce an interim report ahead of the dissolution of the Senate in May 2016. Citing shortcomings in the existing framework in addition to risks and challenges, the majority recommended in that report that the Government support research into potential anti-corruption systems appropriate for Australia. In additional comments, Coalition Senators disagreed that any shortcomings had been demonstrated. Shortly before the election, the Leader of the Opposition stated that the Australian Labor Party would reconvene the Committee if it won government.

The proposal to establish a national integrity commission along the lines of those operating in the states has resurfaced periodically since the 1980s. While it does not have unanimous support, it has been backed by several prominent anti-corruption experts and organisations. The Australian Greens introduced legislation to establish such a commission in 2010, 2012 and 2013. The 2013 Bill was the first to be debated, in 2014 and 2015, but it was not voted on.

Debate on a possible national integrity commission has included discussion of parliamentary standards and ethics. There are currently codes of conduct covering ministers and parliamentary secretaries, ministerial staff and lobbyists, but no code covering Members of Parliament. At the end of the 43rd Parliament, the House of Representatives endorsed a draft code of conduct, but did not consider the proposed changes to Standing Orders and resolutions required to give effect to the code before the House was dissolved in August 2013. The Senate did not endorse a code of conduct as ‘a meaningful and workable method of addressing parliamentary standards’. The issue was not considered during the 44th Parliament. Recent proposals by legal academics, the Greens and other crossbenchers have included a code of conduct covering all Members of Parliament, an independent parliamentary ethics adviser, and a Parliamentary Integrity Commissioner to investigate breaches of the code.

Foreign bribery

Australia moved relatively quickly to ratify the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (Anti-Bribery Convention) and implement it domestically through legislation. However, Australia has lagged behind other countries in its enforcement of the Convention. Increased priority and resources given to foreign bribery investigations since 2013 appear to be having some impact. However, the issue has been of continued interest to the Parliament. An inquiry commenced by the Senate Economics References Committee in June 2015 had not yet reported at the time of the dissolution of the Senate in May 2016.

Australia’s first prosecutions for foreign bribery were initiated in July 2011. In 2012, the OECD expressed serious concern at the low level of enforcement action in Australia and included a long list of recommendations in an evaluation of Australia’s compliance with the Anti-Bribery Convention. Australia has since stepped up its efforts. This has included the AFP reopening several previously finalised investigations, entering into a memorandum of understanding with the Australian Securities and Investments Commission (ASIC) and establishing the interagency Fraud and Anti-Corruption Centre. Legislation has also been enhanced with the Parliament passing amendments in 2015 and 2016 to clarify the scope of foreign bribery offences and create new false accounting offences, respectively.

As at April 2016, there were 18 active foreign bribery cases, including two before the courts and four with the Commonwealth Director of Public Prosecutions. Foreign
bribery cases tend to be complex and lengthy, so increased enforcement can take some time to produce results.

The Senate Economics References Committee was considering, amongst other things, whether alternative or additional enforcement options such as those used in the United Kingdom and United States should be adopted in Australia. These include, for example, deferred prosecution agreements (on which the Government also released a consultation paper in March 2016) and suspension or exclusion from eligibility for government contracts on the basis of corrupt conduct.

**Registered organisations**

The Royal Commission into Trade Union Governance and Corruption reported in December 2015 and made 79 recommendations for policy and legal reforms. The Commission identified ‘widespread misconduct’ and made 93 referrals for possible legal proceedings against individuals, unions, companies and a charitable organisation. Taskforce Heracles, a joint federal and state police taskforce initially attached to the Royal Commission, was extended to the end of 2016 to continue investigating the potential criminal matters referred by the Commission and any related allegations.

It is likely that the new parliament will be asked to consider legislation proposed by the Government to respond to the Commission’s findings, in particular, Bills to re-establish the Australian Building and Construction Commission, establish a Registered Organisations Commission and introduce a significantly expanded penalty regime for breaches of duties by officers of registered organisations (which include unions). The repeated rejection of the relevant Bills by the Senate in the 44th Parliament provided the double dissolution trigger for the 2016 federal election.

**Public interest disclosure (whistleblowing) schemes**

Laws to facilitate disclosure of misconduct and other wrongdoing, and to protect those making such disclosures, are an important component of a broader integrity framework.

The public interest disclosure scheme that applies to the Commonwealth public sector was updated and considerably expanded in 2013, with the changes taking effect from January 2014. The former head of ACLEI, Philip Moss, completed a statutory review of the scheme’s operation and provided a report to the Government in July 2016. The _Public Interest Disclosure Act 2013_ requires that the Government table the report in parliament within 15 sitting days.

Legislative protections for private sector whistleblowers in Australia, first introduced in 2004, are much less comprehensive than the public sector scheme and not often used. Treasury released an options paper on the issue in 2009, but the review was discontinued in 2010.

In its June 2014 report on the performance of ASIC, the Opposition-chaired Senate Economics References Committee made several recommendations about improving protections for corporate whistleblowers. They included immediate legislative amendments to expand the scope of the whistleblower provisions in the _Corporations Act 2001_ and a broader review with a view to further enhancements that would bring protections afforded to private sector employees into line with their public sector counterparts. In its October 2014 response, the Government noted the recommendations and stated that ASIC had agreed to set up an Office of the Whistleblower. The Office has since been established, but the other recommendations do not appear to have been addressed.
Perhaps due to the lack of government action, the Senate Economics References Committee released an issues paper in April 2016 as part of its inquiry into scrutiny of financial advice, seeking submissions on several possible improvements to the current framework. That inquiry lapsed upon dissolution of the Senate in May 2016.

International engagement

G20 corruption agenda

The Anti-Corruption Working Group has been preparing the 2017–18 G20 Anti-Corruption Implementation Plan for endorsement at the September 2016 Leaders’ Summit in Hangzhou. China has flagged anti-corruption measures as a priority for its presidency, particularly the development of principles on tracking down high-level fugitives and establishing a research centre on fugitives and stolen assets. As part of its latest anti-corruption campaign, China has pushed for greater cooperation from other countries, including Australia, in repatriating persons alleged to have engaged in corruption, and their assets.

A proposed extradition treaty between Australia and China was tabled in parliament on 2 March 2016. The Joint Standing Committee on Treaties commenced consideration of the treaty, but its inquiry lapsed upon the dissolution of parliament in May 2016.

Open Government Partnership

The Turnbull Coalition Government and the former Labor Government both committed to finalising Australia’s membership of the Open Government Partnership as soon as practicable. Australia was due to finalise its membership in July 2016, but preparation of the required National Action Plan was put on hold when the election was called.

UN Convention against Corruption

Assessments of compliance with the United Nations Convention against Corruption take place over review cycles. A summary of findings on Australia’s compliance with the chapters on criminalisation and law enforcement and international cooperation was released in June 2012. The findings were largely positive, but also identified several areas for improvement, including whistleblower protections and development of a national, anti-corruption plan (which was underway at the time, but did not eventuate). A review of Australia’s compliance with the chapters on preventative measures and asset recovery is due to begin in 2017–18.

Further reading

C Barker, ‘Corruption and integrity issues in Australia—are we heeding the lessons from the past?’, Off the Shelf, Parliamentary Library, Canberra, March 2014.

OECD Working Group on Bribery, Australia: Follow-up to the Phase 3 report and recommendations, OECD, April 2015.


Same-sex marriage

Mary Anne Neilsen, Law and Bills Digest

Key Issue

Same-sex marriage remains on the political agenda with the debate now focused on the Government’s commitment to hold a plebiscite.

During the 44th Parliament the debate about same-sex marriage further intensified, triggered, in part, by international developments in the United Kingdom, New Zealand, the United States and Ireland where same-sex marriage is now permitted. The debate was spurred on by the introduction of a raft of private members Bills and, finally, by the Coalition party room decision in August 2015 to reject a policy change allowing a conscience vote on same-sex marriage adopting, instead, a proposal to put the matter to a popular vote after the 2016 election.

A popular vote by plebiscite

Since the election, Prime Minister Turnbull has stated that, in keeping with the Coalition’s election commitment, the Government will introduce into the Parliament a Bill for the holding of a plebiscite on same-sex marriage as soon as is practicable and most likely in early 2017.

In Australia, the terms ‘plebiscite’ and ‘referendum’ have quite distinct meanings. At national level, a referendum is a vote to change the Constitution, subject to strict rules set out in section 128 of the Constitution and with a binding outcome. Legally a referendum to decide the Commonwealth’s power over same-sex marriage is not necessary. The High Court has determined that, in the Same-sex marriage case, the federal Parliament has the power to legislate with respect to same-sex marriage.

In contrast, a national plebiscite is a vote by citizens on any subject of national significance but which does not affect the Constitution. Plebiscites are normally advisory and do not compel a government to act on the outcome. There have only

Same-sex marriage has been on the political agenda in Australia for several years, as part of the broader debate about the legal recognition of same-sex relationships. The right to marry remains the one significant area of difference between the treatment of same-sex and heterosexual relationships. Advocates of marriage equality argue it is important to move quickly to remove this last remaining obstacle to full legal equality. However, while there has been a shift in community and political opinion, for some the issue of same-sex marriage remains complex and controversial raising human rights, social and religious questions.

The Marriage Act 1966 (Cth) defines marriage as ‘the union of a man and a woman to the exclusion of all others, voluntarily entered into for life’. This definition was inserted into the Marriage Act in 2004.

Since the 2004 amendments 18 Bills dealing with marriage equality or the recognition of overseas same-sex marriages have been introduced into the federal Parliament. No Bill has progressed past the second reading stage and, consequently, no Bill has been debated by the second chamber. All 18 Bills have been private members’ Bills, introduced by members of Parliament from across the political spectrum.
been three national plebiscites – two on conscription during World War I and one on the choice of a National Song in 1977.

The Government has not yet announced the full details of the framework for the plebiscite. The enabling Act for the plebiscite, expected to be introduced later this year, would most likely set out the purpose of the plebiscite and enable a vote to be conducted by the Australian Electoral Commission. The Act may specify any actions expected of the Government as a result of the plebiscite. It may set out the rules for approval such as whether it must be approved by a simple majority of votes nationally, or by a double majority—meaning it must win the majority of votes nationally AND win in a majority of the states. The enabling Act should also specify whether voting will be compulsory or voluntary, although there has been debate about whether a compulsory plebiscite may be subject to a constitutional challenge. Some argue that the Act should specify the actual question to be put to the electors. The Attorney-General Senator Brandis has indicated that, in his view, and subject to cabinet approval, the question will be kept simple to avoid confusion. Voting would be compulsory, and counting the vote would be by electorates with a majority of votes nationally required to be successful. Decisions about possible public funding of the yes and no case will be a matter for Cabinet.

Public and political opinion

Public attitudes, gauged in a recent opinion poll, suggest that support for a plebiscite has waned, due in part to the realisation of its non-binding nature and the cost involved.

Those in favour argue that social issues like marriage should be resolved by means of direct democracy such as a plebiscite. Those opposed to a plebiscite argue it is an expensive opinion poll, (its estimated cost being $160 million) with no guarantee that Parliament will heed the result. Opponents point to its potential to be divisive and incite homophobic hatred. They also argue human rights issues affecting a minority should be decided by a representative Parliament and that Parliament has not in the past and should not now, abrogate its responsibilities on important human rights issues.

The ALP is opposed to a plebiscite and went to the election promising to introduce a Marriage Equality Bill within 100 days if elected to office. Opposition Leader Bill Shorten has left open the option of bringing a private member’s Bill to push for a conscience vote rather than a plebiscite. Independents and minor parties have expressed a range of views. The Australian Greens, Senator Xenophon, Mr Wilkie, Ms McGowan and Mr Hinch support same-sex marriage, preferring a parliamentary vote rather than a plebiscite. Mr Katter, Senator Lambie and Senator Hanson oppose same-sex marriage.

Prime Minister Turnbull has indicated that Coalition members will not be bound by the outcome of the plebiscite. However, he is in no doubt that, if the plebiscite is carried, an overwhelming majority of Members and Senators will vote for the subsequent Bill that would permit same-sex marriage.

Further reading


The Commonwealth’s role in animal welfare

Claire Petrie, Law and Bills Digest

Key Issue

The states and territories have primary responsibility for animal welfare issues. However, the Commonwealth’s role in this area continues to be a source of debate, particularly in regards to the regulation of animal testing of cosmetic products and ingredients, and the development and policing of animal welfare standards.

Animal welfare is predominantly dealt with at a state level, with animal welfare laws in force for each state and territory. Additionally, animal welfare codes of practice exist for farming and research animals, although they are not legally binding in most states. Enforcement of animal welfare laws is generally shared between the RSPCA and state and territory government agencies.

The Australian Constitution does not refer specifically to animals (except fisheries) and therefore the Commonwealth’s responsibility for animal welfare issues arises largely in relation to international trade and treaties. To date, this has primarily encompassed quarantine, wildlife protection, health and the live export trade (see ‘Regulating live exports’ elsewhere in this briefing book).

The Industrial Chemicals (Notification and Assessment) Act 1989 (Cth) (ICNA Act) provides national standards for cosmetics imported into, or manufactured in Australia. The Cosmetics Standard 2007, issued under the ICNA Act, requires imported or manufactured cosmetics and cosmetic ingredients to be registered with the National Industrial Chemicals Notification and Assessment Scheme (NICNAS) and undergo assessment for their human health and environmental impacts.

ACCORD, the association for the hygiene, cosmetic and speciality products industry, has stated that animal testing of cosmetic products and ingredients is not currently undertaken by the industry in Australia.

Proposed ban on cosmetic testing

As part of its policy platform for the 2016 election the Coalition announced its intention to ban cosmetic testing on animals from 1 July 2017. The proposed ban will apply to the testing of finished cosmetic products and cosmetic ingredients on animals in Australia and the sale of products and ingredients tested on animals outside of Australia.

The Coalition’s policy announcement brought it in line with that of the ALP and the Greens. The ALP’s Ethical Cosmetics Bill 2016 was introduced as a private member’s bill following a public consultation process. This bill and the Greens’ End Cruel Cosmetics Bill 2014 sought to insert new offences relating to the testing and sale of cosmetics tested on animals into the ICNA Act, but both lapsed without being debated.
An independent office of animal welfare

The administration and promotion of animal welfare laws is currently the responsibility of administrative bodies in each state and territory, typically located within the relevant agriculture or primary industries department. Federally, the Department of Agriculture and Water Resources (DAWR) is responsible for animal welfare issues arising in regards to live export and international agreements.

Concerns that the current regulatory approach gives rise to possible conflicts between the interests of primary industry and animal welfare, have led to calls for an independent, federal animal welfare body. Prior to the 2016 election, the ALP promised to establish an independent Office of Animal Welfare, responsible for providing advice and oversight on a broad range of animal welfare issues, with equal involvement from the Commonwealth, states and territories.

In June 2015 the Greens introduced the Voice for Animals (Independent Office of Animal Welfare) Bill 2015, which sought to establish an independent statutory authority focusing on Commonwealth-regulated activities such as the live export trade. A 2015 inquiry by the Senate Standing Committee on Rural and Regional Affairs and Transport recommended that the Bill not be passed, finding that the substantive functions of the proposed body were already achieved through existing mechanisms. The Coalition supported this recommendation, stating that an independent office would result in significant cost to the Commonwealth, requiring enabling legislation, relocation costs and ongoing specialist expertise whilst adding a layer of bureaucracy.

National animal welfare standards

Until 2014 the Commonwealth contributed funding to the Australian Animal Welfare Strategy (AAWS). The AAWS was originally endorsed in 2004 by the then Primary Industries Ministerial Council, and was aimed at creating a more consistent and effective animal welfare system. Following a 2005 review of Model Codes of Practice for the Welfare of Animals, the AAWS was tasked with replacing these with national, legally enforceable standards and guidelines.

The Australian Government ceased funding the AAWS as part of its 2014–15 Budget measures. Animal Health Australia, a not-for-profit public company, has been commissioned by DAWR to manage the process of developing the Australian Animal Welfare Standards and Guidelines.

The Productivity Commission’s draft report on the regulation of Australian agriculture, released in July 2016, found a national approach to the setting of animal welfare standards, with sufficient flexibility to address local circumstances, to be desirable. It recommended the establishment of an independent body to develop national standards and guidelines.

Further reading


Productivity Commission, Regulation of agriculture—Draft report, Canberra, July 2016, (Chapter 5)
Regulating live exports
Claire Petrie, Law and Bills Digest and Rob Dossor, Economics

Regulatory regime
The export of live animals is regulated by the Australian Meat and Livestock Industry Act 1997, the Export Control Act 1982 and the regulations and instruments issued under these Acts. The Export Control (Animals) Order 2004 sets out the conditions for export and requires the exporter to hold a livestock export licence and permit and provide a Notice of Intention for export. Exported livestock must meet importing country requirements. This may include mandatory pre-export quarantine and the issuing of a health certificate confirming the animal meets health protocol requirements as negotiated between Australia and the importing country.

Exporters must also comply with the Australian Standards for the Export of Livestock and have in place an approved Export Supply Chain Assurance System (ESCAS). The ESCAS was initially implemented for Indonesia following the 2011 live export ban and subsequently rolled out to all countries. The system requires the exporter to establish a system of control for transporting livestock to a particular country, including tracing all livestock through an independently-audited supply chain up to the point of slaughter.

Compliance with the system is primarily monitored through independent audits, which are submitted to the Department of Agriculture and Water Resources (DAWR) during the year at a frequency dependent on the facility's risk rating.

Enforcement
A 2015 Departmental review found the system to be an ‘administratively burdensome regulatory arrangement’, but nonetheless effective in improving animal welfare outcomes. It noted the inherent

Key Issue
In the 44th Parliament the Government worked to streamline the regulatory regime for live animal exports and to establish and re-open export markets. However, evidence of supply chain breaches has sustained debate about the efficacy of the system and enforcement role of the Department of Agriculture and Water Resources.

Why export live animals?
According to the UN Department of Economic and Social Affairs, Australia is the largest seaborne exporter of live cattle and second largest exporter of live sheep. The question arises as to why Australia exports live animals, rather than as chilled or frozen meat.

Generally speaking, countries with large Islamic populations often require meat imports to comply with halal certification. While many Australian abattoirs have this certification, importers often choose to import live animals and rely on domestic abattoirs for processing. A number of countries also use live imports as a form of industry development, as it enables the importing country to keep the added value in their country. Cultural preferences, such as the demand for freshly slaughtered meat (purchased in ‘wet’ markets, which are generally open and non-refrigerated) dictate that the animal is slaughtered locally and recently. Similarly, availability of refrigeration in some countries which import livestock is limited, requiring animals to be imported live and slaughtered locally.
difficulty of requiring exporters to oversee off-shore entities not subject to Australia’s regulatory requirements. The review recommended greater industry responsibility for managing risks within supply chains, and clearer non-compliance guidelines.

In response to non-compliance findings, DAWR can: suspend or revoke an export licence or use of a facility/supply chain; impose conditions on an ESCAS approval or licence and/or refer the matter to the Commonwealth DPP. Animal welfare advocates and some exporters have expressed frustration with the absence of strong enforcement action by DAWR, which has primarily responded to non-compliance by imposing conditions on export licences and ESCAS approvals.

In July 2016 DAWR cancelled the licence of exporter Frontier International Agri, after a consignment of dairy heifers sent to Japan tested positive for Bovine Johnes Disease, causing Japan to suspend its cattle trade with Australia.

Recent developments

Since the 2013 election, the Coalition Government has sought to streamline the regulatory scheme by:

- introducing a risk-based audit framework in which audit frequency is determined by the facility type, its inherent risks and the compliance history of exporters
- removing the requirement for a Memorandum of Understanding to be in place for each new export market which sets out the conditions under which the live trade can proceed and implementing ‘Approved Arrangements’ between DAWR and an exporter which remove the need for exporters to obtain approval for each consignment. These will be mandatory for exporters from 1 January 2017.

The Government has also focused on establishing new export markets in China, Cambodia and Thailand, and has reopened trade to Bahrain, Iran, Lebanon and Egypt.

Continuing concerns

Reports of incidents on livestock carriers and documented cruelty in importing countries have sustained debate about the effectiveness of the regulatory regime and the future of the livestock export trade.

In June 2016 the ABC broadcast footage of Australian cattle being beaten with sledgehammers in Vietnamese abattoirs. The industry-run Australian Livestock Export Council suspended exports to three abattoirs and announced an independent inquiry into the systems in place to support ESCAS requirements in Vietnam. DAWR subsequently suspended 21 facilities in Vietnam and directed two Australian exporters to cease supply to the Vietnam market.

The incident prompted debate about the Department’s role in responding to non-compliance, with the ALP and Greens calling for the establishment of an independent office of animal welfare (see ‘The Commonwealth’s role in animal welfare’ elsewhere in this briefing book). The Coalition has resisted such calls, arguing the existing regulatory framework is sufficiently robust.

Further reading


Family law reform and family violence

Mary Anne Neilsen, Law and Bills Digest

Key Issue

Debate about family law has focused on how the system has dealt with the complex problems of family violence. The issues are challenging and are likely to remain a focus for the new Parliament.

Recent political debate about family law has focused on how the system has dealt with the complex problems of family violence. As various studies have indicated, families with complex needs, including violence, are the predominant clients of the family law system. The issues are challenging and important and will continue to keep family law reform on the political agenda during the 45th Parliament.

Legislative reform

The Australian Parliament has already paid considerable attention to proceedings relating to family violence in parenting under the Family Law Act 1975. Amendments in 2012 made under the then Labor Government were significant and intended to place family violence at the centre of parenting cases. Under the Family Law Act judges now have two primary considerations when assessing what is in the best interests of the child:

- the benefit to children of having a meaningful relationship with both of their parents and
- the need to protect them from physical or psychological harm, including being subjected or exposed to violence.

Furthermore, where there is a clash between these two interests, the safety of children is to be prioritised over the benefits of a meaningful relationship with both parents.

The effect of these reforms is as yet unclear. However, as Chief Justice Diana Bryant has frequently said, legislative amendment alone does not suffice and without resources these reforms are inadequate.

Reviews and inquiries

The last ten years have seen a plethora of reviews and inquiries into family law matters including the issue of family violence and child abuse. In one of the more recent inquiries the Coalition Government has tasked the Family Law Council to inquire into Families with Complex Needs and the Intersection of the Family Law and Child Protection Systems. Due to be given to the Attorney-General in June 2016, this inquiry is a response to ‘the growing concerns about the separation of the federal family law and state and territory child protection and family violence systems and the risks to children’s safety associated with this situation’. One recommendation from the interim report relating to state and territory interim family violence protection orders and their interaction with parenting orders under the Family Law Act was implemented in 2015.

The Council of Australian Governments (COAG) has also been active. In recognition of the fact that a whole-of-government and community response is required to address family violence, COAG established an Advisory Panel on Reducing Violence against Women and their Children. The Panel delivered its final report to COAG on 1 April 2016.
The family courts

The recent history of the family courts has been marked by controversy and criticism about their handling of family violence matters (family courts, in this brief, generally refer to the Family Court of Australia and the Federal Circuit Court of Australia).

Professor Patrick Parkinson has described the courts as ‘almost dysfunctional’, noting that lack of resources and federal funding, plus their exponentially increasing workload, has led to unacceptably long delays. The courts have also angered fathers’ advocacy groups for a perceived bias against shared parenting. Criticism has also come from women’s legal services who argue the courts are failing to protect women and children seeking protection from family violence.

In the weeks before the election Rosemary Batty, former Australian of the Year, addressed the issue of violence and family law with the major political parties. In conjunction with Women’s Legal Services Australia she presented a petition calling for reform and urging the political leaders to adopt the following five step plan to prioritise safety in the family law system:

- develop a specialist pathway for cases involving family violence
- reduce trauma and support victims, including legislative protections that prevent victims from being directly cross-examined by their abuser
- intervene early and provide legal help for the most disadvantaged
- support victims to recover financially
- strengthen the understanding of all family law professionals on family violence.

More recently the Family Court has received renewed publicity. Pauline Hanson and the One Nation party platform propose that the Family Court be abolished and replaced with a family tribunal made up of people from ‘mainstream Australia’. Respected members of local community, social and health groups would be invited to participate.

Chief Justice Diana Bryant has been drawn into this debate. While she can see some value in putting minor matters before a tribunal, the Chief Justice argues that the One Nation policy is simplistic. As she says, abolishing the court would raise constitutional issues. In a speech given in 2015 the Chief Justice articulates clearly the needs of the courts. On the subject of resourcing she commended the Government’s $100 million Women’s safety package aimed at addressing family violence but is concerned that the crucial role of the courts (and the corresponding necessity of resourcing them properly) has not to date been recognised as part of addressing family violence.

Further reading


D Bryant, The family courts and family violence, speech presented by the Hon Chief Justice Diana Bryant AO to the Judicial Conference of Australia Colloquium, 10 October 2015.