

Mr David Thodey AO  
Chair  
Independent Review of the Australian Public Service  
Department of the Prime Minister and Cabinet  
PO Box 6500  
Canberra ACT 2600

Dear Mr Thodey

The Centre for Independent Studies (CIS) welcomes the opportunity to make a contribution to this Review. While noting the broad scope of the review, in the limited time available we confine our submission to highlighting pre-existing work in two areas of particular importance.

#### *Enhancing efficiency*

A 2014 CIS report, *Withholding Dividends: Better Ways to Make the Public Sector Efficient*, noted excessive growth of the APS and made a number of recommendations to improve its efficiency and accountability. (A copy of the report is attached.)

Specifically, it stressed the need to:

- increase competitive pressures in the provision of public services (for example: through enabling greater private sector contestability and the benchmarking of performance);
- conduct regular independent reviews of agency functions and programs to assess whether they are meeting legitimate objectives and identify ways of improving their cost-effectiveness.

While there appear to have been developments in both these areas, there is undoubtedly scope to do more.

The CIS report also noted the need to be more discriminating in the application of the 'efficiency dividend'. The blunt, across-the-board manner in which this budgetary measure continues to be applied, can produce excessive cuts in resourcing for some key areas (such as the Australian Bureau of Statistics), while perversely motivating new program proposals designed to offset the bottom-line impact of dividends.

The focus should instead be on ways of containing the growing functions and roles of the APS and making it more a 'facilitator' than 'performer' of public services, particularly where private or not-for-profit organisations provide a cost-effective alternative.

Another barrier to efficiency identified in the CIS report is the duplication of some functions between the APS and state and territory bureaucracies, particularly in the health and education portfolios. For example, the 2014 National Commission of Audit noted the growing number of intergovernmental agreements, which create administrative functions for federal agencies to develop, review and report in areas that are the primary responsibility of the states and territories.

#### *Enhancing policy capability and advice*

While keeping costs down is important, so too is the quality of what the APS 'produces'. Among the most important functions of the public service is providing ministers with advice that enables properly informed decisions about policies and programs; that is: advice that makes clear the source of a problem or need, the different options for addressing it (including the default option of not intervening), and their respective costs and benefits.

There are grounds for concluding the APS has not been discharging this core function adequately, and that this has contributed to the observed rise in policy failures over the past decade or so. In particular, reviews of the Home Insulation (pink batts) Program and NBN misadventures by distinguished former senior public servants have identified deficiencies in technical skills, process and 'craft' capability within the APS. These reports and their recommendations, and the extent to which they have been acted on, should be addressed as a matter of priority by this Review.

The *Independent Audit of the NBN Public Policy Processes*, conducted by Mr Bill Scales AO, identified multiple failures in areas of core public service responsibility.<sup>1</sup> It argued for "serious consideration" of whether the inability of the APS to have its views considered "was circumstantial or signals a more serious malaise that needs addressing."

The Audit proposed, among other things, that:

- departments have "knowledgeable subject matter experts" to assist in achieving strategic objectives; and
- cost benefit studies be conducted for all large projects as a matter of course.

The 2015 report, *Learning from Failure*, by Professor Peter Shergold AC,<sup>2</sup> was prompted by adverse judgments about APS performance and behaviour, identified by the Royal Commission into the Home Insulation Program.<sup>3</sup>

In his report, Professor Shergold observed: "it is apparent that public servants' advice to ministers was, in many instances, poorly given, poorly received and poorly communicated." He raised questions as to whether APS advice was sufficiently "frank and fearless", including by "taking a position on what is regarded as the best way forward", based on robust analysis. And he found that "accountability was blurred and risk poorly understood".

His report to the government contains 28 recommendations, including:

- Secretaries be held accountable for the quality of advice to ministers by their departments.
- Significant advice to support policy deliberation be provided in writing [but not amended to suit the Office] and records kept – with the Freedom of Information Act amended to ensure the confidentiality needed for frankness and completeness.
- A need to clarify who has "end-to-end" responsibility in program implementation, who has delegated authority and "where accountability resides."

In his Garran Oration of 2013, *Restoring Trust in Public Policy: What Role for the Public Service?*,<sup>4</sup> the then Dean of ANZSOG, Professor Gary Banks AO (now a Senior Fellow with the CIS), noted the challenges that recent developments in politics and executive government were posing for the ability of public servants to discharge their duties to the public. The rising dominance of Ministerial staffers over departmental officers in policy formulation – with growth in adviser numbers coinciding with a decline in policy expertise – and "the subtle erosion of the capacity of our most senior public servants to speak truth to power" were seen as key issues to be addressed if real improvements in policy (and public trust) were to be achieved.

Elaborating in a 2017 CIS seminar, Professor Banks – who in a speech on leaving the Productivity Commission issued a 'to do list' of pro-productivity reforms<sup>5</sup> – proposed a new 'to do list' directed at restoring essential policy capabilities in the public service. In summary, he saw a need for the public service leadership to:

- nurture a culture of ideas and respect for evidence;

- build and maintain analytical critical mass;
- not rely on consultants for ‘core business’;
- be proactive in assessing issues and developing options;
- make use of existing ‘due process’ provisions (regulatory impact analysis, cost benefit analysis);
- establish ground rules for dealings with Ministerial offices;
- uphold the need for written advice; and
- hone the craft of ‘speaking truth to power’.

#### *Transparency and consultation processes in the Review*

The CIS notes and supports the recommendation by former APS Commissioner, Professor Andrew Podger AO, in his submission to the Review, that an issues/discussion paper be released that sets out the Review’s early thinking about focus and direction. The CIS believes it is even more important that there be a draft report (or series of drafts) containing the Review’s preliminary findings and recommendations. This phase of the Review should make adequate provision for feedback, discussion and subsequent deliberation prior to the finalisation of any recommendations to government. Experience suggests that without such ‘stress testing’ of proposals, the risks of impracticality and unintended consequences loom larger.

#### *Concluding comments*

As noted at the outset, the scope of this Review is very wide. Such breadth has tended to militate against depth in past reviews, at the cost of their utility. (It needs to be recalled that a similar wide-ranging review of the APS was conducted as recently as 2010, with the ambitious title, *Ahead of the Game: Blueprint for the Reform of Australian Government Administration*.) There would accordingly be advantages in focusing on key issues where the payoff from reform appears greatest. The CIS believes that the need to enhance the APS’s efficiency and policy capability clearly passes this test. The studies referenced in this submission provide insights into how this might be achieved, and the CIS commends them to the Review.

Yours sincerely

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<sup>1</sup>Scales, B. 2014. *Independent audit of the NBN public policy process*. Available at:

<https://www.communications.gov.au/departmental-news/independent-audit-nbn-public-policy-process>

<sup>2</sup>Shergold, P. 2015. *Learning from Failure: why large government policy initiatives have gone so badly wrong in the past and how the chances of success in the future can be improved*. Available at:

<https://www.apsc.gov.au/learning-failure-why-large-government-policy-initiatives-have-gone-so-badly-wrong-past-and-how>

<sup>3</sup>Hanger, I. 2014. *Report of the Royal Commission into the Home Insulation Program*. Available at:

<http://www.homeinsulationroyalcommission.gov.au/Pages/default.html>

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<sup>4</sup>Banks, G. 2013. *Restoring Trust in Public Policy: What Role for the Public Service?* The Garran Oration 2013. Institute of Public Administration Australia. Canberra. 21 November 2013. Available at: <http://www.ipaa.org.au/documents/2013/11/2013-garran-oration.pdf/>

<sup>5</sup>Banks, G. 2012. *Productivity Policies: the 'to do' list*. Address to Economic and Social Outlook Conference, 'Securing the Future'. Melbourne. 1 November 2012. Available at: <https://www.pc.gov.au/news-media/speeches/productivity-policies>