Australian Sports Commission Act Review

**Consultation summary**

This document summarises the consultation process undertaken by Professor John McMillan AO and Clayton Utz in the review of the *Australian Sports Commission Act 1989* (Cth) (the **Act**), including a summary of key themes that arose in consultations and written submissions received from sporting organisations, industry, government and the public.

**Background to the consultation process**

Consultations commenced with publication of an Issues Paper for the Review in May 2024. The following groups were then identified as key stakeholders who were invited to join the consultation process and to make a submission:

* National Sporting Organisations (**NSOs**) and National Sporting Organisations for people with Disability (**NSODs**)
* Commonwealth sports portfolio agencies and relevant government departments
* State and Territory sport portfolio agencies, and sporting institutes and academies
* Olympic-based bodies and other peak sporting bodies
* academic and legal experts.

During the consultation 16 interviews and 5 workshops were held with representatives from each of the above groups, along with individuals who separately reached out to the Review offering to speak to the review team. 47 written submissions were received from the above groups and individuals.

**Key themes raised in consultation**

**The Commission’s role, functions and powers**

* There was widespread support to maintain the Commission’s corporate Commonwealth entity status to ensure its continued independence in carrying out its functions. Many participants explained the need for a strong, visible and independent commission to play a national sports policy role.
* Participants endorsed the dual role of the Australian Sports Commission in high performance sport and in promoting participation in sport. There was support for aligning the Commission’s functions with current priorities in Australian sports policy, particularly the Commission’s work in partnership with NSOs and NSODs. Another suggested theme was enhancing the Commission’s role in innovation and commercialising its intellectual property assets and facilities. It was noted that certain functions of the Commission appear to overlap with functions of newer sports portfolio agencies.
* Participants agreed that the Act’s objects should be revised to make them more contemporary and relevant to the Commission’s current and future work, particularly regarding participation, inclusion and athlete well-being. There was debate around the desirability of defining ‘sport’ in the Act and how the definition should read. The link between sport, physical activity and recreation was a central theme in that debate.

**The governance structure of the Commission**

* Participants generally agreed that selection criteria should be framed to guide the appointment of the Commission’s statutory office holders and Board members. Suggestions were made as to important criteria, and whether the criteria should be in the Act or another medium.
* There was commentary on outdated terminology and provisions in the Act – for example, regarding the title of the Executive Director of the Commission, the references to the Commission’s board and board members, and the duplication in reporting requirements under the Act and the *Public Governance, Performance and Accountability Act 2013* (Cth).
* Participants acknowledged the internationally recognised brand of the Australian Institute of Sport in high performance sport. While retention of this function within the Commission was supported, there were differing views on how this should be captured in the Act and for retaining the separate statutory role of the Director of the AIS.

**The relationship of the Commission to Government**

* Participants noted the increasing role of the Commonwealth Department of Health and Aged Care’s Office for Sport within the sports system and some asked for further clarification of the respective roles of the Commission and the Office for Sport.
* Participants emphasised the importance of maintaining the independence of the Commission’s decision-making from political influence and in this respect queried the requirement in the Act to obtain Ministerial approval for expenditure exceeding $500,000 (noting the operational challenges arising from this requirement) and the ability of the Minister to issue directions to the Commission. Participants also supported the procedure for the Minister to issue a statement of expectations to the Commission, which currently occurs outside the Act.
* Participants noted the evolution of role of the Australian Sports Foundation since 1989 and that references in the Act to the ASF should reflect its contemporary status as an entity separate to the Commission. Differing options were canvassed for drawing a link in the Act to the ASF, noting that the ASF presently relies on the Act for its tax exempt status and its functions.
* Participants also raised the need for clarity as to the respective roles of the Commission, ASF, Sport Integrity Australia, National Sports Tribunal, especially in areas where the roles of these entities overlap.

**The relationship of the Commission to other sporting entities**

* Participants acknowledged the importance of the Commission’s role in determining which entities will serve as the NSO or NSOD for relevant sports and some suggested this function should be captured in the Act.
* While there was support to recognise more explicitly the Commission’s role in liaising with and supporting non-government sports bodies. An open question was how directly the Act should recognise NSOs, NSODs, Olympic-based bodies and other peak sporting bodies.

**The Commission’s role in sports grant administration**

* Participants raised the need for the Act to clarify the role of the Minister in sports grant decision-making, including the degree of influence (if any) the Minister should have over the selection of priority targets for the Commission’s grant decision-making.
* Participants suggested the Act could include levers to ensure accountability and oversight by the Commission in relation to how funding is used after it is provided to NSOs, and the potential better use of data analytics in evaluating grant funding. Other stakeholders noted the lack of transparency and difficulty for some NSOs in anticipating upcoming sports grants support, and the pressure this places on them to search for additional funding sources.