

# Review of the *Australian Sports Commission Act 1989 (Cth)*

**Issues Paper**

May 2024

# Table of Contents

<b>Table of Contents .....</b>	<b>2</b>
<b>Acronyms and Abbreviations.....</b>	<b>3</b>
<b>1. Background of the Review of the Australian Sports Commission Act .....</b>	<b>4</b>
<b>1.1 Formation of the Australian Sports Commission .....</b>	<b>4</b>
<b>1.2 The need for a Review of the Act .....</b>	<b>5</b>
<b>1.3 About this Review .....</b>	<b>6</b>
<b>2. Key Issues in the Review of the Australian Sports Commission Act.....</b>	<b>8</b>
<b>2.1 Introduction .....</b>	<b>8</b>
<b>2.2 The Commission’s role, function and powers.....</b>	<b>8</b>
<b>2.3 The governance structure of the Commission.....</b>	<b>11</b>
<b>2.4 The relationship of the Commission to Government .....</b>	<b>15</b>
<b>2.5 The relationship of the Commission to other Commonwealth sporting         entities .....</b>	<b>19</b>
<b>2.6 The Commission’s role in sports grant administration.....</b>	<b>21</b>
<b>2.7 Other issues relating to the <i>Australian Sports Commission Act 1989</i>. 24</b>	
<b>3. Have Your Say .....</b>	<b>25</b>
<b>4. Consultation Questions.....</b>	<b>26</b>
<b>Appendix A: Terms of Reference for the Review .....</b>	<b>28</b>
<b>Appendix B: Government Sports Models in Three Other Countries.....</b>	<b>30</b>

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# Acronyms and Abbreviations

Act	<i>Australian Sports Commission Act 1989</i>
AIS	Australian Institute of Sport
ANAO	Australian National Audit Office
CCE	Corporate Commonwealth Entity
Commission	Australian Sports Commission as established by the <i>Australian Sports Commission Act 1989</i>
CPR	Commonwealth Procurement Rules
CSIG	Community Sport Infrastructure Grant program
Department	The Commonwealth Department of Health and Aged Care
Foundation	The Australian Sports Foundation
CGRGs	The Commonwealth Grants Rules and Guidelines 2017
JCPAA	Joint Committee of Public Accounts and Audit
Minister	Minister for Sport, Hon Ms Anika Wells MP
NSO	National Sporting Organisation
NSOD	National Sports Organisation for People with Disability
NST	National Sports Tribunal
PGPA Act	<i>Public Governance, Performance and Accountability Act 2013</i>
PGPA Rule	<i>Public Governance, Performance and Accountability Rule 2014</i>
SIA	Sport Integrity Australia

# 1. Background of the Review of the Australian Sports Commission Act

## 1.1 Formation of the Australian Sports Commission

Sport is a vitally important part of Australian life. It engages people throughout life as participants, coaches, officials, volunteers, supporters and administrators. It engages business as promoters, investors, organisers, and suppliers. It engages community organisations from a local to national level in facilitating sports activities and events.

Significantly, too, sport engages government, at all levels. Government involvement is driven by many outcomes – community health and wellbeing benefits from sports participation; national pride in sporting achievement; economic returns from sports competition; international goodwill through Australian collaboration and assistance; and community endorsement of sports integrity regulation.

The passage of the *Australian Sports Commission Act 1989 (Cth)* (**the Act**) brought those sporting threads together in a unified program under the management of a new Australian Sports Commission. Two separate government bodies were merged – a sports commission established in 1985 that undertook program management, funding and coordination of sport at a national level; and an institute of sport established in 1981 that conducted an elite talent identification and performance program.

As well as a new governance structure, the Commission was given comprehensive functions and powers for its national leadership role. This included program management, advising government, coordinating the national sporting effort, strengthening elite performance, funding sports programs, generating private sector support and sponsorship, consulting with the sporting community, conducting research, and cultivating sports integrity. The Commission described its broad role in a recent Annual Report as *'work[ing] with the sport sector, other government partners, businesses and the wider community, to champion the role sport can play in engaging every Australian, regardless of age, race, gender, cultural background or physical ability.'*<sup>1</sup>

<sup>1</sup> Australian Sports Commission, Annual Report 2022-2023 at page 18.

## 1.2 The need for a Review of the Act

The Act has not undergone substantial review since it commenced over 30 years ago. The impetus for a comprehensive review builds on many factors.

### Changes in the Australian sporting landscape

The Australian sports ecosystem has grown in scale and diversity. The Commission relates to an expanded range of government agencies, sporting institutes, independent sporting bodies, national and state sporting organisations, local clubs, schools and individual athletes.

An important transformation at national government level was the formation of Sport Integrity Australia (**SIA**) and the National Sports Tribunal (**NST**) in 2020. This heralded a stronger government emphasis on sport integrity and safety. Generally, sport is considered within policy and program responsibilities across all levels of government.

### Recommendations from independent reviews

Several reviews of Australian sport have supported the need for the Act to be reviewed.

The first Australian Government national sport plan in 2018 – *Sport 2030* – foreshadowed a review of the Act to ensure the Commission – to be known as Sport Australia – ‘has the authority and governance to deliver on Sport 2030 into the future’.<sup>2</sup> This proposal was echoed in the report of the Australian Government Sports Ecosystem Rapid Review in 2022, which referred to work commencing on reviewing the Act ‘to ensure it is fit for purpose and does not present any barriers to the ASC achieving its objectives’.<sup>3</sup>

Two Parliamentary committees have supported a review of provisions of the Act relating to grant funding administration. A report in 2020 of the Joint Committee on Public Accounts on the administration of government grants singled out sports grants as an area requiring a review to clarify the authority, duty and role of both the Minister and the Commission.<sup>4</sup> In the following year, a Senate Select Committee on Administration of Sports Grants recommended a review of the Act to clarify the authority of the Minister in relation to sports grant approvals.<sup>5</sup>

This Review also aligns with a requirement in the Australian Government [Commonwealth Governance Structures Policy](#), for periodic reviews to be conducted of existing government bodies to assess if they are achieving their original purpose and whether that purpose remains valid.

<sup>2</sup> Australian Government, *Sport 2030* (2018) at p 11.

<sup>3</sup> Proximity, *Australian Government Sports Ecosystem Rapid Review* (2022), Executive Summary at p 1.

<sup>4</sup> Australian Parliament, Joint Committee of Public Accounts and Audit, *The Administration of Government Grants* (Report 484, 2020), Recommendation 6.

<sup>5</sup> Australian Parliament, Senate, Select Committee on Administration of Sports Grants, *Final Report* (2021), Recommendation 4.

## An expanded national sports agenda

Australian sports policy, as reflected in the terms of the Act and the work of the Commission, has emphasised several themes. Two enduring themes, participation and high performance, have been re-captured in recent strategic policies co-designed by the Commission and the sport sector: *Australia's Sport Participation Strategy – Play Well* and *Australia's High Performance Sport Strategy 2032+ – Win Well*.

Other dominant themes reflected in the Act are the importance of national leadership and sports coordination led by the Commission, and government and private sector partnering to fund Australian sports.

It is timely to review those themes and others that may vie for recognition in the Act. The context for doing so is what is dubbed the 'Green and Gold Decade' of sporting events hosted by Australia that culminates in 2032 in the Olympic and Paralympic Games in Brisbane.

## Updating the Act for a new age

An overarching question, considering the age of the Act, is whether it remains fit for purpose. Does it adequately support the role of the Commission in a contemporary government, community, and business setting?

Several examples are given in this paper of provisions of the Act that are outdated or have been overtaken by developments in government and modern legislative drafting. A prime example is the enactment of the *Public Governance, Performance and Accountability Act 2013* (Cth) that imposes accountability requirements on government agencies that duplicate some of those imposed earlier on the Commission by its own Act.

Another issue to revisit is how the Act defines the Commission's independence and relationship to government. A declared theme in the Minister's Second Reading Speech when introducing the Bill to Parliament in 1988 was that '*the Commission will operate within the framework of overall Government objectives and policies and ... will remain directly responsible to the Government*'.<sup>6</sup> That principle may be unexceptional, but the way it is expressed in the Act may warrant reconsideration.

### 1.3 About this Review

This Review was initiated by the Commonwealth Department of Health and Aged Care (the **Department**). The Department holds responsibilities, such as reviews of legislation, for several Commonwealth entities in the Health and Aged Care portfolio of which the Commission is one. The Terms of Reference for the Review require it to be undertaken independently of the Department, but with its support.

The Department engaged Clayton Utz and Professor John McMillan AO to conduct the Review. John has expertise in administrative and public law, and as a Commonwealth and

<sup>6</sup> Australian Parliament, House of Representatives, *Hansard*, 31 August 1988 at p 731.

State agency head as Ombudsman, Information Commissioner and Integrity Commissioner. He is currently an Emeritus Professor at the Australian National University. He has conducted independent reviews of other Commonwealth legislation and schemes, including the *Modern Slavery Act 2018* (Cth), the *My Health Records Act 2012* (Cth) and the medicinal cannabis framework in the *Narcotic Drugs Act 1967* (Cth). John will work with independent law firm, Clayton Utz, to conduct the Review.

The Terms of Reference for the Review are at **Appendix A** to this Issues Paper. The stated objective of the Review is to consider the role and purpose of the Commission as set out in the Act. The Review will examine whether the Act supports the Commission to meet current and future needs within the Australian sports system. This requires examination of how the Act defines the governance structure for the Commission, its relationship to Government, the functions and powers of the Commission, and whether the Act needs updating.

The Review will have regard to alternative government sports models and legislation. **Appendix B** to this Issues Paper summarises the models operating in the United Kingdom, Canada and New Zealand.

The Review is not separately examining the work of the Commission and the programs it administers, nor the role of other Australian Government agencies in sports regulation and funding. Anyone wishing to make a submission who is uncertain about the scope of the Review is invited to contact the Review team through the links provided at Part 3 of this paper.

An important element of the Review will be public consultation. We invite anyone who wishes to contribute to make a submission, or to contact the Review, as outlined in Part 3 of this paper ('Have Your Say'). Consultation questions are provided as a guide. The Review team will consult widely and, to the extent practicable, respond to requests to be consulted from organisations (particularly representative bodies) that have a keen practical interest in the operation of the Act.

The Review will culminate in a report to the Minister for Sport in late 2024, with recommendations for amendment of the Act.

## 2. Key Issues in the Review of the Australian Sports Commission Act

### 2.1 Introduction

The Commission is established by the Act as a statutory corporation, that is, a separate legal entity. The Act explains how the Commission is constituted, its functions and powers, and its relationship to other government bodies.

The Commission is also subject to the *Public Governance, Performance and Accountability Act 2013* (Cth) (**PGPA Act**). The PGPA Act uses the term ‘Corporate Commonwealth entity’ (**CCE**) to describe independent statutory agencies such as the Commission (and to distinguish them from non-corporate entities such as departments and executive units).

The PGPA Act sets out a general governance framework for CCEs that, in some instances, repeats or overlaps aspects of the Commission’s enabling Act. Matters covered in the PGPA Act that apply to CCEs include corporate planning, performance assessment, use and management of public resources, risk management, records management, independent auditing, providing information to Ministers and the Parliament, applying government policy, and the duties of officials.

Important legal consequences flow from a government entity being established as a CCE rather than an executive agency. CCEs can, in their own name, enter into contracts, own property and raise money, including entering into contracts with other government entities. This legal flexibility more easily enables CCEs to engage in commercial and entrepreneurial activities, and to adopt their own branding.

It is common that Commonwealth legislation establishing a CCE will constitute a multi-member board to govern the CCE. The CCE may engage staff under its own legislation rather than the *Public Service Act 1999* (Cth). The CCE’s relationship to government and its degree of independence will be set out in its enabling legislation (supplemented by the PGPA Act). Equally, the governance framework for a CCE can only be changed by legislative amendment. Ultimately, a CCE’s continuing existence is secured by its enabling legislation, until changed by Parliament.

### 2.2 The Commission’s role, function and powers

Three features of the Act are considered in this section:

- the objects for which the Commission is established
- the functions of the Commission
- the powers conferred on the Commission.



## The objects of the Act

The objects of the Act are central to guiding the Commission's work. The Act declares six objects for which the Commission is established:

- *Leadership* – to provide leadership in developing sport in Australia.
- *Participation and performance* – to encourage increased participation and improved performance by Australians in sport.
- *Sporting excellence* – to provide facilities and support to Australians to excel in sport, while learning and maturing.
- *Sports coaching* – to improve standards in sports coaching.
- *International cooperation* – to foster Australian support to other countries in sport.
- *Private sector support* – to encourage private sector funding of sport alongside government funding.

The Review invites comments generally on the statement of objects in the Act. Two aspects are particularly important:

- Should each of the current six objects be retained in the way presently defined in the Act?

To take the second object as an example: is it appropriate that increased participation and improved performance in sport are expressly identified as two priority streams, and that both are listed in the same object? Queries have also been raised about terminology. The phrase 'high performance sport' is frequently used in place of sporting excellence. Similarly, it is said of the phrase 'increased sports participation' that it does not explain why that is a desirable objective.

- Should additional objects be added (or substituted)?

The objects envisage that support will be given to all Australians to participate in sport, but do not identify personal and socio-economic factors that may pose a barrier for some (such as youth, cultural background, location, disability or gender). On the other hand, it may be thought undesirable to tilt the objects towards particular community sectors, lest the statutory objects become outdated if overtaken by other social trends.

Other dimensions of sport may also vie for inclusion as objects. An example is that sports innovation is identified by the Commission as one of its three strategic goals, with internationally-recognised work undertaken by the AIS Engineering Team and the AIS Data Technology Team.

## The Commission's functions

The Act confers numerous functions on the Commission – at least 15 in total. They can be conveniently listed in the following categories:

- **Generic functions** of the kind typically given to independent statutory bodies: providing advice to government, conducting research, publishing information about the Commission's work, expending money appropriated by Parliament, and cooperating with other government and non-government bodies in the Commission's work.
- Functions specifically tied to the **objects of the Act**: developing and implementing programs to raise community participation in sport, coordinating sports development activities, and fostering international sports cooperation through providing access to the Commission's resources and services.
- Functions tied to the **AIS**: operating sports facilities, promoting sporting excellence and raised standards of coaching, and progressing sports medicine and sports science.
- Other **specific** functions that are discussed separately in this paper: raising private sector money through the Australian Sports Foundation or by other means, providing advice to the Australian Olympics Federation, and working with other organisations to combat the unsanctioned use of performance enhancing drugs and doping methods.

The Review invites comment on all aspects of the Commission's functions – and in particular, whether the Commission's functions are appropriately defined, are adequate for its work, or should be tailored differently.

An example of a well-established Commission activity that does not expressly fall within its functions is the Recognition Assessment Process for National Sporting Organisations (NSOs) and National Sports Organisation for People with Disability (NSODs) that meet Commission recognition criteria. This recognises the pre-eminence of NSO/Ds for particular sports, and makes them eligible for Commission investment and other benefits.

## The Commission's powers

The Act confers extensive powers on the Commission that can be exercised within or outside Australia.

The powers are mostly cast in generic terms – for example, engage staff, acquire assets, erect structures, lease premises, provide services, enter contracts, make and accept grants.

Other powers, also cast generically, are more tailored to the Commission's unique work – provide scholarships, obtain commercial sponsorship, participate in marketing arrangements, and manufacture and sell Commission items. The Commission is authorised to impose fees or charges for using its resources, facilities, programs, or services.

Limitations on the powers are discussed elsewhere in this paper – notably, obtaining Ministerial approval for contracts and leases above a specified threshold; and obtaining the Finance Minister’s consent for a Commonwealth loan.

A noteworthy aspect of the Commission’s extensive powers is they underpin its capacity, as a CCE, to function independently and shape its own program, including forging wide-ranging commercial, entrepreneurial and sports-development initiatives in Australia and abroad. The Review is nevertheless interested to receive comment on all aspects of the Commission’s powers. Are they appropriately defined and adequate for its work? A specific issue the Review will consider is whether the Act imposes any barriers to the Commission exercising its powers.

### **Consultation questions: the Commission’s role, functions and powers**

The Review invites comment on the role, functions, and powers of the Commission as defined in the Act:

- Is the Commission’s role appropriately defined in the Act?
- Are the objects of the Act suitable, and do they appropriately define the Commission’s work and priorities?
- Does the Commission have the functions and powers necessary to fulfil its role, and are these appropriately defined in the Act?

## **2.3 The governance structure of the Commission**

The four main elements of the governance structure for the Commission are the:

- Commission, and how it is constituted
- Executive Director of the Commission
- Director of the Australian Institute of Sport
- Commission’s obligation to adopt Corporate and Annual Operational Plans.

### **The Commission**

#### *The description of the Commission*

The Act does not differentiate between the Australian Sports Commission and Commission members. The term ‘Commission’ can apply to both.

Some other Commonwealth Acts distinguish an entity from the Board of the entity. Doing so may be thought to add clarity to how an entity is constituted and managed. Other provisions of the Act can build on that distinction by spelling out more directly the obligations of board members, individually and collectively.

Interestingly, the Commission’s website refers to the ‘Board of the Commission’, while also referring to ‘Commissioners’.

### *Appointment of Commission members*

The Commission comprises a Chairperson, Deputy Chairperson, the Secretary of the Department, and between five to 10 other members. All are appointed by the Minister (except the Secretary). All members are currently appointed on a part-time basis for a fixed term, although the Chairperson and Deputy Chairperson can be appointed full-time for up to five years. The term of other members is up to three years. All members can be reappointed.

The Act does not prescribe qualifications or criteria for appointment to the Commission (apart from the Secretary). Nor is the Minister required to advertise a vacancy or undertake consultation.

Various other Commonwealth legislation provides differently. For example, other legislation may require that:

- appointees to a government entity must have expertise in one or other fields, such as communications, business, financial administration or government administration
- there is to be diversity among members, as to their experience, gender, age or location
- a specified procedure must be followed in appointing members, such as vacancies being advertised, consultation with specified bodies occurring before an appointment is made, or people being appointed from a pool of nominees shortlisted by a selection body appointed by the Minister.

Practices of those kinds are frequently adopted at an executive level, without legislative backing. A question for this Review is whether the Act should take the next step of setting out practices to be followed in appointing Commission members. Related issues are the number of Commission members, their length of term, and the designation of the Secretary as an *ex officio* member of the Commission.

### *Commission meetings*

The Commission is required by the Act to 'hold such meetings as are necessary for the efficient performance of its functions'. Meetings can be convened by the Chairperson or the Minister (and must be convened by the Chairperson upon request from three other members).

An option is for the Act to prescribe a minimum number of meetings each year.

The Commission can establish committees to assist it. A committee may comprise both Commission members and other persons. For example, the Commission has established the Finance, Audit and Risk Committee to provide guidance and assistance to the Commission by advising on matters relating to the Commission's financial management and strategic planning, physical assets, internal and external audit and compliance, and NSO/D finances.

## **Executive Director of the Commission**

The Act establishes the position of Executive Director of the Commission, to '*manage the affairs of the Commission, subject to the direction of, and in accordance with policies determined by, the Commission*'.

The Executive Director is appointed by the Commission for up to five years, on terms and conditions set by the Commission, and can be reappointed. There are no criteria or procedures in the Act for appointing the Executive Director. A person cannot be both a Commissioner and the Executive Director.

The only specific power conferred on the Executive Director by the Act is to employ staff on terms and conditions set by the Commission.<sup>7</sup> The engagement of consultants is a power conferred on the Commission, not the Executive Director.

It is now more usual in legislation to use the title 'Chief Executive Officer', rather than Executive Director, and the Commission currently uses this terminology to refer to the Executive Director in its day-to-day operations and communications.

## **Director of the Australian Institute of Sport**

The Act separately establishes the position of Director of the AIS (**AIS Director**). The AIS Director is responsible for managing four of the Commission's specific functions – sporting facilities, high performance sport, sports science, and sports medicine. The AIS Director acts under the direction of the Executive Director and in accordance with Commission policies.

The AIS Director is appointed by the Commission for a term of up to five years, on terms and conditions set by the Commission, and can be reappointed. There are no criteria or procedures in the Act for appointing the Director.

The position of AIS Director dates from the time of the merger between the AIS and the Commission and constitutes a second statutory management position within the Commission.

The Review will consider the current arrangement in the Act for designating the position of AIS Director and the four specific functions tied to this role.

<sup>7</sup> Commission staff are engaged under the Act, rather than under the *Public Service Act 1999* (Cth).

## Corporate Plans, Annual Operational Plans and Government policy statements

The Commission is required to prepare two forward plans: a corporate plan and an operational plan. The Commission is required to act consistently with those plans.

The corporate plan is a requirement imposed on all Commonwealth entities by the PGPA Act (s 35). The Act adds the additional requirements that the plan must be approved by the Minister and tabled in Parliament.

The corporate plan of a government entity is the primary planning document that informs Parliament and the community of how an entity's activities will achieve the purposes for which it was established – how activities and objectives will be linked. The content requirements for corporate plans are set out in the *Public Governance, Performance and Accountability Rule 2014* (Cth) (**PGPA Rule**). Matters that can be covered in a plan include the environment in which the entity operates, how it cooperates with other bodies, its risk management and systems, and how its performance will be measured and assessed. The PGPA Act additionally requires that if the Australian Government has published a statement of its key priorities and objectives, an entity's corporate plan is to explain how its activities contribute to the statement.

The Act imposes a similar requirement on the Commission to prepare an annual operational plan. It, too, is to be given to and approved by the Minister.

The operational plan links to the corporate plan by explaining the programs the Commission will carry out, and how its resources will be allocated to those programs. The Commission is required to submit the operational plan for the Minister's approval.

The Commission annually publishes a consolidated corporate and operational plan, which is presently published on the Commission's website as the *Corporate Plan 2023-27*.<sup>8</sup> The corporate plan is also tabled in both houses of Parliament within 15 sitting days after the Minister has approved the plan.

A question for this Review is whether the PGPA Act requirement for a corporate plan makes unnecessary the requirement earlier imposed on the Commission by its Act to prepare an operational plan. A related issue is whether the Act should go further than the PGPA Act in requiring the Commission's corporate plan to be approved by the Minister and tabled in Parliament.

### Consultation questions: the governance structure of the Commission

The Review invites comment on the governance structure of the Commission, as laid down in the Act:

- Does the Act contain an appropriate governance structure?
- Does the Act contain appropriate criteria and arrangements for selecting, appointing and describing –
  - members of the Commission?

<sup>8</sup> Australian Government Australian Sports Commission, [Corporate Plan 2023-2027](#).

- the Executive Director of the Commission?
- the Director of the Australian Institute of Sport?
- Does the Act suitably outline the roles of the Commission, the Executive Director and the AIS Director, and how those offices relate to each other? Is it necessary to retain both the Executive Director and AIS Director as statutory positions?
- Does the Act contain appropriate arrangements for convening meetings of the Commission?
- Should the Act retain the requirements for the Commission to prepare an annual operational plan, and for its corporate plan to be approved by the Minister and tabled in Parliament?

## 2.4 The relationship of the Commission to Government

### General links

As an independent statutory authority (or CCE), the Commission is largely responsible for its own day-to-day operations, developing programs and setting priorities. However, as a government entity, it also has obligations and links within the broader government and parliamentary system.

Some links of a standard kind are set out in the Act – providing an annual report to the Minister and Parliament, applying the Commission’s appropriated budget only to authorised functions, and borrowing money only through the Finance Minister.

The PGPA Act also creates a framework of governance and accountability requirements that applies commonly to all government entities. In effect, these require a CCE to consult with government and heed its policy direction. Five such mechanisms are:

- Government entities are required periodically to prepare a corporate plan and submit it to the Minister (the Commission’s enabling Act goes further by requiring the Minister’s approval of the Commission’s corporate plan and annual operational plan).
- The Australian Government may, from time to time, publish a statement of its key priorities and objectives (s 35). If so, an entity’s corporate plan must explain how its activities contribute to the statement.
- The Finance Minister may make a government policy order specifying a policy that applies to one or more entities, which are then required to comply with it (s 22).
- A government entity is required to keep the Minister informed of its activities and those of its subsidiaries (s 19).
- A government entity must use and manage resources properly in a way that is not inconsistent with government policy (s 21).

In addition to those statutory mechanisms there are many other channels – formal and informal, budgetary, and otherwise – through which government can convey views and expectations to CCEs. One discussed below that has been used in the sport portfolio is a government Statement of Expectations, to which an entity responds with a Statement of Intent.

Two other mechanisms in the Act that are being considered in this Review are the Minister's power to issue a statutory direction to the Commission, and the requirement for the Minister to approve certain Commission transactions.

### **Government Statement of Expectations**

The Australian Government Sports Ecosystem Rapid Review recommended in 2022 that the Minister should issue a Statement of Expectations to the Commission, as well as other Commonwealth sporting entities. The explanation given was that Ministerial expectations about the roles and responsibilities of the various sports entities, and the priorities of a new Government agenda, were not clear to some sports entities. A Statement of Expectations could provide clarity as to the policy objectives that each should adopt. The sporting entity would then respond by giving the Minister a Statement of Intent outlining how it would meet the government's expectations.

The Minister has since issued a Statement of Expectations to the Commission, as well as to the NST and SIA.<sup>9</sup> The Statement to the Commission outlined broadly the importance government placed on investing in sport, at all levels from community participation to elite success. The Commission was to play a vital leadership role in furthering the Government's sports agenda, including through investment in participation and high performance programs, collaborating with other government and non-government entities, delivering Budget measures, and broadening the opportunity for all Australians to participate in sport.

The Commission has responded with a Statement of Intent.<sup>10</sup> It explains how the Commission shares the Government's vision for sport and outlines the programs and objectives the Commission has adopted.

The Statement of Expectations framework is adopted widely across government, in particular, for Commonwealth entities with regulatory functions. It operates on an executive rather than legislative basis. The Review will nevertheless consider how this approach integrates with other legislative and executive links between the Commission and government.

### **Minister's power of direction**

The Commission is required to comply with any written direction given to it by the Minister '*with respect to the policies and practices to be followed by the Commission in the performance of its functions, and the exercise of its powers*'. Before issuing a direction the Minister is required

<sup>9</sup> See: [Ministerial Statement of Expectations: Australian Sports Commission](#).

<sup>10</sup> See: [Australian Sports Commission: Statement of Intent](#).



to consult the Commission, and to table any direction in the Parliament. To date, no direction has in fact been given to the Commission.

Ministerial powers of direction of this kind are commonly found in Commonwealth legislation. They are usually worded differently, but ordinarily authorise a Minister to issue directions across the full spectrum of policy, budgetary and operational practices and priorities. A conventional legal view is that, in the absence of explicit statutory backing, a Ministerial direction cannot dictate the individual decision a statutory entity must make.

Overall, the formal directions powers are used only infrequently. Some Commonwealth legislation draws a line by explicitly declaring that a direction is only a guideline, that exceptional circumstances must exist before a direction is given, or that an entity is not subject to direction and may decide as it thinks fit.

As that suggests, there are competing views. One view is that powers of direction detract from a statutory body's independence, even if only by creating a subtle expectation of Ministerial control or influence. The opposing view is that, in a democratically elected parliamentary system, all government entities should be subject to ultimate government control; Parliamentary tabling of a direction aims to limit misuse of that control.

The Review is interested to receive comments on whether the Act should retain a Ministerial power of direction, either in its current or a modified form. Part of the backdrop for considering that issue is the mechanisms in the PGPA Act (noted above) for government to convey its policy priorities and objectives to a CCE.

### **Ministerial approval of Commission spending**

The Act requires the Commission to obtain the Minister's written approval to enter into a contract (that is, a grant or procurement) to pay or receive over \$500,000 or a lease of land for 10 years or more.

The monetary limit has not been raised since the Act commenced in 1989. It potentially sets a low bar for the Commission to seek ministerial approval for operational contracts relating to assets, premises, and staff, both generally and in managing the AIS.

Other relevant developments have occurred that regulate budgetary and resource decisions by Commonwealth entities. These include:

- The PGPA Act and PGPA Rule set out requirements to be followed by CCEs in using and managing public resources.
- The Minister for Finance has issued the Commonwealth Procurement Rules (**CPR**) under the PGPA Act, to lay down a framework for government procurement. The CPRs are supplemented by Resource Management Guides and contracting templates. The CPRs do not formally apply to the Commission as it is not a CCE listed in the PGPA Rule s 30.

- The Minister for Finance has issued the Commonwealth Grant Rules and Guidelines 2017 (**CGRGs**) under the PGPA Act to specify principles for grant administration. As discussed below, the CGRGs do not apply to the Commission, as a CCE, though the Commission has adopted CGRG principles.
- The Australian Government has established the AusTender website for non-corporate Commonwealth entities and prescribed CCEs to report details of annual procurement plans, approaches to market (such as tender requests) and contracts awarded. The Commission is not a prescribed CCE and is not required to report procurement details on AusTender.
- The *Lands Acquisition Act 1989* (Cth) (**Lands Acquisition Act**) imposes controls on acquiring or disposing of an interest in land by government entities – described as the Lands Acquisition Framework. It applies to the Commission.

The Review will consider whether the current requirements in the Act applying to contracts and leasing are appropriate. There are broadly three options to consider:

- Should the monetary limit be raised to a higher amount, given the potential inconvenience for both the Commission and the Minister in having to consult on operational contracts above a low threshold?
- Should the limit be set in a different and more flexible way, for example, in a legislative instrument made by the Minister?
- Should the requirement for Ministerial approval be removed from the Act, on the basis either that it is an unsuitable constraint on the Commission's independence, or that it is an unnecessary regulatory safeguard in light of the PGPA Act and Lands Acquisition Act controls?

The Review welcomes comment on those options.

### Consultation questions: the relationship of the Commission to Government and other agencies

The Review invites comment on how the Act should define the relationship between the Commission and government:

- Is the Commission's independence appropriately defined in the Act?
- Should the Act embed or reflect the procedure by which the Minister can issue a Statement of Expectations to the Commission?
- Should the Minister retain the power (in its current form in the Act) to give directions to the Commission?
- Should the Act be altered as regards the present requirement for the Commission to obtain the Minister's approval for contracts and leases above a prescribed limit?

## 2.5 The relationship of the Commission to other Commonwealth sporting entities

### **Australian Institute of Sport**

Prior to the Act commencing in 1989, the Commission and the AIS were separate bodies. The Act merged them and now states the Commission must operate under the name 'Australian Institute of Sport' in performing functions relating to sporting facilities, high performance sport, sports science and sports medicine. The Director of the AIS is a separate position under the Act.

There may, again, be competing arguments for retaining or altering that arrangement. Among them are that both the Commission and the AIS have separate public identities, there are benefits in applying the Commission's governance arrangements to the AIS, but some may see the arrangement as detracting from the AIS's national and international standing.

The Review will consider whether change is required in the provisions of the Act that refer to the AIS.

### **Sport Integrity Australia**

SIA was established by the *Sport Integrity Australia Act 2020 (Cth) (SIA Act)* (replacing the Australian Sports Anti-Doping Authority (ASADA)). The role of SIA is broadly defined by its Act as coordinating a national approach in promoting and removing threats to sports integrity. This embraces promoting positive conduct by athletes, achieving a safe and inclusive sporting environment, and enhancing the standing of sport and fair and honest sporting performance.

To maintain separate roles for SIA and the Commission, the Act provides the Commission cannot perform functions that overlap with SIA's functions.

The possibility of overlap is apparent in the broad way the Commission's functions are defined in the Act. For example, the Commission's functions include advising government on sport, coordinating activities to develop sport in Australia, managing sporting facilities, conducting research regarding sports science and sports medicine, and cooperating with other sporting bodies in Australia and abroad '*to foster a sporting environment that is free from the unsanctioned use of performance enhancing drugs and doping methods*'. An example of a Commission initiative is the adoption of a comprehensive Anti-Doping Policy that applies to sporting administration bodies. Managing the AIS is another example of a clear potential overlap with SIA's role.

Generally, across government, it is common that entities (both executive and corporate) have functions or responsibilities that overlap. Arrangements may be put in place, either informally or through a memorandum of understanding, to synthesise activities or to avoid a clash.

The Review will consider whether change is required to the restriction imposed on the Commission by the Act, and if so, what form any change should take.

## **Australian Sports Foundation**

The Australian Sports Foundation (the **Foundation**) is referred to in the Act as an incorporated company through which the Commission can raise money for developing sport in Australia. The Commission's annual report is required to specify the financial transactions and state of affairs of the Commission.

This arrangement has partly been overtaken by later developments. The Foundation now functions separately as a Commonwealth company, with a Board appointed by the Minister. The Foundation is a Commonwealth company to which PGPA Act requirements apply. These include preparation of a corporate plan, budget estimates and an annual report.

The Review will consider whether change is required in the provisions of the Act that refer to the Foundation. The options for change would range across altering the way the Foundation is referred to in the Act, reframing the link between the Commission and the Foundation in the Act, or removing all references to the Foundation in the Act.

An additional matter for consideration in any proposed change is the Foundation currently has tax exempt status, because of a provision in the Act stating that, *'the income, property and transactions of the ... Foundation are not subject to taxation under the laws of the Commonwealth or of a State or Territory'*. An alternative pathway to preserve the tax-exempt status of an entity from income taxes (but not necessarily other taxes) is through a specific exemption provision in taxation legislation.

## **Australian Olympic Federation**

A function of the Commission under the Act is to provide advice on sporting matters to the Australian Olympic Federation, and to other persons, bodies, or associations.

The Australian Olympic Federation has been renamed the Australian Olympic Committee.

It is self-evident the reference to the 'Federation' should be removed from the Act. But should the Act retain a Commission function of providing advice to external sporting bodies, and if so how generally or specifically should that function be framed?

## **Other sporting bodies**

A key activity of the Commission is to consult and collaborate with other organisations across Australia (and internationally) that play a role in sport. This includes:

- other Commonwealth, State and Territory government agencies
- non-government bodies that play a peak representative role in Australian sport
- individual sporting organisations, particularly NSOs and NSODs.

The Review will consider whether the Act should refer to the Commission's role, either in general terms or in relation to particular organisations. This issue overlaps with the earlier discussion of the Commission's functions and powers and how they should be described in the Act.

## Consultation questions: the relationship of the Commission to other sporting bodies

The Review invites comment on the following questions:

- Should the Act be changed in the way it refers to –
  - the Australian Institute of Sport;
  - Sport Integrity Australia;
  - the Australian Sports Foundation; and
  - the Australian Olympic Federation?
- Should the Act be changed to refer to the Commission's relationship to other government and non-government sporting bodies?

## 2.6 The Commission's role in sports grant administration

Sports grant funding has been a topical, and at times, controversial issue in Australian public and sports administration. Many of the issues discussed are beyond the scope of this review of the Act.

The Commission's functions and powers in the Act authorise it to make payments in the nature of sports grants to individuals or organisations. A specific Commission function is to administer and expend money appropriated by the Parliament, or raised through the Foundation. A specific Commission power is to enter into contracts and make grants, lend money, and to provide scholarships and like benefits.

The main control the Act places on that power is the Commission must seek the Minister's approval to enter into a contract (including a grant agreement) involving a payment exceeding \$500,000 (that limitation is discussed above).

To provide context, in the 2022-2023 financial year the Commission's grant expenditure totalled \$221,953,000 consisting of:<sup>11</sup>

- \$172,568,000 to non-profit organisations
- \$23,587,000 to other private entities
- \$24,954,000 to State and Territory entities
- \$750,000 to Commonwealth government entities
- \$94,000 to local governments.

Of that, \$140.3 million was allocated directly to NSOs for investment in high performance sport. A further \$17.3 million in funding was allocated to increase sports participation<sup>12</sup>

<sup>11</sup> Australian Government Australian Sports Commission, [Annual Report 2022-23](#), p 106.

<sup>12</sup> Ibid, p 12.

The Commission's Community Sport Infrastructure Grant (**CSIG**) program has been examined or commented on in several independent inquiries in recent years. Of particular importance are inquiries by the Australian National Audit Office (**ANAO**),<sup>13</sup> the Joint Committee of Public Accounts and Audit (**JCPAA**),<sup>14</sup> and the Senate Select Committee on Administration of Sports Grants (**Select Committee**).<sup>15</sup>

A common thread in the reports of those inquiries was uncertainty as to the respective roles of the Commission and the Minister in making CSIG grants in 2018-19. The ANAO found the Minister's office had conducted a '*parallel assessment process*' that was decisive in awarding grants in that period. Many of the Minister's decisions differed from the assessments and recommendations the Commission made following its merit assessment of grant applications.

The ANAO noted that the CSIG program guidelines devised by the Commission stated the Minister '*will provide final approval*', but the legal basis for this approach was unclear and questioned by the ANAO.

The issue was taken forward by the JCPAA in its inquiry into 'The Administration of Government Grants'. It looked at three ANAO reports, including the report on the CSIG program. The JCPAA made several recommendations directed at overall improvement in how Commonwealth grant programs are administered. It also made one specific recommendation to the Commission that it clarify the authority, duty and role of both the Minister and the Commission, and report back to the JCPAA.

The Commission subsequently reported to the JCPAA that it had reviewed and updated its grant framework and guidelines. They now stipulate that, while a Commission grant program may require Ministerial endorsement, the approval of grants within the program must be made by a Commission officer or unit. The Board of the Commission must approve any proposal for the Minister to have a role in grant assessments.

In addition to the JCPAA report and the Commission's response, the Senate Select Committee conducted an inquiry. The Committee report included both a majority and a minority report, split along party lines. The majority report noted competing views on the Minister's legal authority to make sports grant decisions. On the one hand, it was claimed, the Minister's legal authority derived both from the CSIG guidelines and the Minister's overriding portfolio responsibility; and, on the other hand, it was claimed, the Act conferred decision-making power on the Commission as an independent body, and its power could not be delegated to or

<sup>13</sup> The Auditor General, [Award of Funding under the Community Sport Infrastructure Program](#) (Auditor-General Report No.23 2019-2020), Performance Audit, January 2020.

<sup>14</sup> Joint Committee of Public Accounts and Audit, Parliament of Australia, [Report 484 The Administration of Government Grants: Inquiry into Auditor-General's Reports 5, 12 and 23 \(2019-20\)](#), (December 2020).

<sup>15</sup> Select Committee on Administration of Sports Grants, Parliament of Australia, [Select Committee on Administration of Sports Grants](#), (Final Report March 2021).

usurped by the Minister. The majority report concluded that the legal authority issue remains in doubt, and a review of the Act should be conducted to clarify the Minister's authority.

A separate grants issue discussed in two reports of the JCPAA is the operation of the CGRGs. The CGRGs are made by the Finance Minister under the PGPA Act and specify the principles to be followed by non-corporate Commonwealth entities (such as departments) in grants administration. The principles relate to matters such as program design, outcomes, governance, transparency, probity, and accountability. The CGRGs address the issue of Ministerial advising and reporting, and also apply to Ministers and their advisers.

The CGRGs do not apply to the Commission, as it is a corporate Commonwealth entity (**CCE**) under the PGPA Act. However, the trend – supported by the JCPAA in Report 484 – is for both corporate and non-corporate Commonwealth entities to administer grant programs in accordance with the CGRGs.<sup>16</sup>

Later, in Report 495,<sup>17</sup> the JCPAA recommended that Commonwealth legislation be amended to provide the CGRGs apply to CCEs by default unless an exception is made via a legislative instrument issued by the Minister of Finance.

A comparable change earlier implemented, following the ANAO report, was an amendment of the PGPA Rule to provide the CGRGs would apply to a decision of a Minister that was made in place of a decision of a CCE, such as the Commission. In effect, a single framework would apply to all grant approval decisions by Ministers.

To draw together the threads of this discussion, the core issue in this Review is whether the Act should be updated to address the issues raised in these reports in relation to sports grant funding decisions. Options range from specifying clearly in the Act the respective roles of the Commission and the Minister, to placing added controls around the procedure adopted by the Commission in devising and administering grant programs.

While this review is not looking as broadly at sports grant funding as the inquiries by the ANAO and the parliamentary committees, their analysis of sports grant administration is part of the backdrop for considering how the Act should deal with this issue. A common theme in all reports is the importance in grant administration of planning, detailed guidelines, conflict of interest processes, merit-based assessment, transparent processes, clear decision-making authority, reasoned outcomes, communication with applicants and governance training for decision makers.

<sup>16</sup> Joint Committee of Public Accounts and Audit, Parliament of Australia, [Report 484 The Administration of Government Grants: Inquiry into Auditor-General's Reports 5, 12 and 23 \(2019-20\)](#), (December 2020), p 6.

<sup>17</sup> Joint Committee of Public Accounts and Audit, Parliament of Australia, [Report 495 Inquiry into Commonwealth grants administration](#), (June 2023).

### Consultation questions: the Commission's role in sports grant administration

The Review invites comment on whether the Act should be updated in response to issues raised in the inquiries by the ANAO and parliamentary committees into sports grant administration:

- Does the Commission currently have appropriate functions, powers and authorities to fulfil its role in relation to sports grant decision making?
- Should the Act specify more clearly the roles of the Commission and the Minister in sports grant decisions?
- Are there other changes that should be made to the Act in response to the ANAO and parliamentary reports?

## 2.7 Other issues relating to the *Australian Sports Commission Act 1989*

The Review will consider if there are features of the national sports framework in other countries that warrant consideration in Australia. To assist that analysis, **Appendix B** briefly describes comparative features of the national sports framework in the United Kingdom, New Zealand and Canada.

The Review also invites submissions and input on any other issues not addressed in this Issues Paper that fall within the Terms of Reference of this review of the Act.

### Consultation question: other sport governance models

The Review invites comment on the following question:

- Do other sports governance models have features that should be considered in this review of the Act?
- Are there any other issues you would like to raise?



### 3. Have Your Say

This Review invites your submissions and comments in response to this Issues Paper. Consultation questions are set out below to guide feedback. It is not required that you specifically address a question, or all of the questions.

Please note that the consultation questions are tied to the Terms of Reference for this review. As explained in Part 1.3 above ('About this review') the Review is not addressing broader questions relating to sports policy, funding or administration.

You may make a submission in two ways:

- By completing the consultation questions online at the [Consultation Hub](#) (preferred):

<https://consultations.health.gov.au/office-for-sport-1/review-of-the-asc-act>

- By forwarding a written submission to the following email:

[ascactreview@health.gov.au](mailto:ascactreview@health.gov.au)

Please email [ascactreview@health.gov.au](mailto:ascactreview@health.gov.au) with any query about whether a matter falls within the Terms of Reference for the purpose of this review.

**The consultation period closes at midnight (AEDT) on Friday 28 June 2024.** Submissions cannot be accepted after that date. The online consultation link also ceases on that date.

The intention is to publish written submissions on the Department of Health and Aged Care website – Consultation Hub. Please indicate if you wish for your name to be anonymised in your submission, or if you do not wish your submission to be published. Please refrain from including personal information about other individuals in the body of your submission.

Note that this review collects your personal information in order to contact you if the Review wants to clarify matters discussed in your submission, needs to clarify the nature of your submission (eg, if it is made in a personal or representative capacity), to confirm your consent to publication of information in your submission, or to seek feedback on the consultation process.

## 4. Consultation Questions

### The Commission's role, function and powers

1. Is the Commission's role appropriately defined in the Act?
2. Are the objects of the Act suitable, and do they appropriately define the Commission's work and priorities?
3. Does the Commission have the functions and powers necessary to fulfil its role, and are these appropriately defined in the Act?

### The governance structure of the Commission

4. Does the Act contain an appropriate governance structure?
5. Does the Act contain appropriate criteria and arrangements for selecting, appointing and describing –
  - members of the Commission?
  - the Executive Director of the Commission?
  - the Director of the Australian Institute of Sport?
6. Does the Act suitably outline the roles of the Commission, the Executive Director and the AIS Director, and how those offices relate to each other? Is it necessary to retain both the Executive Director and AIS Director as statutory positions?
7. Does the Act contain appropriate arrangements for convening meetings of the Commission?
8. Should the Act retain the requirement for the Commission to prepare an annual operational plan, and for its corporate plan to be approved by the Minister and tabled in Parliament?

### The relationship of Commission to Government and other agencies

9. Is the Commission's independence appropriately defined in the Act?
10. Should the Act embed or reflect the procedure by which the Minister can issue a Statement of Expectations to the Commission?
11. Should the Minister retain the power (in its current form in the Act) to give directions to the Commission?
12. Should the Act be altered as regards the present requirement for the Commission to obtain the Minister's approval to contracts and leases above a prescribed limit?

### The relationship of the Commission to other sporting bodies

13. Should the Act be changed in the way it refers to –
  - the Australian Institute of Sport;
  - Sport Integrity Australia;
  - the Australian Sports Foundation; and
  - the Australian Olympic Federation?
14. Should the Act be changed to refer to the Commission's relationship to other government and non-government sporting bodies?

### The Commission's role in sports grant administration

15. Does the Commission currently have the appropriate functions, powers and authorities to fulfil its role in relation to sports grant decision making?
16. Should the Act specify more clearly the roles of the Commission and the Minister in sports grants decisions?
17. Are there other changes that should be made to the Act in response to the ANAO and parliamentary reports?

### Other issues

18. Do other sports governance models have features that should be considered in this review of the Act?
19. Are there any other matters you would like to raise?

# Appendix A:

## Terms of Reference for the Review

### Context

The *Australian Sports Commission Act 1989* (Cth) (the Act) has not been substantially reviewed since it was established over thirty years ago. The sporting landscape has continued to evolve over this time, particularly in relation to threats to the integrity of sport and the significant growth in size and value of the sport sector.

Other developments in relation to sports integrity include the establishment of Sport Integrity Australia and the National Sports Tribunal in 2020. In addition, the Government plays an active role across multiple portfolios supporting the hosting of major international sporting events which provide social, sporting, and economic benefits for Australia.

The Government has undertaken to conduct a Review of the Act as part of a strategic approach to the investment and delivery of major sporting events across the 'Green and Gold Decade' of sporting events hosted by Australia, culminating in the 2032 Olympic and Paralympic Games in Brisbane.

### Objectives of the Review

The Review will focus on the Act, not the Australian Sports Commission (ASC). However, it will consider the role and purpose of the ASC under the Act in meeting current and future needs within the Australian sport system. It will consider governance matters as they relate to the Act, role clarity and removal of administrative barriers to strengthen ASC's support to the Government and the Minister for Sport to deliver on priorities of Government.

The Review of the Act will also consider:

1. Whether Objects and Functions of the Act provide the appropriate framework for the ASC to meet its objectives leading up to the 2032 Brisbane Olympic and Paralympic Games and beyond.
2. The appropriateness of governance provisions in the Act and whether they are contemporary, fit for purpose, and meet the needs of Government, the ASC and stakeholders.
3. Opportunities to update and improve the legislation to position the ASC to advance community and high-performance sport in Australia.
4. Findings and recommendations from key reports and inquiries, including but not limited to:
  - (a) the Select Senate Committee into Administration of Sports Grants; and the
  - (b) Joint Committee on Public Accounts and Audit Report on the Administration of Government Grants (Report 484).

Department of Finance governance policies for government entities.

The Review provides an opportunity to ensure the Act is an enabler for the ASC to deliver its functions and achieve outcomes for the sport sector and all Australians. It is also an opportunity to bring the Act up to modern legislative standards and drafting conventions.

### **Review consultation and governance**

The Review is to be led by an independent legal expert, supported by the Department of Health and Aged Care (the Department). The Department will also support the independent legal expert to undertake consultation with appropriate stakeholders. The ASC will provide critical input to the Review and will be engaged throughout the process.

### **Reporting timeframe and deliverables**

The Review will produce a final report for the Minister for Sport to consider with recommendations on any potential changes to the Act.

Any amendments to the Act would be prepared in accordance with the Commonwealth legislation process.

# Appendix B:

## Government Sports Models in Three Other Countries

Many countries have established special commissions or institutes to advance community sports participation and national sporting success. Three examples that are similar in nature to the Australian sports framework are explained in this appendix.

The Review welcomes comment on the comparative features of the sports commission framework in other countries. Please note the Review is not looking at sports programmes or administration in other countries, but only at the structural and governance framework of national sports commissions.

### UK Sport

**Creation:** The United Kingdom Sports Council – known as UK Sport – was established by Royal Charter in 1996. It has the status of an Arms Length Body within the portfolio of the Department of Culture, Media and Sport (**DCMS**). The relationship between UK Sport and DCMS is set out in several framework documents, including a Management Agreement.

Two related government entities with sports functions are the UK Sports Institute, which is a wholly-owned subsidiary of UK Sport; and Sport England, which was established by the same Royal Charter.

**Functions:** UK Sport principally focusses on high-performance sport, aiming to support elite athletes in Olympic and Paralympic Sport. It works with and assists National Governing Bodies in sport, and hosts major sports events in the UK.

The UK Sports Institute provides sport science, medicine, technology and engineering services to elite athletes. Sport England is responsible for encouraging sport participation and physical activity at community level across England.

**Governance:** UK Sport is governed by a Board of 12 part-time members appointed by the Secretary of State in compliance with the Code of Practice of the Commission for Public Appointments.

UK Sport complies with a Corporate Governance Code, which is a legislative instrument applying to Arms Length Bodies. It is required by the Royal Charter to have regard to general statements of government policy.

**Funding:** UK Sport derives funding from two main sources, in roughly equal shares: the National Lottery Distribution Fund (distributed under the *National Lottery Act 1998* (UK)); and a Grant-in-Aid from DCMS (that is, a government appropriation). A small amount is received from mega events such as football world cups.

### Sport New Zealand

**Creation:** Sport and Recreation New Zealand – known as Sport NZ – is established as a government entity by the *Sport and Recreation Act 2002* (NZ). Sport NZ has established a wholly-owned subsidiary, High Performance Sport NZ (**HPSNZ**). They are together called the Sport NZ Group.

A separate governance group, Te Taumata Maori, provides advice and support to the Sport NZ Group on Maori sport strategy, investment and outcomes.

The current sports framework was the subject of an independent Governance and Organisational Structure Review that reported in December 2021.

**Functions:** The functions of Sport NZ are defined broadly in the Sport and Recreation Act as promoting and supporting play, recreation and sport to improve physical activity and community wellbeing. HPSNZ conducts programmes to identify high performance athletes and coaches.

Sport NZ provides policy advice to government, and funding to National Sports Organisations, National Recreation Organisations, Regional Sports Trusts and Disability and Education Partners.

**Governance:** Sport NZ and HPSNZ are governed by separate part-time Boards of Directors, with the same Chair and Deputy Chair. The Sport NZ Board of nine members is appointed by the Minister for Sport and Recreation. The HPSNZ Board is appointed by the Sport NZ Board, following Ministerial approval.

The Sport NZ Group has a single Group Chief Executive.

**Funding:** Funding for the Sport NZ Group is through two sources – the annual budgetary appropriation (roughly two-thirds) and the Lottery Grants Board (one-third).

## **Sport Canada**

**Creation:** Sport Canada was established more than 50 years ago as a branch of a federal government department – now the Department of Canadian Heritage. The Department has responsibility under the *Department of Canadian Heritage Act (1995)* for ‘*the encouragement, promotion and development of sport*’.

Federal government sports policy has two main objectives expressed in the *Physical Activity and Sport Act (2003)* – described as the participation pillar and the excellence pillar.

Another government entity, Health Canada, is responsible for health improvement policy and programmes, including through increased community physical activity.

**Functions:** Sport Canada develops sport policy in Canada, administers funding to athletes and national sport organisations, sponsors research, and conducts projects to increase sport participation and excellence.

The Canadian Sport Policy 2012 sets down a framework for intergovernmental cooperation in sport development.

Sports institutes and centres have been established across the country to develop high performance sport, through collaboration between Sport Canada, provincial governments, national sporting organisations and the private sector.

**Governance:** Sport Canada is headed by a Director-General in the Department and reports to the Minister of Sport and Physical Activity.

**Funding:** Funding for Sport Canada is through the annual budgetary appropriation to the Department.

