



10 December 2015

The Hon Kelly O'Dwyer MP
Minister for Small Business and Assistant Treasurer
Parliament House
CANBERRA ACT 2600

Dear Minister

Fit for the Future – A Capability Review of ASIC
Panel aide memoire on ASIC's Response on the Panel's Report to Government

Further to our recent meeting with you to present and discuss our Report, *Fit for the Future – A Capability Review of ASIC*, the Panel would like to take the opportunity to provide you with a comprehensive record of our reactions to *ASIC's Response on the Panel's Report to Government*, authored by the ASIC Commissioners and provided to the Panel on 4th December.

As previously discussed, the document was only received by the Panel after the finalisation of our Report to you. Given that the Panel did not have the opportunity to reflect our views on ASIC's response in the Report, as had originally been agreed with ASIC upon commencement of the Review, we thought it important to do so for your benefit in this letter. The letter contains a summary of the document's contents, ^{s 47C, s 47E(d)}

SUMMARY OF ASIC'S RESPONSE

The overall tone of the document is one of positive engagement, and ASIC actively endorses a number of the Panel's key findings. For example, ASIC agrees with the Panel on the need to improve performance measurement; the importance of cultural improvement; challenges and priorities around the IT infrastructure and the need to upgrade it; and opportunities to get better at external engagement. Overall, ASIC indicates that it supports 29 out of 34 of the Panel's recommendations.

However, a closer look at the response reveals that of the 29 proposals ASIC endorses, for almost half of them ASIC claims that the recommendation is either current ASIC practice, or is in the process of being implemented. For example, ASIC indicates that it supports Recommendation 8, (implementation of a periodic forward looking skills gap assessment of the Commission), but also states that this reflects ASIC's current practice. ^{s 47C, s 47E(d)}

More directly, ASIC's response disputes the Panel's findings explicitly in a number of critical areas. These include in particular:

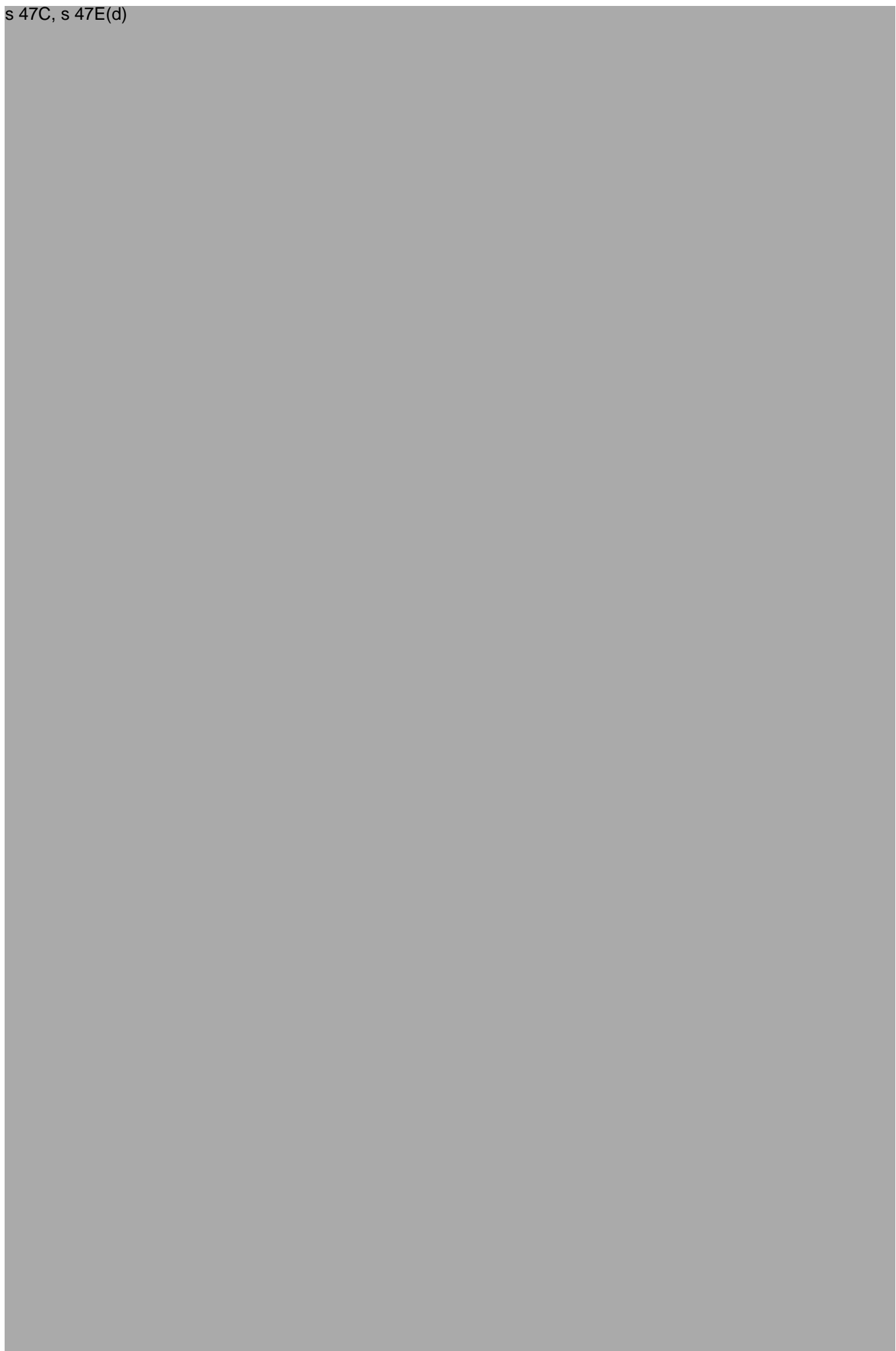
- The 'expectations gap' – ASIC believes the significance and extent of the expectations gap (referring to both differences between ASIC's perceptions and stakeholder perceptions, as well as the gap between expectations of what ASIC can achieve and what is realistic) is exaggerated in the Panel's report.
- Commissioner time split between strategic and operational matters – ASIC challenges the Panel's conclusions about how the Commissioners divide their time between strategic and operational matters, as well as some of the analysis on which this conclusion is based.
- Characterisation of ASIC's cultural problems – ASIC rejects the Panel's finding that its organisational culture is variable and can tend to be overly defensive, inward looking, risk averse and reactive. ASIC indicates that it does not believe there is sufficient evidence to support this conclusion and instead refers to previous culture exercises it has conducted internally with different results. ASIC also points to various 'organisational health' indicators such as Comcare claims, turnover, absenteeism, etc. in support of its position.
- Deregulation effectiveness – ASIC does not agree with the finding that it has failed to articulate its approach to delivery on its deregulation objectives, and reiterates the successes it has had with deregulation.
- 'Future-proofing' – ASIC believes the Panel's finding that it has not been sufficiently 'future-proofing' its IT investments to ensure they are suitable for future needs is inaccurate. In support of this position, ASIC references its choice of Microsoft as software vendor.

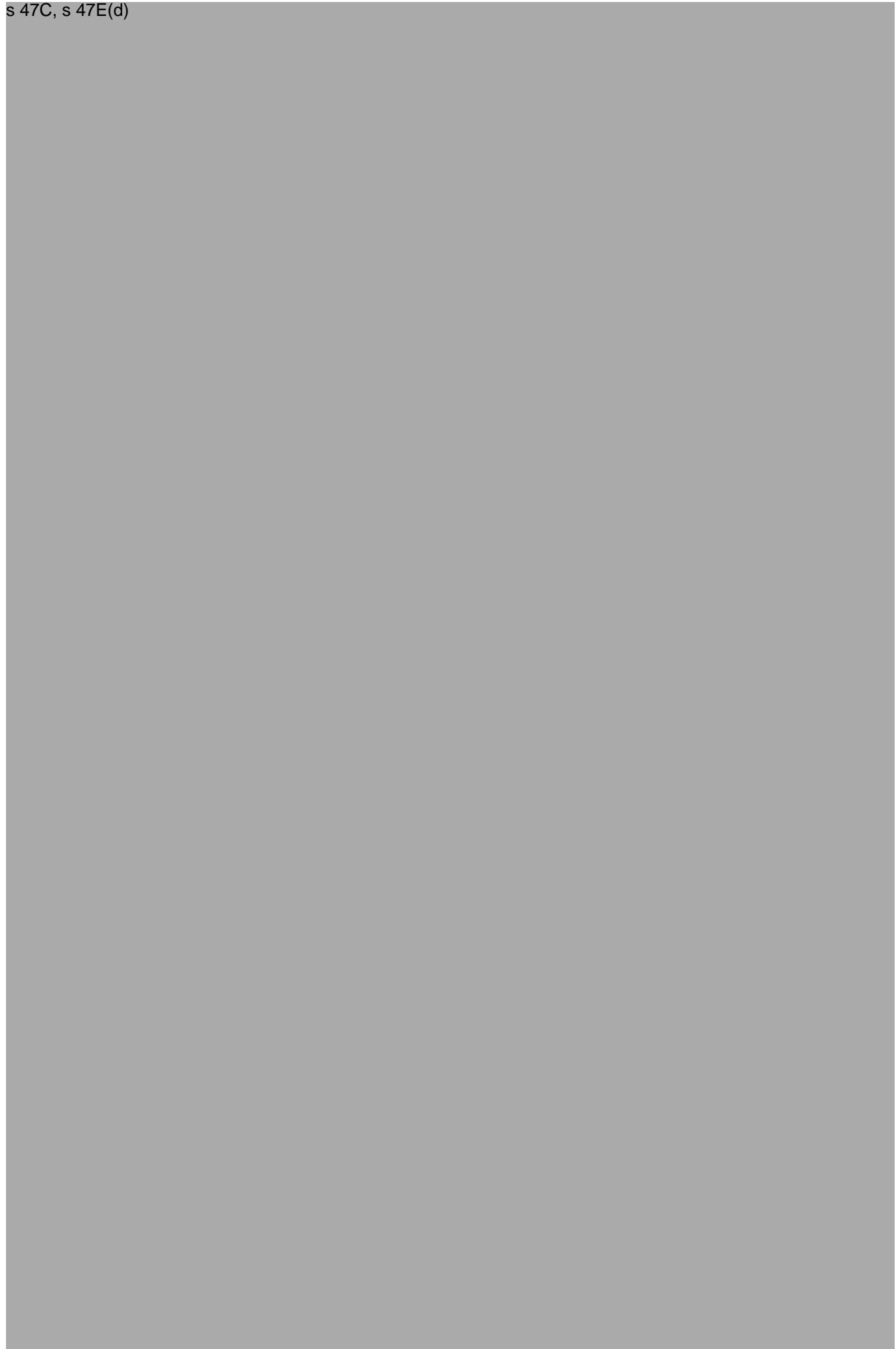
The Response document also directly disagrees with the Panel's recommendations in a number of areas, most notably those related to internal governance and leadership – and notably the recommendations that the Panel identifies as those that 'matter most'. ASIC objects to the recommendations that the Commissioners move into a full-time non-executive governance role; a Head of Office (HoO) role be established with the Senior Executive Leaders (SELs) reporting into it; and that the SELs be delegated executive responsibilities.

In making this objection, they refer to the time use analysis concerns (raised above) and concerns about how well the proposed new model will work. The key concern with the HoO role is its scope of responsibilities, although cost implications are also raised. ASIC also claims that it is not possible to distinguish strategic and operational matters in a regulatory context.

Finally, ASIC rejects the Panel's recommendation that it rebalance its emphasis on enforcement in its public communications. ^{s 47C, s 47E(d)}

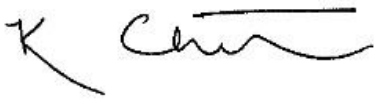
s 47C, s 47E(d)





We trust that this letter will be of use to you in your consideration of our Report and its recommendations, and we stand ready to discuss any matter with you and your Office should further clarification be required.

Yours sincerely



Karen Chester
Chair



Mark Gray
Member



David Galbally AM QC
Member





