

Standing Committee on State Development

Legacy report 57th Parliament

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Committee details

Committee members

The Hon Aileen MacDonald MLC	Liberal Party	<i>Chair</i>
The Hon Mick Veitch MLC	Australian Labor Party	<i>Deputy Chair</i>
The Hon Mark Banasiak MLC	Shooters, Fishers and Farmers Party	
The Hon Scott Barrett MLC	The Nationals	
The Hon John Graham MLC	Australian Labor Party	
The Hon Taylor Martin MLC	Liberal Party	
The Hon Mark Pearson MLC	Animal Justice Party	
The Hon Chris Rath MLC	Liberal Party	

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- The Hon Aileen MacDonald MLC replaced the Hon Catherine Cusack MLC as Chair of the committee on 16 August 2022. The Hon Catherine Cusack MLC replaced the Hon Sam Farraway MLC as Chair of the committee on 15 March 2021. The Hon Sam Farraway MLC replaced the Hon Taylor Martin MLC as Chair of the committee on 17 February 2021.
- The Hon Chris Rath MLC replaced the Hon Peter Poulos MLC as a substantive member of the committee from 21 February 2023. The Hon Peter Poulos MLC replaced the Hon Natasha Maclaren-Jones MLC on 25 January 2022.
- The Hon Scott Barrett MLC replaced the Hon Scott Farlow MLC as substantive member of the committee from 1 March 2022. The Hon Scott Farlow MLC replaced the Hon Sam Farraway MLC as a substantive member of the committee on 25 January 2022.
- The Hon Taylor Martin MLC replaced the Hon Wes Fang MLC as a substantive member of the committee on 8 March 2022.

Chair's foreword

I am pleased to present the third legacy report of the Standing Committee on State Development.

During the 57th Parliament, the committee conducted four inquiries. At the time of writing, three inquiries have been completed and the fourth inquiry is ongoing. The first inquiry occurred in 2019 and examined Uranium Mining and Nuclear Facilities (Prohibitions) Repeal Bill 2019. The inquiry provided an opportunity for the committee to assess past nuclear power practices, as well as future-focussed nuclear energy processes with consideration to current and emerging technology, the regulatory framework required to provide for safe operation, and the environmental impact and social impact of this technology. Options were canvassed with various stakeholders and through submissions and site visits that would lead the committee to consider future energy needs of the state warranting serious consideration as a low emissions source of energy especially when taken into consideration the objective of net zero emissions and the delivery of secure, reliable and affordable energy.

The committee's second inquiry on the development of a hydrogen industry in New South Wales was considered timely after a referral from the Minister for Energy in November 2020. Again, the focus was on energy production through a hydrogen industry perspective acknowledging that this type of energy presented economic opportunities as well as assisting with the state's goal of net zero emissions by a future date. Stakeholders were consistent in their view that there needed to be clarity with policy and regulatory initiatives as well as co-investment by the government.

The committee's third inquiry was on animal welfare policy in New South Wales. This inquiry was referred by the previous Minister for Agriculture and Western NSW. Many submissions were received regarding the Draft Animal Welfare Bill 2021 with a view of undertaking a comprehensive reform of the animal welfare legislative framework by consolidating and replacing the *Prevention of Cruelty to Animals Act 1979*, *Animal Research Act 1985* and *Exhibited Animals Protection Act 1986* into one single piece of legislation. Two recommendations were formulated as a result of the feedback received, consultations, and hearings. Most importantly, the committee recommended that the bill not be considered until draft regulations have been released and feedback obtained and reported on by the committee.

As previously mentioned, the committee's fourth inquiry is currently underway, after a referral in November 2022 from the Minister for Local Government into allegations of impropriety against agents of the City of Canterbury Bankstown Council. It would be improper to report on any findings whilst the inquiry is ongoing except to say that two hearings have been held with two more expected before the end of February 2023. A report will be published on 27 February 2023.

My role on the committee commenced in August 2022; however, I know that the committee has a long tradition of cross-party bipartisanship, in that, members work together to examine, explore, and bring to the attention of the community issues that are relevant to state development. During my time on the committee, it is my strong belief that this approach has continued throughout the 57th Parliament and for life of this committee. The committee has produced three reports and, in doing so, canvassing all options and involving as many stakeholders as possible to enable meaningful recommendations through thorough discussion, hearings and examination of submissions and members' research.

The committee appreciates the time and effort many individuals and organisations have contributed, noting that it is not always easy to participate in an inquiry; however, the outcome of doing so are long lasting.

This report would not be possible without the work of the Legislative Council Committee Secretariat staff, who work tirelessly to ensure all information and resources are available to ensure reports are timely, up to date and fulfil their purpose.

I trust that this report will assist our successor committee to continue the excellent work of the Standing Committee on State Development in the 58th Parliament.



Hon Aileen MacDonald MLC
Committee Chair

Chapter 1 Overview

This chapter provides a brief overview of the committee and outlines the purpose of this legacy report. It also briefly discusses the work of the committee in the current parliament.

The purpose of a legacy report

- 1.1 The preparation of legacy reports by each of the three standing committees of the NSW Legislative Council was first recommended by the Chairs Committee of the NSW Legislative Council in 2014. The House agreed to the motion of the then Deputy President, the Hon Jenny Gardiner MLC, that such reports be produced.¹
- 1.2 Accordingly, this is the third legacy report prepared by the NSW Legislative Council's Standing Committee on State Development. The first report was prepared in 2014.
- 1.3 The purpose of this legacy report is to provide a summary of the committee's work during the 57th Parliament in order to inform the successor committee in the 58th Parliament of the committee's accomplishments.
- 1.4 Legacy reports have also been prepared for the Standing Committee on Law and Justice and the Standing Committee on Social Issues.

Background

- 1.5 The NSW Legislative Council's Standing Committee on State Development was first established on 9 June 1988 following the commencement of the 49th Parliament. The committee was reappointed in each of the subsequent parliaments, most recently on 8 May 2019 during the 57th Parliament.²
- 1.6 The committee conducts inquiries into matters concerned with state, local and regional development in New South Wales, and matters concerned with planning, infrastructure, finance, industry, the environment, primary industry, natural resources, science, local government, emergency services and public administration.³
- 1.7 The committee consists of eight Legislative Council members, comprising four government members, two opposition members, and two crossbench members.⁴ The membership of the committee throughout the 57th Parliament can be found on p iv.
- 1.8 Between the 49th and 58th Parliaments, the committee tabled 51 reports and produced eight discussion papers on a wide range of issues, including:
 - Water NSW Amendment (Warragamba Dam) Bill 2018 (2018)

¹ *Minutes*, Legislative Council, 13 August 2014, p 2654.

² *Minutes*, Legislative Council, 9 June 1988, pp 182-186; *Minutes*, Legislative Council, 8 May 2019, pp 92-97.

³ *Minutes*, Legislative Council, 8 May 2019, p 93.

⁴ *Minutes*, Legislative Council, 8 May 2019, p 92.

- provisions of the Forestry Legislation Amendment Bill 2018 (2018)
- defence industry in New South Wales (2018)
- regional development and a global Sydney (2018)
- regional planning processes in NSW (2016)
- economic development in Aboriginal communities (2016)
- regional aviation services (2014)
- adequacy of water storages in NSW (2013)
- economic and social development in central western New South Wales (2012)
- wine grape market and prices (2010)
- nanotechnology in New South Wales (2008)
- skill shortages in rural and regional New South Wales (2006)
- genetically modified food (2001)
- road maintenance and competitive road tendering (2000)
- use and management of pesticides in New South Wales (1999)
- fisheries management and resource allocation in New South Wales (1997)
- regional business development in New South Wales (1993)
- coastal development in New South Wales (1989).

Chapter 2 Inquiries conducted

This chapter comprises a short summary of each of the three inquiries undertaken during the 57th Parliament. The chapter also briefly discusses the government response to recommendations made by the committee.

Uranium Mining and Nuclear Facilities (Prohibitions) Repeal Bill 2019

- 2.1** The inquiry into the Uranium Mining and Nuclear Facilities (Prohibitions) Repeal Bill 2019 was referred to the committee by the Legislative Council on 6 June 2019.⁵
- 2.2** The bill was introduced by the Hon Mark Latham MLC and sought to remove all state-based impediments to uranium mining and the construction and operation of nuclear facilities in New South Wales, by:
- repealing the *Uranium Mining and Nuclear Facilities (Prohibitions) Act 1986* in its entirety
 - amending the *Mining Act 1992* by omitting Section 10A which precludes mining authorisations being granted in respect of uranium
 - amending the *Land and Environment Court Act 1979* to omit references to the *Uranium Mining and Nuclear Facilities (Prohibitions) Act 1986*.⁶
- 2.3** The terms of reference required the committee to examine the provisions of the bill, including repealing the ban on uranium mining and building nuclear facilities in New South Wales. The committee also considered if the ban on nuclear power as an energy source is limiting the state's ability to secure reliable baseload zero emissions power. In addition, as part of the inquiry the New South Wales Parliamentary Library was required to prepare an Issues Paper on the bill.⁷
- 2.4** In his second reading speech on the bill, Mr Latham put forward the case for lifting the ban on uranium mining and nuclear facilities, highlighting the economic benefits to the state from uranium mining as well as the need for a new source of dispatchable baseload power to 'avert the looming power crisis in this State'.⁸
- 2.5** Notably, if the bill was enacted in law, the prohibition on uranium mining in New South Wales would have been lifted, removing all legal barriers to uranium prospecting and extraction – allowing mining for uranium to commence subject to commercial viability, market dynamics and appetite.

⁵ *Minutes*, NSW Legislative Council, 6 June 2019, pp 201-202.

⁶ Uranium Mining and Nuclear Facilities (Prohibition) Repeal Bill 2019, Explanatory Note, p 1.

⁷ *Minutes*, NSW Legislative Council, 13 November 2019, p 656. The original terms of reference also required the committee to commission the newDemocracy Foundation to facilitate community input into the bill. However, the terms of reference were amended by the House on 13 November 2019 and this requirement was removed.

⁸ Mark Latham, Second reading speech: Uranium Mining and Nuclear Facilities (Prohibition) Repeal Bill 2019, 6 June 2019.

- 2.6** However, the prohibition on nuclear facilities would have still remained in place as a result of the blanket prohibitions on nuclear installations/facilities enacted in Commonwealth legislation. This Commonwealth legislation would have continued to prevail over any inconsistent state-based statutes.⁹
- 2.7** The committee received 72 submissions and five supplementary submissions. The committee held three public hearings at Parliament House in Sydney. The committee also conducted two site visits to the Australian Nuclear Science and Technology Organisation (ANSTO), Lucas Heights, on 24 July 2019, and the Beverley Uranium Mine in Adelaide, South Australia on 14 and 15 August 2019.
- 2.8** The report was tabled on 4 March 2020. Key issues canvassed in the report included:
- the prohibition on uranium mining in New South Wales and legislation in other states
 - the prohibition on nuclear facilities in New South Wales and current nuclear applications in Australia
 - uranium mining in Australia, specifically key considerations for uranium mining in New South Wales such as potential deposits and economic benefit, current state of the market, industry prerequisites for workplace safety and capacity, environmental impacts of uranium mining, and the transportation and export of uranium
 - energy in New South Wales, specifically the electricity system, energy issues across the state, and consideration of whether nuclear power could be a solution to the state's energy issues
 - the case for and against nuclear energy as a potential generation technology in New South Wales, specifically, safety, initial capital costs, generation costs, construction time, waste and the risk of weapons proliferation
 - the key prerequisites that would need to be in place should it be adopted, such as issues related to the skills and capacities of any future nuclear workforce
 - issues surrounding social acceptance and consent for nuclear energy, including evidence on current levels of public support, and community engagement and education on nuclear energy.
- 2.9** The committee made eight findings and nine recommendations. The findings discussed the importance of developing a full range of affordable, sustainable and reliable baseload power, including nuclear energy. Indeed, the committee considered nuclear power to be a compelling technology that may be useful in energy policy. It also supported the development of a world class regulatory regime, requisite workforce capability and skills and a 'harmonised' regulatory framework for the industry.
- 2.10** The key recommendations in the report were that debate on the bill proceed in the Legislative Council, and that the NSW Government support the repeal of the *Uranium Mining and Nuclear Facilities (Prohibitions) Act 1986* in its entirety. The other recommendations support these outcomes and include:

⁹ NSW Parliamentary Research Service, *Uranium Mining and Nuclear Energy in New South Wales*, Issues paper, 2019, pp 102-103.

- assessing whether existing frameworks for worker safety, radiation regulation and environmental regulation are appropriate and adequate
- liaising with ANSTO to monitor the regulatory approval and commercialisation of Small Modular Reactors in the United States and elsewhere
- commissioning independent and detailed analysis and modelling to properly evaluate the viability of nuclear energy from an economic perspective
- commissioning a workforce gap analysis and a workforce capacity inventory to support the development of a future nuclear industry in New South Wales
- pursuing the repeal of the Commonwealth prohibitions on nuclear facilities
- implementing broader community education initiatives about nuclear energy.

2.11 The government response was received on 4 September 2020. The recommendation to debate the bill was the only recommendation that was not supported. The government advised if it decides to amend the *Uranium Mining and Nuclear Facilities (Prohibitions) Act 1986*, it will introduce its own bill to do so. Of the other eight recommendations:

- two were supported
- five were supported in principle
- one was noted.

2.12 Ultimately, on 20 October 2021, the House adjourned debate on the Uranium Mining and Nuclear Facilities Bill. The bill remains on the notice paper.

Development of a hydrogen industry in New South Wales

2.13 The inquiry into the development of a hydrogen industry in New South Wales was referred to the committee by the Hon Matt Kean MP, Minister for Energy and Environment on 19 November 2020. The committee adopted the terms of reference on 8 December 2020.¹⁰

2.14 The committee was required to examine the current state of, and opportunities for, the development of a hydrogen industry in New South Wales, including:

- the economic and employment opportunity created by the development of a hydrogen industry
- the capacity of and barriers to the state becoming a major production, storage and export hub for hydrogen
- the economics of hydrogen's use in different sectors of the economy; the infrastructure, technology, skills and workforce capabilities needed to realise the economic opportunities of hydrogen
- the role of the public and private sectors in supporting the development of this industry, including management of safety risks

¹⁰ *Minutes*, NSW Legislative Council, 16 February 2021, pp 1907-1908.

- the potential for jobs both directly in the hydrogen industry and in other industries powered by hydrogen.

2.15 The committee received 45 submissions and one supplementary submission, and held one public hearing at Parliament House in Sydney.

2.16 The committee tabled its report on 30 September 2021. Key issues canvassed in the report included:

- hydrogen and its uses, hydrogen production, storage and transportation, demand and opportunities for hydrogen
- an overview of the strategies and funding commitments made by the Australian and NSW Governments
- the potential for a hydrogen industry in New South Wales, specifically some of the key resources and infrastructure required for hydrogen production, storage and transportation
- key challenges raised by stakeholders in developing the industry, including the lack of large-scale hydrogen storage options and the high cost of hydrogen production
- measures that the NSW Government can implement to take a leading role in supporting and developing a hydrogen industry in New South Wales, specifically policy and funding, research and development, local demand, hydrogen hubs, and workforce and skills.

2.17 The committee made seven recommendations to support the development of the hydrogen industry in New South Wales. In the first instance, the committee recommended that the NSW Government finalise and publish its hydrogen strategy to provide certainty for industry players, attract private investors, identify key strategic projects, provide funding and ensure that the industry is well-planned and safe. Other recommendations included that the government:

- commission a study into storage options
- develop a taskforce to address cross-sector barriers
- support hydrogen hubs
- invest in demonstration projects
- create local demand
- prepare for the transition of the workforce to a hydrogen industry.

2.18 The government response was received on 30 March 2022. The NSW Government supported all of the recommendations and advised that the *NSW Hydrogen Strategy* was released in October 2021. The government advised that the strategy delivered on the committee's recommendations and placed New South Wales at the forefront of the development of this industry.

Animal welfare policy in New South Wales

- 2.19** The inquiry into animal welfare policy in New South Wales was referred to the committee by the Hon Adam Marshall MP, the then Minister for Agriculture and Western New South Wales on 25 November 2021 and adopted by the committee on 30 November 2021.
- 2.20** The terms of reference required the committee to review the Government's proposed Draft Animal Welfare Bill 2021 and examine the State's animal welfare policy and what measures may be required to:
- streamline animal welfare laws in New South Wales
 - reduce and remove unnecessary regulation
 - ensure existing policy and regulatory arrangements remain appropriately balanced.
- 2.21** Additionally, the terms of reference stipulated that the committee inquire into and report on the draft regulations associated with the Draft Animal Welfare Bill 2021 upon their publication. The draft regulations have not yet been published at the conclusion of the 57th Parliament and consequently, the committee has not been able to conduct this second part of the inquiry.
- 2.22** The original reporting date was 30 May 2022 and was later extended to 15 June 2022.¹¹
- 2.23** The committee received 309 submissions and one supplementary submission. The committee held two public hearings on 16 and 21 March 2022 at Parliament House in Sydney.
- 2.24** The committee tabled the first report on 15 June 2022. Key issues canvassed in the report included:
- animal welfare reform in New South Wales
 - an overview of the provisions of the Draft Animal Welfare Bill 2021
 - key concerns with the bill, specifically why the draft regulations were not published at the same time as the draft bill, its lack of recognition of animal sentience, the establishment of an independent office of animal welfare, exemptions to animal welfare requirements, comparison against national and international standards and the surgical artificial insemination of dogs
 - key issues related to the incorporation of the provisions of the *Animal Research Act 1985* into the new bill, including the lack of specificity around animal research, the proposal to delegate many of the Act's current provisions to the regulation, uncertainty regarding the inclusion of provisions relating to Animal Ethics Committees' approval processes and adherence to the relevant national code of conduct
 - whether incorporating the three existing animal welfare Acts into a single bill would streamline legislation.

¹¹ *Minutes*, NSW Legislative Council, 22 February 2022, pp 2963-2964; *Minutes*, NSW Legislative Council, 10 May 2022, p 3234.

- 2.25** The committee made two recommendations – that the Upper House does not consider the bill until the draft regulations have been published and stakeholder feedback received, and to retain the *Animal Research Act 1985* as a separate piece of legislation.
- 2.26** The government response was received on 12 September 2022. The NSW Government supported working towards developing draft regulations for public and stakeholder feedback and provided in-principle support to consider options to retain the *Animal Research Act 1985* as separate legislation, subject to ensuring the legislative framework is 'fit-for-purpose'.

Allegations of impropriety against agents of the City of Canterbury Bankstown Council

- 2.27** On 24 November 2022, the Hon Wendy Tuckerman MP, Minister for Local Government, wrote to the Standing Committee on State Development to consider terms of reference for an inquiry into allegations of impropriety against agents of the City of Canterbury Bankstown Council.
- 2.28** On 29 November 2022, the committee resolved to adopt the following terms of reference:
- That the Standing Committee on State Development inquire into and report on matters in regard to the City of Canterbury Bankstown and the previous city of Bankstown council, including:
- a. any matters relating to integrity, processes of council, employees and elected officials of council; and
 - b. any other related matter.¹²
- 2.29** The committee did not call for submissions and resolved to accept and publish submissions on an as received basis. The committee received and published one submission.
- 2.30** At the time of writing, the committee had held two public hearings on 21 December 2022 and 6 February 2023 with the Mayor of Canterbury Bankstown, Councillor Khal Asfour. The committee also held a hearing on 13 February 2023 with Mr Matthew Stewart, Chief Executive Officer of the City of Canterbury Bankstown Council, and Mr Ken Manoski, Director of Corporate Services at the Council. The committee also held a hearing on 17 February 2023. All hearings were held at the State Library of New South Wales.
- 2.31** At the time of writing, the committee has not yet tabled its report. The reporting date for the inquiry is 27 February 2023.
- 2.32** At the public hearings, the evidence focused mostly on allegations of impropriety against the Mayor of Canterbury Bankstown Council, Councillor Khal Asfour. The allegations related to several matters reported in the media in late 2022 and early 2023,¹³ and allegations made under

¹² *Minutes*, NSW Legislative Council, 21 December 2022, p 4005.

¹³ *A Current Affair*, Channel 9, 'Aussie mayor uses taxpayer money for study fees', Steve Marshall, 20 October 2022, <https://9now.nine.com.au/a-current-affair/canterbury-bankstown-mayor-khal-asfour-taxpayer-money-study-fees/f005bee1-1936-48fa-af79-a4439d8>; Natassia Chrysanthos, 'Sydney council's \$150,000 American tour sparks push for transparency', *Sydney Morning Herald*, 21 November 2022, <https://www.smh.com.au/politics/nsw/sydney-council-s-150-000-american-tour->

parliamentary privilege in the Legislative Assembly by Ms Tania Mihailuk MP, Member for Bankstown, on 20 September 2022, and by Ms Wendy Lindsay MP, member for East Hills, on 21 September 2022.¹⁴

2.33 The key issues at the public hearings for this inquiry included:

- Councillor entitlements policies and practices
- international delegations and visits on in the capacity as Council representatives
- the influence of property developer and agents of impropriety
- donations from property developers to Clr Asfour's Mayoral election campaign
- conflicts of interest within the City of Canterbury Bankstown Council
- Mr Asfour's resignation as a candidate for the NSW Legislative Council at the 2023 election
- Councillors' disclosure of international property holdings

2.34 A number of procedural issues arose during this inquiry, including:

- committees' power to order State papers and whether documents held by local councils constitute State papers
- concerns raised by the Council regarding the scope of the committee's request for the Council to voluntarily provide documents
- request from the Council that the committee cover the costs associated with the Council voluntarily complying with a request for documents
- the requirement of witnesses being personally served with a summons to appear at a public hearing
- a right of replying afforded to a current member of the NSW Legislative Assembly to respond in writing to the allegations made by Councillor Asfour at a public hearing.

sparks-push-for-transparency-20221121-p5bzx1.html; Ben Cubby and Jordan Baker, 'Sale of the century': The \$1 deal and the mayor who knew nothing', *Sydney Morning Herald*, 26 November 2022, <https://www.smh.com.au/national/nsw/sale-of-the-century-the-1-deal-and-the-mayor-who-knew-nothing-20221124-p5c0va.html>; Max Maddison, 'Donation raises questions for mayor by February 2023', *The Australian*, 1 February 2023, <https://www.theaustralian.com.au/nation/politics/donation-raises-questions-for-canterburybankstown-mayor-khal-asfour/news-story/3ac2a90c68e25588685bb528803a6944>.

¹⁴ *Hansard*, Legislative Assembly, 20 September 2022, pp 101-102 (Tania Mihailuk); *Hansard*, Legislative Assembly, 21 September 2022, pp 113-114 (Wendy Lindsay, Hansard).

Appendix 1 At a glance

This appendix provides key statistics on the work of the committee during the 57th Parliament.

Table 1 Uranium Mining and Nuclear Facilities (Prohibitions) Repeal Bill 2019

No. of submissions	72
No. of supplementary submissions	5
No. of hearings	3
No. of site visits	2
Tabling date	4 March 2020

Table 2 Development of a hydrogen industry in New South Wales

No. of submissions	45
No. of supplementary submissions	1
No. of hearings	1
No. of site visits	-
Tabling date	30 September 2021

Table 3 Animal welfare policy in New South Wales

No. of submissions	309
No. of supplementary submissions	1
No. of hearings	2
No. of site visits	-
Tabling date	15 June 2022

Table 4 Allegations of impropriety against agents of the City of Canterbury Bankstown Council

No. of submissions	1
No. of supplementary submissions	-
No. of hearings	4
No. of site visits	-
Tabling date	27 February 2023