



LEGISLATIVE COUNCIL

PORTFOLIO COMMITTEE NO. 4

Museums and galleries in New South Wales

Final report

Report 40

February 2019

4



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Portfolio Committee No. 4

Museums and galleries in New South Wales

Final report

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Terms of reference

1. That General Purpose Standing Committee No. 4 inquire into and report on the performance or effectiveness of the NSW Government agencies responsible for the organisation, structure and funding of museums and galleries in New South Wales, and in particular:
 - a) NSW government policy, funding and support for museums and galleries, museum and gallery buildings and heritage collections, including volunteer managed museums and museums managed by councils
 - b) potential funding impacts on museums and galleries affected by council amalgamations
 - c) opportunities to revitalise the structure, reach, and impact of museums and galleries, and their research and collecting priorities
 - d) access to the collections of the Museum of Applied Arts and Sciences, the Australian Museum and any other state collections held in trust for the people of New South Wales, and programs that promote physical and online access
 - e) the sale of the Powerhouse Museum site in Ultimo and its proposed move to Parramatta, and whether there are alternative strategies to support museum development
 - f) the development and transparency of advice to the government on priorities for NSW museums and galleries
 - g) the impact of the efficiency dividend on the budgets of museums and galleries over the last 10 years, and funding levels compared to other states
 - h) the economic impact of museums and galleries on cultural tourism, and their role in supporting the visitor economy in Sydney and regional New South Wales
 - i) any other related matter.

2. That the committee report by 28 February 2019.¹

The terms of reference were self-referred by the committee on 23 June 2016.²

¹ The original reporting date was 24 November 2016 (*Minutes*, Legislative Council, 23 June 2016, p 1005). The reporting date was later extended to 23 February 2017 (*Minutes*, Legislative Council, 15 November 2016, p 1297), then to 30 March 2017 (*Minutes*, Legislative Council, 17 November 2016, p 1362), then to 30 April 2017 (*Minutes*, Legislative Council, 9 March 2017, p 1454), then to 15 June 2017 (*Minutes*, Legislative Council, 30 March 2017, p 1503), then to 25 August 2017 (*Minutes*, Legislative Council, 31 May 2017, p 1683) then to 30 November 2017 (*Minutes*, Legislative Council, 9 August 2017, p 1835) then to 1 March 2018 (*Minutes*, Legislative Council, 13 September 2017, p 1884) then to 28 June 2018 (*Minutes*, Legislative Council, 6 March 2018, p 2308) then to 17 October 2018 (*Minutes*, Legislative Council, p 2646), and then to 28 February 2019 (*Minutes*, Legislative Council, 18 September 2018, p 2915).

² *Minutes*, NSW Legislative Council, 23 June 2016, p 1005.

Committee details

Committee members

The Hon Robert Borsak MLC	The Shooters, Fishers and Farmers Party	<i>Chair</i>
Mr David Shoebridge MLC	The Greens	<i>Deputy Chair</i>
The Hon Scott Farlow MLC*	Liberal Party	
The Hon Trevor Khan MLC**	The Nationals	
The Hon Shayne Mallard MLC*	Liberal Party	
The Hon Shaoquett Moselmane MLC	Australian Labor Party	
The Hon Walt Secord MLC*	Australian Labor Party	

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* The Hon Walt Secord MLC substituted for the Hon Lynda Voltz MLC for the duration of the inquiry.

* The Hon Scott Farlow MLC substituted for the Hon David Clarke MLC for the duration of the inquiry.

* The Hon Shayne Mallard MLC substituted for the Hon Catherine Cusack MLC for the duration of the inquiry.

** The Hon Ben Franklin MLC substituted for the Hon Trevor Khan MLC from 23 June 2016 to 7 February 2019. The Hon Trevor Khan MLC replaced the Hon Ben Franklin MLC from 7 February 2019 for the duration of the inquiry.

Chair's foreword

For over two and a half years now, this inquiry has tirelessly pursued the NSW Government's rationale for the 2015 policy decision to relocate the Powerhouse Museum from Ultimo to Parramatta. The extension of this inquiry has been a direct result of the changing nature of the government's proposals for the Powerhouse Museum and the associated confusing public narratives about what the move will actually achieve, what will be built in Parramatta and what will occur with the Ultimo site.

Clearly, it has been extremely challenging for this committee to ascertain what the true driving forces and reasons behind this policy decision are. After much evidence, it seems that the decision to relocate the Powerhouse Museum has been based on poor planning and advice, a flawed business case and insufficient community consultation. Nothing so far has demonstrated the necessity or purpose for relocating this world renowned cultural institution, an institution that is much loved and internationally well regarded.

Given the significance of this project, the lack of detail, analysis and evidence regarding costs and logistics associated with the relocation has been staggering. Add to that a total disregard for Treasury guidelines regarding a cost benefit analysis for the project, and what remains is simply an expensive and unnecessary project built on poor foundations. Given these issues, the committee has recommended that the NSW Government not proceed with the relocation of the Powerhouse Museum from Ultimo to Parramatta. Instead, the NSW Government should focus on restoring the Powerhouse Museum at Ultimo, by providing a significant injection of funding for refurbishment and expansion.

In terms of plans for Western Sydney, the NSW Government should consider establishing a Museum of Applied Arts and Sciences satellite site, and/or establishing a world class cultural institution in Parramatta that reflects its own extraordinary history.

I turn now to serious concerns which have been raised in relation to the management, leadership and culture within the Powerhouse Museum, and the role and authority of the Board of Trustees. These issues came to the forefront recently with a controversial fashion ball fundraising event, which ended up costing more money than it raised, and significantly affected the museum's and Board's reputation. This event, coupled with staffing cuts, declining operations and what may be described as poor leadership and workplace culture, has led the committee to question whether the museum is being managed appropriately, and whether the proposed move has overshadowed the effective and ongoing operation of the museum at its current site.

These issues, and broader concerns the committee has in relation to governance of the arts and culture sector in New South Wales, have led the committee to recommend that in the next Parliament, a Select Committee be established to inquire into and report on the governance of the arts and culture sector in New South Wales, with particular reference to the governance and management of the Powerhouse Museum relocation project.

I would like to thank all participants of this inquiry for their passionate contributions during the past two and a half years. I also would like to thank my fellow committee members for their participation, and the committee secretariat for their hard work and diligence in providing support to the committee.

A handwritten signature in black ink, appearing to read "Borsak", is centered on a light gray rectangular background.

Hon Robert Borsak MLC
Committee Chair

Findings

Finding 1

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That the *Final Business Case for the Powerhouse Museum in Western Sydney Project* did not comply with NSW Treasury's Guide to Cost-Benefit Analysis.

Recommendations

- Recommendation 1** 17
That the NSW Government not proceed with the relocation of the Powerhouse Museum from Ultimo to Parramatta.
- Recommendation 2** 18
That the NSW Government restore the Powerhouse Museum at Ultimo, by providing a significant injection of funding for refurbishment and expansion.
- Recommendation 3** 19
That the NSW Government, instead of relocating the Powerhouse Museum, establish a world class cultural institution in Parramatta that reflects its own extraordinary history.
- Recommendation 4** 19
That the NSW Government consider establishing a Museum of Applied Arts and Sciences satellite site in Western Sydney.
- Recommendation 5** 27
That the NSW Government exempt state-owned museums from the annual efficiency dividend.
- Recommendation 6** 28
That the Legislative Council, in the 57th Parliament, establish a Select Committee to inquire into and report on the governance of the arts and culture sector in New South Wales, with particular reference to the governance and management of the Powerhouse Museum relocation project.

Conduct of inquiry

The terms of reference for the inquiry were self-referred by the committee on 23 June 2016.

The committee received 179 submissions, 64 supplementary submissions and two pro forma submissions, A and B. Variations to pro forma B were also published as a separate document.

The committee held thirteen public hearings: twelve at Parliament House in Sydney and one in the Blue Mountains.

The committee also conducted site visits to the Powerhouse Museum in Ultimo, the Lithgow Small Arms Factory, the Lithgow State Mine Heritage Park and Railway, and the Blue Mountains Cultural Centre.

Inquiry related documents are available on the committee's website, including submissions, hearing transcripts, tabled documents and answers to questions on notice.

Tabling of first report

On 18 December 2017, the committee tabled its first report for this inquiry. The report included 14 recommendations addressing a number of issues, including the proposed relocation of the Powerhouse Museum from Ultimo to Parramatta, support and funding for regional museums and galleries, and the preservation of Aboriginal history, art and culture.

The committee produced its first report so its recommendations could be considered by the government alongside the final business case relating to the relocation of the Powerhouse Museum. A full copy of the first report can be found on the committee's website along with the corresponding NSW Government response.

Access to the Powerhouse Museum relocation project preliminary and final business cases

As noted in the first report, a number of witnesses who were involved in the preparation of the preliminary business case for the proposed relocation of the Powerhouse Museum from Ultimo to Parramatta appeared before the committee at a public hearing on 17 February 2017.³

Most of these witnesses declined to answer certain questions about the preliminary business case on the basis of cabinet confidentiality. Subsequently, the committee sought advice from the Clerk of the Parliaments regarding the power of committees to question witnesses and compel evidence relating to issues subject to claims of cabinet confidentiality, and about how the committee could access relevant documents. A copy of the Clerk's advice was included at appendix 1 of the first report.

The committee resolved to authorise the Chair, on behalf of the committee, to give notice for an order for papers under Standing Order 52 for all documents related to the preliminary business case for the relocation of the Powerhouse Museum. The Chair gave two notices in relation to obtaining these documents pursuant to Standing Order 52, on 23 May 2017 and 15 March 2018, but both notices lapsed after 20 days.⁴

The committee also sought further advice from the Clerk of the Parliaments in relation to whether the committee should pursue the documents related to the preliminary business case via Standing Order 208

³ Portfolio Committee No. 4 – Legal Affairs, NSW Legislative Council, *First Report: Museums and galleries in New South Wales* (2017), p x.

⁴ *Notice Paper*, NSW Legislative Council, 24 May 2017, pp 8802-8803; *Notice Paper*, NSW Legislative Council, 10 April 2018, pp 12831-12832.

(c) *parallel* to seeking them under Standing Order 52, but the committee decided not to pursue the matter at that time. A copy of the Clerk's advice was included at appendix 2 of the first report.

A key development occurred on 12 April 2018, initiated by Mr Shoebridge and after the first inquiry report had been tabled, where an order for papers under Standing Order 52 was passed in the Legislative Council for all documents relating to the preliminary and final business cases for the relocation of the Powerhouse Museum (see appendix 1).⁵

The return to order was received on 26 April 2018. The Executive claimed that no documents covered by the terms of the resolution were held by the following offices: Office of the Premier; Office of the Minister for Arts; Department of Planning and Environment, including Create NSW; Infrastructure NSW; and Department of Premier and Cabinet.⁶

On 5 June 2018, the Legislative Council resolved on the motion of the Leader of the Opposition, the Hon Adam Searle MLC, noting the failure of the NSW Government to comply with three separate orders of the House for the production of documents, including:

- the draft Business Case reviewed by Infrastructure NSW in February 2017, which was referred to on page 3 of the 'Final Business Case Summary: Powerhouse Museum in Western Sydney' published by Infrastructure New South Wales, dated April 2018
- the Final Business Case for the Powerhouse Museum in Western Sydney Project, which was referred to on page 2 of the 'Final Business Case Summary: Powerhouse Museum in Western Sydney' published by Infrastructure New South Wales, dated April 2018; and
- any legal or other advice regarding the scope or validity of the order of the House.⁷

The motion passed by the Legislative Council required these documents to be provided by 9.30am the following day. In addition, the motion also censured the Leader of the Government in the Legislative Council and ordered that, if the documents were not provided, the Leader of the Government would be required to attend in his place at the Table and provide an explanation.

On 6 June 2018, the Clerk of the Parliaments tabled correspondence from the Department of Premier and Cabinet asserting that the documents were subject to cabinet confidentiality, and as such were not required to be provided under Standing Order 52 and were being provided voluntarily on a confidential basis.⁸ Subsequently, a redacted version of the business cases were provided and made public under Standing Order 52.

On 21 June 2018 the House agreed to a motion rejecting both the claim and the documents had been provided voluntarily and the Government's apparent use of the definition of 'Cabinet information' from the *Government Information (Public Access) Act 2009* when responding to orders for papers, noting that

⁵ *Minutes*, NSW Legislative Council, 12 April 2018, p 2442.

⁶ Return to order for papers, 26 April 2018, Powerhouse Museum relocation business case - Correspondence relating to the Powerhouse Museum relocation business case received on Thursday 26 April 2018 from the Secretary of the Department of Premier and Cabinet.

⁷ *Minutes*, NSW Legislative Council, 5 June 2018, pp 2648-2649.

⁸ Return to order for papers, 6 June 2018, Sydney Stadiums business case - Powerhouse Museum relocation business case - Tune report on the out-of-home care system - Correspondence received on Wednesday 6 June 2018 from the Deputy Secretary, Cabinet and Legal, of the Department of Premier and Cabinet.

reliance on this definition is likely to have led to a much broader class of documents being withheld from production to the House. The motion further stated that the House does have the power to require the production of Cabinet documents such as those produced on 8 June and that the test to be applied in determining whether a document falls within this category, is, at a very minimum, that articulated by *Spigelman CJ in Egan v Chadwick*.⁹

While the committee was finally able to access the Final Business Case for the Powerhouse Museum relocation project, it asserts that the Government should have provided these documents sooner to help inform the committee and public about this contentious policy. Failing to be forthcoming with this evidence has directly contributed to the duration of this inquiry process.

⁹ *Minutes*, NSW Legislative Council, 21 June 2018, pp 2796-2799.

Chapter 1 Powerhouse Museum: recent developments

This chapter provides an update on a number of events that have occurred relating to the Powerhouse Museum relocation project since the release of the committee's first report in December 2017. These events include the release of key documents relevant to the project, including the business case summary which was released in April 2018 and the business case itself which was obtained by the Legislative Council in June 2018 via an order for the production of documents.

Key developments since December 2017

- 1.1 In December 2017, this committee released its first report for this inquiry, focusing on the NSW Government's decision to relocate the Powerhouse Museum from Ultimo to Parramatta and a range of other matters relating to the value and funding of cultural institutions, regional museums and galleries and Aboriginal art and culture.
- 1.2 One recommendation of the first report (Recommendation 4) was that the NSW Government release the full business case for the Powerhouse Museum and all assessed proposals to the committee and the community for full public consultation before making a final decision.¹⁰
- 1.3 This recommendation was reasoned on the fact that up until December 2017, the inquiry had been unable to understand the rationale or evidence for the relocation project, given gaps in information relating largely to the logistics and costs of the move and the future of the Ultimo site.
- 1.4 Since the first report, the committee obtained a number of key documents relevant to the NSW Government's plans. This included a summary of the final business case for the relocation of the Powerhouse, which was released in April 2018, and then finally the actual business case, which was only provided to the Legislative Council via an order for the production of documents (see the conduct of inquiry section of this report on pages x-xii).
- 1.5 The committee also received a key report from 2014 which many inquiry participants argued made a good case for the renewal of the Powerhouse Museum rather than relocation. Before these reports are discussed, it is important to note that the Minister for the Arts, the Hon Don Harwin MLC, in September 2018, indicated it was his understanding that by the commencement of the caretaker period on 1 March 2019, there would be no binding agreements for the New South Wales Opposition, if they came into government, to continue with the Powerhouse relocation project.¹¹

¹⁰ Portfolio Committee No. 4 – Legal Affairs, NSW Legislative Council, *First report: Museums and galleries in New South Wales* (2017), pp viii and 36.

¹¹ The caretaker period refers to the period following dissolution of the lower house of Parliament, when the Government assumes a 'caretaker' role. Evidence, Hon Don Harwin MLC, Minister for the Arts, 12 September 2018, p 18; NSW Premier and Cabinet, *M2018-01 2019 State Election - Caretaker Conventions*, <https://arp.nsw.gov.au/m2018-01-2019-state-election-caretaker-conventions>.

Final Business Case Summary: Powerhouse Museum in Western Sydney

1.6 In late April 2018, Infrastructure NSW released a document entitled *Final Business Case Summary: Powerhouse Museum in Western Sydney (Final Business Case Summary)*. This document summarised the final business case for the proposed relocation of the Powerhouse to Parramatta, which was prepared between April and December 2017 by the Cultural Infrastructure Program Management Office within the Arts, Screen and Culture Division of the Department of Planning and Environment but at that stage had not been released. The summary document centred on:

- relocation of the core functions of the Museum of Applied Arts and Sciences (MAAS) from Ultimo to the Riverbank site in Parramatta
- decommission of the existing museum and collection storage
- creation of a new MAAS headquarters focused on Science, Technology, Engineering, Arts and Mathematics (STEAM) exhibits
- new collection storage facilities at Castle Hill.¹²

1.7 In providing context to the NSW Government's decision to relocate the Powerhouse Museum, the *Final Business Case Summary* stated that 'for some years the MAAS has argued that its existing premises at Ultimo includes infrastructure which is reaching the end of its useful life and is no longer for purpose'. It went on to state:

The current premises were designed for 19th and 20th century collections, and have constrained the Museum's capacity to move with the times: competitive contemporary museums require technology, varied spaces and sophisticated building services. The Museum is increasingly struggling to meet its obligations under the MAAS Act to display, conserve, maintain, secure and operationally manage its collections. The Business Case argues that, without fundamental change, this position is expected to deteriorate further.

The relocation of the Powerhouse Museum presents the opportunity for a purpose-built, world class facility which faces none of these challenges and constraints.¹³

1.8 The *Final Business Case Summary* outlined three options for the museum's relocation to Parramatta as outlined below in the following table.

¹² Infrastructure NSW, *Final Business Case Summary: Powerhouse Museums in Western Sydney* (2018), p 2.

¹³ Infrastructure NSW, *Final Business Case Summary: Powerhouse Museums in Western Sydney* (2018), p 4.

Table 1 Options for new Powerhouse Museum at Parramatta¹⁴

Option	Description	Nominal construction cost
Option 1 – "project baseline"	<ul style="list-style-type: none"> • a large-scale touring hall for temporary exhibitions • temporary and permanent galleries for the display of the MAAS collection • dedicated education spaces and spaces for in-residence artists and inventors • a library and research space to enable research and education opportunities • auditorium facilities to host lectures and other public events, and associated food and beverage facilities and visitor amenities. 	\$623 million, or \$488 million in net present value (NPV) terms.
Option 2	<ul style="list-style-type: none"> • all the functionality and features of Option 1 • additional gallery space equivalent in capacity to that of the Powerhouse Museum in Ultimo – that is, 14,830 square metres of exhibition and experience spaces with a total of 18,030 square metres of net museum area (including back of house space). 	\$785 million, or \$615 million in NPV terms.
Option 3	<ul style="list-style-type: none"> • extends the scope of Option 2 through the inclusion of additional attributes identified by the "willingness to pay" survey, including a NSW Planetarium. • 18,000 square metres of exhibition and experience spaces with a total of 21,200 square metres of net museum area (including back of house space). 	\$825 million, or \$641 million in NPV terms.

1.9 The net capital cost to government of the three options ranged from \$433 million for Option 1 to \$645 million for Option 3.¹⁵ It is notable that this cost is only a fraction of the final build cost and does not reflect the real cost of the project, as it excludes the very substantial costs on fit out and other essential matters to turn a bare building shell into a functioning museum. The estimated real cost of the project ranged from \$944 million to \$1.18 billion.

1.10 As the *NSW Treasury Guidelines to Cost-Benefit Analysis* states, a cost benefit analysis is an 'essential part of both a preliminary business case and a final business case'. As part of a cost benefit analysis a 'proposed project, program or policy' should be compared against a base case, that is 'generally a "business as usual" or "no policy change" case, i.e. retain the status quo'.¹⁶

¹⁴ Infrastructure NSW, *Final Business Case Summary: Powerhouse Museums in Western Sydney* (2018), p 6.

¹⁵ Infrastructure NSW, *Final Business Case Summary: Powerhouse Museums in Western Sydney* (2018), p 8.

¹⁶ NSW Treasury, TPP17-03, (2017) *Policy and Guidelines Paper NSW Government Guide to Cost-Benefit Analysis*, p 9.

- 1.11 According to Treasury's Guidelines, a project is considered to be 'potentially worthwhile if the BCR [Benefit Cost Ratio] is greater than one (the present value of benefits is greater than the present value of costs)'.¹⁷ The cost benefit analysis of each option is outlined in the below table.

Table 2 Cost benefit analysis¹⁸

Cost Benefit Analysis Outputs - Present Value – 6.88% Discount Rate - (\$FY18, \$m)			
	Option 1	Option 2	Option 3
Costs			
Construction costs	\$488.0	\$615.0	\$640.5
Life cycle costs	\$30.3	\$38.9	\$42.5
Project operating costs	\$25.4	\$25.4	\$25.4
New Museum operating costs	\$285.5	\$310.8	\$355.9
Land acquisition	\$115.0	\$115.0	\$115.0
Total costs	\$944.2	\$1,105.2	\$1,179.3
Benefits			
Consumer benefits	\$415.9	\$426.8	\$466.6
Producer surplus	\$164.7	\$132.4	\$174.1
Education benefits	\$31.0	\$31.0	\$31.0
Residual asset value	\$42.2	\$57.3	\$62.6
Revenue benefits	\$378.1	\$378.3	\$472.7
Total benefits	\$1,031.9	\$1,025.8	\$1,207.0
Outputs			
Net benefit	\$87.7	(\$79.4)	\$27.7
Benefit cost ratio	1.09	0.93	1.02

- 1.12 According to community research undertaken by Infrastructure NSW for the *Final Business Case Summary*, 'important features' identified by community participants for the relocated museum were 'programming focused on space travel, science, technology and engineering, as well as screen-based culture, applied arts and mathematics'.¹⁹ The *Final Business Case Summary* also claimed there was 'strong consumer support for the inclusion in the relocated Museum of a Planetarium'.²⁰
- 1.13 The *Final Business Case Summary* explained that the 'ability to partially offset the Project's costs by divesting a portion of the [Parramatta] Riverbank site to facilitate residential development' was integral to the Business Case and financial analysis.²¹
- 1.14 Infrastructure NSW said in the *Final Business Case Summary* that 'on the basis of its independent review and the further work undertaken, Infrastructure NSW is satisfied that the Business Case provides a sound basis for Ministerial decision-making on a preferred option'.²²

¹⁷ NSW Treasury, TPP17-03, (2017) *Policy and Guidelines Paper NSW Government Guide to Cost-Benefit Analysis*, p 47.

¹⁸ Infrastructure NSW, *Final Business Case Summary: Powerhouse Museums in Western Sydney* (2018), p 8.

¹⁹ Infrastructure NSW, *Final Business Case Summary: Powerhouse Museums in Western Sydney*, (2018), p 5.

²⁰ Infrastructure NSW, *Final Business Case Summary: Powerhouse Museums in Western Sydney* (2018), p 5.

²¹ Infrastructure NSW, *Final Business Case Summary: Powerhouse Museums in Western Sydney* (2018), p 6.

²² Infrastructure NSW, *Final Business Case Summary: Powerhouse Museums in Western Sydney* (2018), p 3.

- 1.15 After the summary was released, on 28 April 2018, the Hon Gladys Berejiklian MP, Premier, announced that the Powerhouse Museum would 'completely relocate to stunning new premises in Parramatta and accommodate Australia's largest and most advanced planetarium'.²³
- 1.16 When questioned about community support for a proposed planetarium, Mr Craig Limkin, Executive-Director, Cultural Infrastructure Program Management Office, Arts, Screen and Culture Division, NSW Department of Planning and Environment, advised that research undertaken in July 2017 'demonstrated strong consumer support for the inclusion of a Planetarium at Parramatta from both residents of Western Sydney and broader sample across NSW. An additional sample was collected from 500 Western Sydney households to model what was important to this group'.²⁴
- 1.17 Inquiry participants were critical of the contents of the *Final Business Case Summary* and of the government for not releasing the full business case initially.²⁵
- 1.18 According to the Powerhouse Museum Alliance, the *Final Business Case Summary* 'significantly fails to represent the costs and the offsets of the "move" of the Powerhouse Museum to Parramatta and the repurposing of the Ultimo site currently occupied by the Museum'.²⁶
- 1.19 The Powerhouse Museum Alliance also argued that the *Final Business Case Summary* 'provides no justification whatever for the "move" ... The size and location of the proposed Parramatta site pose severe problems and the proposition that a planetarium be associated with the museum is very poorly justified'.²⁷
- 1.20 When questioned as to whether the three options outlined in the *Final Business Case Summary* complied with guidelines for capital business cases, Ms Kylie Winkworth, Member, Powerhouse Museum Alliance, was of the view that it did not comply and appeared to have been breached 'because the option of staying at Ultimo was never seriously considered or costed, nor was the option of keeping Ultimo and developing a new museum at Parramatta considered'.²⁸

Final Business Case for the Powerhouse Museum in Western Sydney Project

- 1.21 Following the release of the *Final Business Case Summary*, in early April 2018, the NSW Legislative Council pursued and eventually obtained the *Final Business Case for the Powerhouse Museum in Western Sydney Project* via an order for the production of documents under Standing Order 52. This is discussed in detail in the conduct of inquiry section on pages x-xii.

²³ Media release, Hon Gladys Berejiklian MP, Premier, 'Western Sydney becomes a cultural powerhouse', 28 April 2018.

²⁴ Answers to questions on notice, NSW Department of Planning and Environment, 18 February 2019, p 4.

²⁵ See for example, Supplementary submission 96d, Dr Grace Cochrane; pp 1-7; Supplementary submission 137d, Mr Tom Lockley, p 3; Supplementary submission 142g, Ms Jennifer Sanders, pp 1 and 6; Supplementary submission 149f, Ms Kylie Winkworth, pp 1-4; Supplementary submission 167a, Powerhouse Museum Alliance, pp 1-8.

²⁶ Supplementary submission 167a, Powerhouse Museum Alliance, p 1.

²⁷ Supplementary submission 167a, Powerhouse Museum Alliance, p 1.

²⁸ Evidence, Ms Kylie Winkworth, Member, Powerhouse Museum Alliance, 12 September 2018, p 10.

- 1.22** The Hon Don Harwin MLC, Minister for the Arts, stated that the *Final Business Case for the Powerhouse Museum in Western Sydney Project* 'demonstrate[s] the rigour that underpinned the whole process ... [and] this decision is the most fiscally and responsible way to proceed'.²⁹
- 1.23** The Minister said '[i]t was critical that the Government investigate the costs and benefits of all options before it made a final decision on such an important investment for our State'.³⁰
- 1.24** When questioned as to why the final business case did not include a 'do nothing' or 'status quo' base case option, as per NSW Treasury's Guidelines for Capital Business Cases, Mr Limkin told the committee that NSW Treasury had approved the base case as being the government's decision to relocate the Powerhouse Museum which was also signed off by Infrastructure NSW through their six assurance processes.³¹
- 1.25** Mr Mike Baird, former Premier, stated that the NSW Government did not compare the costs of refurbishing the Ultimo site with the costs of relocation due to the 'growing deficit of cultural infrastructure in the west' as observed by Infrastructure NSW. He added that as Infrastructure NSW provided a 'strong case for relocating it [the museum] to the west' the NSW Government endorsed that decision.³² Mr Baird noted that the government considered other alternatives such as a Powerhouse Museum branch or satellite site in Western Sydney as a 'second-best option' with Mr Baird being of the view that 'it was about time that Western Sydney got the best'.³³
- 1.26** During evidence in September 2018, Minister Harwin also explained to the committee that a final business case for the future use of Ultimo was being completed to 'enable financial investment decisions about the site to be taken by the Government later in the year'.³⁴
- 1.27** According to the Museum of Applied Arts and Sciences website, as of 15 February 2019, 'a masterplan for a creative industries precinct in Ultimo [was] being developed, subject to a Final Business Case due to government in 2019'.³⁵
- 1.28** In relation to the Ultimo site, Mr Limkin, told the committee that, as at February 2019, no contract had been signed for the sale of any part of the site, or any option for it to be sold, and that there were no negotiations for any such option.³⁶
- 1.29** In relation to the new museum site in Parramatta, the committee received evidence about plans to include residential development. The Department of Planning and Environment clarified that of the two hectares assigned to the new museum in Parramatta, the 'proposed footprint of the

²⁹ Evidence, Minister Harwin, 12 September 2018, p 16.

³⁰ Evidence, Minister Harwin, 12 September 2018, p 16.

³¹ Evidence, Mr Craig Limkin, Executive-Director, Cultural Infrastructure Program Management Office, Arts, Screen and Culture Division, NSW Department of Planning and Environment, 12 September 2018, p 20; NSW Treasury, *Guidelines for Capital Business Cases: Office of Financial Management Policy & Guidelines Paper* (2008), p 16.

³² Evidence, Mr Mike Baird, former Premier of NSW, 28 May 2018, p 29.

³³ Evidence, Mr Baird, 28 May 2018, p 31.

³⁴ Evidence, Minister Harwin, 12 September 2018, p 17.

³⁵ Museum of Applied Arts and Sciences, *FAQ What is the project timeline for the Parramatta and Ultimo sites?* <https://new.maas.museum/faq/>

³⁶ Evidence, Mr Limkin, 11 February 2019, p 25.

private development on the Riverbank site is 2100-2500 square metres, or around 10-12.5 per cent of the total area'.³⁷

1.30 The department further explained that the 'exact footprint of the residential development may be subject to some adjustment as the site acquisition, design process and final plan for the tower are developed further. The exact placement of the tower has not been finalised'.³⁸

1.31 When questioned as to whether there was any other example of an existing cultural facility being co-located with residential development, the Minister responded that the Museum of Modern Art (MoMA) in New York also 'incorporates residential tower blocks comparable in height to the proposed tower at Parramatta':

In 1984, MoMA embarked on a major expansion which included the construction of a residential tower using the air rights over new galleries. The 56-storey Museum Tower was built as a revenue-producing element to support the operating expenses of MoMA. More recently, an 82-storey residential tower, known as 53W53 or the MoMA Tower, is being finalised adjacent to MoMA.³⁹

1.32 The committee also heard from the City of Parramatta in relation to the securing of the Riverbank site for the museum. As noted in the first report, a Heads of Agreement between the City of Parramatta and the NSW Government was signed in July 2017, denoting the government's commitment to the 'relocation of the Powerhouse Museum or to the establishment of a major new cutting-edge science and innovation museum to be operated by the Museum of Applied Arts and Sciences, which will be its flagship campus'.⁴⁰ It was also noted that before any aspect of the Heads of Agreement could proceed, the final business case needed to be approved.⁴¹

1.33 Two former employees of the City of Parramatta, Mr Greg Dyer, former Chief Executive Officer, and Mr Craig Becroft, former Chief Financial Officer, clarified that the City of Parramatta had 'no involvement in the museum business case'.⁴² Mr Becroft inferred that the council was not in partnership with the state government regarding the relocation.⁴³

1.34 The only dealings City of Parramatta had with the NSW Government was concerning the Old David Jones carpark site, which through negotiations with Property NSW, was sold to the NSW Government for the construction of the new Powerhouse Museum: 'We were not asked for our input; our input was selling a piece of land [to the state government]'.⁴⁴

³⁷ Answers to questions on notice, NSW Department of Planning and Environment, 9 October 2018, p 5.

³⁸ Answers to questions on notice, NSW Department of Planning and Environment, p 5.

³⁹ Answers to questions on notice, NSW Department of Planning and Environment, p 6.

⁴⁰ Evidence, Ms Amanda Chadwick, Administrator, City of Parramatta, 29 August 2017, p 11; Portfolio Committee No. 4 – Legal Affairs, *First report: Museums and galleries in New South Wales*, p 18.

⁴¹ Portfolio Committee No. 4 – Legal Affairs, *First report: Museums and galleries in New South Wales*, p 18.

⁴² Evidence, Mr Greg Dyer, former Chief Executive Officer, City of Parramatta, 28 May 2018, p 8; Evidence, Mr Craig Becroft, former Chief Financial Officer, City of Parramatta, 28 May 2018, p 8.

⁴³ Evidence, Mr Becroft, City of Parramatta, 28 May 2018, p 8.

⁴⁴ Evidence, Mr Becroft, 28 May 2018, p 8.

- 1.35** When questioned if the land sale contract between City of Parramatta and the NSW Government specified the Museum of Applied Arts and Sciences as the intended building on the site, Mr Dyer told the committee it was not:

We were keen to be quite specific that it should be the Museum of Applied Arts and Sciences rather than another institution but in the end we agreed to insert into the contract that there should be an iconic internationally acclaimed museum on the site.

...

I think they wanted to retain flexibility for themselves.⁴⁵

Concerns about the final business case

- 1.36** Concerns were raised about the final business case and the many perceived flaws it contained relating to the relocation, including cost, size of the new site, demonstrated demand for the project, and logistics of the relocation.

- 1.37** Ms Kylie Winkworth, Member, Powerhouse Museum Alliance, asserted that the final business case papers revealed that the relocation project was not based on any 'demonstrated infrastructure demand'. She argued that the project was 'poor value for money' considering the project involved 'no less than the demolition of a major State museum and its moving to demonstrably smaller, less accessible and inferior facilities'.⁴⁶

- 1.38** Ms Winkworth expressed the view that the final business case 'reveal[ed] a disdain for the basic principles and practice of museum planning' and was:

...essentially a property play masquerading as a museum project ... most of the papers are about property development. There is scant material on what the new museum of Western Sydney is about. It does not even have a name or a compelling concept.⁴⁷

- 1.39** According to Ms Winkworth, who has nearly 40 years of museum experience, the relocation of the Powerhouse Museum is the 'only museum project that has not arisen from demonstrated community need and grassroots passion'.⁴⁸

- 1.40** Dr Lindsay Sharp, Member, Powerhouse Museum Alliance, considered the final business case to be 'inadequate and misleading', and provided the example of the contradictory nature in which the same document referred to consolidated revenue for the museum: 'in early pages it says, "No consolidated revenue increase to the museum will be sought". Later it requests a review be undertaken of the new museum's consolidated revenue'.⁴⁹

⁴⁵ Evidence, Mr Dyer, 28 May 2018, pp 15-16.

⁴⁶ Evidence, Ms Winkworth, 12 September 2018, p 2.

⁴⁷ Evidence, Ms Winkworth, 12 September 2018, p 3.

⁴⁸ Evidence, Ms Winkworth, 12 September 2018, p 3.

⁴⁹ Evidence, Dr Lindsay Sharp, Member, Powerhouse Museum Alliance, 12 September 2018, p 6.

- 1.41 Dr Sharp also claimed that the cost of the relocation project, despite Cabinet approving the project at a cost of \$855 million, was 'actually worth ... at least \$1.25 billion on the Minister's own figures, which were carefully deconstructed to be effectively hidden from view'.⁵⁰
- 1.42 Dr Sharp explained that the final business case did not emphasise the \$140 million site acquisition cost, the cost of flood mitigation, or the cost for the new Ultimo cultural presence 'devoted to architecture, design and frocks and a lyric theatre ... nominally costed at \$385 million'.⁵¹
- 1.43 Further, Dr Sharp argued that the final business case did not consider any other site options for the new museum other than 'relatively minor variations for the Parramatta Riverbank site thus evading and denigrating basic Treasury rules governing options appraisal'.⁵²
- 1.44 Moreover, Dr Sharp highlighted that community consultation regarding the relocation of the Powerhouse Museum was conducted 'in a singular month, July 2017' with no reference as to:
- ...how comprehensive and in what way this [research] ... was undertaken; nor precisely which communities and potential market segments were engaged with and interrogated; the range of options presented ... or the breadth and depth of the research or the broader contexts within which the research and analysis were set.⁵³
- 1.45 Dr Sharp was of the view that this type of research cannot 'be properly undertaken in a month or even six months but requires sustained, strategic research in dozens of moderated sessions'.⁵⁴

Release of 2014 Final Business Case for the Renewal of the Powerhouse Museum

- 1.46 During a hearing in September 2018, the committee questioned Minister Harwin about a 2014 report which the NSW Government may have relied upon to support the government's policy decision to relocate the Powerhouse Museum.⁵⁵
- 1.47 The report was completed by Ernst and Young for the Powerhouse Museum and was used to assist with the preparation of a business case for the renewal of the museum.⁵⁶ During a hearing with the committee, Minister Harwin agreed to make this report public, declaring that the report 'shows ... indisputably why we are doing the right thing, because the Powerhouse Museum is just not fit for purpose at its current site at Ultimo'.⁵⁷
- 1.48 The report, entitled *Final Business Case for the Renewal of the Powerhouse Museum*, put forward the case for the renewal of the Powerhouse Museum as a means to 'ensure its long term economic

⁵⁰ Evidence, Dr Sharp, 12 September 2018, p 7.

⁵¹ Evidence, Dr Sharp, 12 September 2018, p 7; Supplementary submission 148q, Dr Lindsay Sharp, p 2.

⁵² Supplementary submission 148q, Dr Lindsay Sharp, p 4.

⁵³ Supplementary submission 148q, Dr Lindsay Sharp, p 9.

⁵⁴ Supplementary submission 148q, Dr Lindsay Sharp, p 8.

⁵⁵ Evidence, Minister Harwin, 12 September 2018, p 21.

⁵⁶ Evidence, Minister Harwin, 12 September 2018, p 21; Museum of Applied Arts and Sciences, *Final Business Case for the Renewal of the Powerhouse Museum*, October 2014, p 22.

⁵⁷ Evidence, Minister Harwin, 12 September 2018, p 21.

sustainability and restore its reputation as a leading global museum brand'.⁵⁸ It argued that the museum as it currently stood lacked presence, was uninviting and did not deliver a contemporary cultural experience.⁵⁹

1.49 The MAAS was of the view that a renewed museum would fulfil the following objectives:

- achieve high patronage and a direct and positive impact to the economy of NSW
- ensure appropriate storage and display for one of the world's most significant collections
- attract high profile exhibitions and events
- re-establish MAAS' role as a key partner to deliver educational outcomes of Australian students
- regain global standing as the leading Museum of Applied Arts and Sciences
- provide experiences and services that enrich the lives of our customers and their communities
- create an economically sustainable operating model for the Museum
- capitalise on the once-in-a-generation renewal of the surrounding cultural precinct
- ensure fit-for-purpose facilities.⁶⁰

1.50 The *Final Business Case for the Renewal of the Powerhouse Museum* considered a short list of four options (including the base case) from a total of seven options that explored either refurbishment or redevelopment options for the museum, as outlined in the following tables.

⁵⁸ Museum of Applied Arts and Sciences, *Final Business Case for the Renewal of the Powerhouse Museum* (2014), p 9.

⁵⁹ Museum of Applied Arts and Sciences, *Final Business Case for the Renewal of the Powerhouse Museum* (2014), p 8.

⁶⁰ Museum of Applied Arts and Sciences, *Final Business Case for the Renewal of the Powerhouse Museum* (2014), pp 3 and 9.

Table 3 Key elements associated with the options identified⁶¹

Option	Comply with BCA requirements	Refurbish the Turbine / Boiler / Engine Houses	Divest Harwood site	Re-orientate Museum entrance to front Hay Street	Demolish and rebuild Wran Building	Renew Harwood site	Divest entire Ultimo site and relocate
Option 1 (Base Case)	✓						
Option 2	✓	✓		✓			
Option 3	✓	✓	✓	✓			
Option 4	✓	✓		✓			
Option 5	✓	✓	✓	✓	✓		
Option 6	✓	✓		✓	✓	✓	
Option 7	✓		✓				✓

Table 4 Short-listed options for renewal of the Powerhouse Museum⁶²

Option	Description
Project Option 1: Base Case – Do Minimum	Basic compliance works to make Museum and Harwood building safer for staff and customers
Project Option 4: Refurbish and re-orientate	Refurbish the Turbine / Boiler / Engine Houses, re-orientate the entry of the Museum to front Hay Street and leave the balance of the site 'As Is'
Project Option 5: Refurbish, re-orientate and sell Harwood	Refurbish the Turbine / Boiler / Engine Houses, re-orientate the entry of the Museum to front Hay Street, demolish the Wran Building and sell the Harwood Building
Project Option 6: Refurbish, re-orientate and renew Harwood	Refurbish the Turbine / Boiler / Engine Houses, re-orientate the entry of the Museum to front Hay Street, demolish and rebuild the Wran Building and renew the Harwood Building. Option 6 aligns with the functional requirements of the Museum, as described in Section 3.3.

1.51 Importantly, the *Final Business Case for the Renewal of the Powerhouse Museum* noted that relocation of the Powerhouse Museum was 'not a viable project option for further consideration'. This was based on the view that relocating the museum would result in adverse effects on international, national and local patronage and resulting revenue loss. Other impacts noted included:

- community backlash stemming from MAAS' strong and important historical connection to the Ultimo and Pyrmont precincts as well as the City of Sydney
- the loss of synergies that the Museum's relationship with educational, digital and technological partners in Ultimo that have strengthened and are central to the Museums core functions as a Museum of technology and learning being diminished

⁶¹ Museum of Applied Arts and Sciences, *Final Business Case for the Renewal of the Powerhouse Museum* (2014), p 52.

⁶² Museum of Applied Arts and Sciences, *Final Business Case for the Renewal of the Powerhouse Museum* (2014), p 11.

- the loss of significance and difficulty in repurposing the Museum's cultural and heritage assets that capture and interpret its relationship to the neighbourhood and local community
- without a greenfield site option moving away from the Ultimo site is unlikely to be any more cost-effective than Options 4 or 5 without extensive investment
- it will likely be difficult to identify property which provides enough space for both the Museum and the storage of its collection (otherwise it would be required to incur additional costs of transportation to move the collection to and from the Museum)
- the extensive precinct development and significant Tourism centre that becomes easily accessible to the Museum underpins the commercial strategy for the Museum to become financial more independent, moving away from the existing site will eliminate the Museum's opportunity to improve its performance financially
- the Museum is currently the only cultural infrastructure on the inner western Sydney side of George Street.⁶³

1.52 Instead, it was proposed that a 'second satellite facility in a precinct such as Parramatta is worth due consideration as a separate project'. However, the *Final Business Case for the Renewal of the Powerhouse Museum* stressed that this second facility in a precinct such as Parramatta 'must be a satellite from a central and revitalised Museum. For example, an interactive science centre rather than a collection based approach would be more appropriate to the market'.⁶⁴

1.53 Mr Andrew Grant, Transport Heritage Consultant, while acknowledging the many faults of the *Final Business Case for the Renewal of the Powerhouse Museum*, stressed that it did 'make a case to retain the Museum on its Ultimo site'. However, he argued that this has been ignored by the NSW Government as a result of its 'single-minded determination to sell the site and move the Museum to Parramatta'.⁶⁵

Criticisms of the Final Business Case for the Renewal of the Powerhouse Museum

1.54 A number of inquiry participants criticised the *Final Business Case for the Renewal of the Powerhouse Museum* for containing inaccurate information about the condition of the Powerhouse Museum.

1.55 The committee heard that the *Final Business Case for the Renewal of the Powerhouse Museum* was a 'quick and ill-informed project plan to renew the Powerhouse by selling off the Harwood Building' in which no professional staff were consulted. Furthermore, '[v]ery minor environmental and building issues were seriously exaggerated in an attempt to extract a large amount of money from government'.⁶⁶

⁶³ Museum of Applied Arts and Sciences, *Final Business Case for the Renewal of the Powerhouse Museum* (2014), pp 54-55.

⁶⁴ Museum of Applied Arts and Sciences, *Final Business Case for the Renewal of the Powerhouse Museum* (2014), p 54.

⁶⁵ Supplementary submission 105b, Mr Andrew Grant, p 2.

⁶⁶ *In camera* evidence, Witness B, 11 February 2019, p 12, published by resolution of the committee.

- 1.56 Mr Grant explained that the *Final Business Case for the Renewal of the Powerhouse Museum*, while claiming that the 'existing infrastructure/facilities are not fit for purpose' did not offer specific examples to illustrate why this was so.⁶⁷
- 1.57 Mr Brad Baker, Exhibition Consultant, opposed the report's statement that the Powerhouse Museum 'has not had a significant upgrade or capital investment' since 1988. He informed that, indeed since its opening, the museum had regularly replaced and upgraded the exhibitions and galleries as technology and society changed. Although, Mr Baker noted that this process of regular replacement appeared to have 'largely stalled' over the past 10 years.⁶⁸
- 1.58 Mr Baker also observed that the *Final Business Case for the Renewal of the Powerhouse Museum* did not look at 'what could be done to stabilise and refresh the existing building structure' through means of 'effective building and services refurbishment and major new exhibitions'.⁶⁹
- 1.59 Ms Jennifer Sanders, Member, Powerhouse Museum Alliance, objected to claims in the *Final Business Case for the Renewal of the Powerhouse Museum* that the museum has become financially unsustainable due to deteriorating patronage which has in turn 'driven deteriorating financial performance'.⁷⁰
- 1.60 Ms Sanders expressed the view that the decline in visitation over the last decade was a result of a 'decrease in programs and exhibitions targeting family audiences, and a decrease in the number of exhibitions overall'. She added that 'questionable physical alterations' were also made within the museum during this period.⁷¹
- 1.61 Similar sentiments were expressed by Mr Baker who observed that the report 'failed to mention that between 2009 and 2013 large parts of the museum were a construction site and many major galleries were closed and many other exhibitions were removed'.⁷²

Powerhouse Precinct at Parramatta International Design Competition

- 1.62 On 24 January 2019, the international design competition for the new Museum of Applied Arts and Sciences at Parramatta, known as the Powerhouse Precinct at Parramatta, was launched.⁷³ It is anticipated that this competition process will 'secure the best designer for the new Museum of Applied Arts and Sciences'.⁷⁴

⁶⁷ Supplementary submission 105b, Mr Andrew Grant, p 4.

⁶⁸ Evidence, Mr Brad Baker, Exhibition Consultant, 11 February 2019, p 2.

⁶⁹ Evidence, Mr Baker, 11 February 2019, p 3.

⁷⁰ Museum of Applied Arts and Sciences, *Final Business Case for the Renewal of the Powerhouse Museum* (2014), p 7; Supplementary submission 142h, Ms Jennifer Sanders, p 5.

⁷¹ Supplementary submission 142h, Ms Jennifer Sanders, pp 4-5.

⁷² Evidence, Mr Baker, 11 February 2019, p 2.

⁷³ Evidence, Mr Craig Limkin, Executive-Director, Cultural Infrastructure Program Management Office, Arts, Screen and Culture Division, NSW Department of Planning and Environment, 11 February 2019, p 24.

⁷⁴ Evidence, Mr Limkin, 11 February 2019, p 24.

- 1.63** Both Minister Harwin and Professor Barney Glover, President, Board of Trustees, Museum of Applied Arts and Sciences informed that Malcolm Reading Consultants had been appointed to organise the international design competition for the new museum at Parramatta.⁷⁵
- 1.64** Mr Limkin informed that the budget in the design brief for the base build is \$400 million.⁷⁶
- 1.65** He also explained that the international design competition process would consist of two stages which had been agreed to by the project steering committee, approved by the Minister for Arts and endorsed by the Australian Institute of Architects:
- The first stage of the competition is an expression of interest and we are asking firms to submit information on their experience and capability as well as their design approach to the project and proposed creative teams ... This is intended to encourage a wide range of firms to enter and reduce costs for competitors. International firms are required to identify an Australian architect to partner with as part of their stage 1 competition. However, Australian architects are free to enter independently if they wish.⁷⁷
- 1.66** Mr Limkin advised that stage one of the design competition will close on 18 March 2019 with applications for the design teams to be assessed by a panel that is chaired by Naomi Milgrom AO, Australian business leader and philanthropist.⁷⁸
- 1.67** The second stage of the design competition is 'when a design response is required to be prepared by the shortlisted firms. Competitors at this stage of the competition are paid and asked to prepare a concept design'.⁷⁹
- 1.68** Although, Mr Limkin qualified that '[s]hould an incoming government decide to proceed with the project, it is envisaged that the second stage' would be in the second half of 2019.⁸⁰
- 1.69** The government's plans for the proposed new facility includes having a large apartment tower on the museum site. This is despite the fact that the MAAS Board wrote to the government on 1 September 2016 and made it clear that their support for the project was contingent on the site being a stand-alone museum not compromised by other uses. That letter stated in part as follows:
- the 'whole site' option is required, unencumbered by other commercial developments, in order to realise an architecturally iconic, world-class flagship Museum;
 - the New Museum will improve the exhibition and programs we presently provide the people of NSW, and not diminish the scale and scope of the museum, or opportunities we are able to provide to our audiences that are currently afforded at Ultimo; and

⁷⁵ Evidence, Minister Harwin, 12 September 2018, p 17; Evidence, Professor Barney Glover, President, Board of Trustees, Museum of Applied Arts and Sciences, 16 November 2018, p 16.

⁷⁶ Evidence, Mr Limkin, 11 February 2019, p 25.

⁷⁷ Evidence, Mr Limkin, 11 February 2019, p 24.

⁷⁸ Evidence, Mr Limkin, 11 February 2019, p 21; Malcolm Reading Consultants Limited, *Powerhouse Precinct at Parramatta International Design Competition Naomi Milgrom AO*, <https://competitions.malcolmreading.com/maasparramatta/naomi-milgrom-ao>

⁷⁹ Evidence, Mr Limkin, 11 February 2019, p 24.

⁸⁰ Evidence, Mr Limkin, 11 February 2019, p 24.

- sufficient funding is provided by the NSW Government in order for us to meet these requirements, as well as effectively and safely transition our collection and operations to the new site.⁸¹

1.70 Further the design brief itself gives little or no regard to the essential feature of the Powerhouse, which is its extraordinary collection of objects that help us to define our history. Given this, it is hard to understand how the only "detailed" consideration of the Powerhouse's collection in that design brief is the following comment:

THE COLLECTION

The collection now comprises more than 500,000 objects, including a 1785 Boulton and Watt steam engine that features on the UK £50 note, and the Catalina flying boat that made the first flight across the South Pacific to South America in 1951.⁸²

Committee comment

1.71 The design of the proposed new museum is already showing similar flaws to the rest of this very poorly conducted project. The proposed new building fails to comply with the minimum requirements of the Museum of Applied Arts and Sciences' own board, which of itself should see the project halted. Further, the design brief does not provide the focus, or information, needed to understand the real treasure of the Powerhouse, which is its unparalleled collection of artefacts and objects.

Renewing the Powerhouse Museum at Ultimo

1.72 Several inquiry participants submitted that the Powerhouse Museum, with reinvestment and revitalisation, could remain at Ultimo and return to its former state as a world renowned cultural institution.

1.73 Ms Sanders insisted that the Powerhouse Museum could remain at its existing Ultimo site and be revived through a 'considered program of staged capital works, an invigorated audience focussed exhibition program and, a long overdue maintenance program for less than a quarter of the \$500 [million] the government asserted that renewal of the Museum would now cost'.⁸³

1.74 Likewise, Mr Baker argued that what the Powerhouse Museum needs is investment not relocation and that 'high-quality exhibitions will again bring the punters back to the Ultimo site'.⁸⁴

1.75 Mr Baker highlighted that the *Final Business Case for the Renewal of the Powerhouse Museum* referred to the fact that it is 'beautifully located in a very active area of Sydney and that it is a great

⁸¹ Answers to question on notice, Professor Barney Glover, President, Board of Trustees, Museum of Applied Arts and Sciences, 17 November 2016, p 11.

⁸² Malcolm Reading Consultants, *Powerhouse Precinct at Parramatta International Design Competition, Search Statement*, (2019) p 22.

⁸³ Supplementary submission 142h, Ms Jennifer Sanders, p 2.

⁸⁴ Evidence, Mr Baker, 11 February 2019, p 3.

location for a museum or a major cultural facility in partnership with the other major cultural facilities around the centre of Sydney'.⁸⁵

- 1.76 While Mr Baker strongly supported the idea of a new cultural facility in Parramatta he did not 'believe that it is conditional on dismantling and moving the Powerhouse Museum'.⁸⁶
- 1.77 Likewise, Dr Grace Cochrane, questioned why the Powerhouse Museum, which is 'long-established and well-regarded ... albeit destructively underfunded in recent years' needed to be 'reconceived as a "new museum, with a different focus, and in a different place?".⁸⁷ She argued that if 'adequate refurbishment and development capital and recurrent staffing and program investment' was provided to the Powerhouse Museum it could 'stay where it is known, wanted and needed'.⁸⁸
- 1.78 Dr Cochrane also questioned why Parramatta could not 'develop its own gallery and museum like other regional city centres, especially when constituents are asking for both historical and contemporary local-content cultural institutions'.⁸⁹

Committee comment

- 1.79 This inquiry has been protracted because of the changing nature of the government's proposals for the Powerhouse Museum. Changes in Minister and Premier as well as the confusing public narratives about the relocation of the Powerhouse Museum have made it necessary for the committee to hold a number of public hearings and to recall a number of key witnesses.
- 1.80 Since this inquiry commenced in June 2016, there has been a lack of clear evidence to support the NSW Government's plans to relocate the Powerhouse Museum from Ultimo to Parramatta. The rationale for the project is problematic, and there are ongoing concerns about the potential costs involved in the relocation and whether the move represents value for money. There is also serious concerns about how historic and important collections will be preserved.
- 1.81 As noted in the committee's first report, there has also been a lack of genuine community consultation about the project in both Ultimo and Parramatta, and serious questions raised as to the appropriateness of the Parramatta riverbank site for a museum, given its size, accessibility and risk of flooding.
- 1.82 Adding to the list of concerns the committee has regarding this project is the *2014 Final Business Case for the Renewal of the Powerhouse Museum*, which stressed that the relocation of the Powerhouse Museum was not a viable project option. The committee is perplexed by what changed over the course of 2014-2015 for the government to totally disregard a key conclusion of this report, given it was focused on refurbishing the museum rather than moving it. The committee notes that this report unequivocally stated that relocation of the Powerhouse Museum was 'not a viable project option for further consideration'.

⁸⁵ Evidence, Mr Baker, 11 February 2019, p 6.

⁸⁶ Evidence, Mr Baker, 11 February 2019, p 6.

⁸⁷ Supplementary submission 96d, Dr Grace Cochrane, p 1.

⁸⁸ Supplementary submission 96d, Dr Grace Cochrane, p 7.

⁸⁹ Supplementary submission 96d, Dr Grace Cochrane, p 1.

- 1.83 Further, the committee is unable to understand why the 2018 *Final Business Case for the Powerhouse Museum in Western Sydney Project* did not include a status quo or 'do nothing' baseline option for consideration and comparison, which is required under Treasury guidelines. It is perplexing as to why the Powerhouse Museum relocation project is being treated as an 'exception to the rule' by NSW Treasury in relation to its own guidelines for assessing public infrastructure projects. The committee finds that the *Final Business Case for the Powerhouse Museum in Western Sydney Project* did not comply with NSW Treasury's Guide to Cost-Benefit Analysis. Given this, the committee considers that the *Final Business Case* was fundamentally flawed.

Finding 1

That the *Final Business Case for the Powerhouse Museum in Western Sydney Project* did not comply with NSW Treasury's Guide to Cost-Benefit Analysis.

- 1.84 The evidence we have seen makes it quite clear that the *Final Business Case* was not a genuine attempt to determine the pros and cons of moving the Powerhouse to Parramatta. Instead it was a political document designed to justify, at any cost, the fundamentally flawed decision that the government had already taken to move the Powerhouse. This is highlighted by the fact that no attempt whatsoever was made in the 2018 *Final Business Case for the Powerhouse Museum in Western Sydney Project* to address the long list of carefully drafted reasons given for leaving the Powerhouse exactly where it is.
- 1.85 These kinds of actions by government undermine trust in the integrity of government decision-making and have undermined any remaining public trust in this damaging proposal.
- 1.86 The committee is of the view that if it was not for the release of the *Final Business Case for the Powerhouse Museum in Western Sydney Project* prompted by proceedings in the Legislative Council, the committee and the public would still be unaware of the exact costs and details relating to the relocation project.
- 1.87 Consistent with our first report, the committee remains unconvinced that the relocation of the Powerhouse Museum to Parramatta is necessary, represents good value for money, fulfils the needs of the people of Western Sydney, or responds to the various concerns voiced by passionate stakeholders who have come before this inquiry.
- 1.88 The committee reiterates its views in the first report that we cannot see how the social or economic benefits of moving the Powerhouse Museum from its existing site to Parramatta would outweigh the value of retaining a world renowned cultural institution that contains such important collections in the heart of Sydney. The committee therefore recommends that the NSW Government not proceed with the relocation of the Powerhouse Museum from Ultimo to Parramatta.

Recommendation 1

That the NSW Government not proceed with the relocation of the Powerhouse Museum from Ultimo to Parramatta.

- 1.89** To this end, we endorse the following carefully reasoned conclusions of the government's own *2014 Final Business Case for the Renewal of the Powerhouse Museum*, which strongly recommended that the Powerhouse remain at Ultimo, for these reasons:
- community backlash stemming from MAAS's strong and important historical connection to the Ultimo and Pyrmont precincts as well as the City of Sydney
 - the loss of synergies that the Museum's relationship with educational, digital and technological partners in Ultimo that have strengthened and are central to the Museums core functions as a Museum of technology and learning being diminished
 - the loss of significance and difficulty in repurposing the Museum's cultural and heritage assets that capture and interpret its relationship to the neighbourhood and local community
 - without a greenfield site option moving away from the Ultimo site is unlikely to be any more cost-effective than Options 4 or 5 without extensive investment
 - it will likely be difficult to identify property which provides enough space for both the Museum and the storage of its collection (otherwise it would be required to incur additional costs of transportation to move the collection to and from the Museum)
 - the extensive precinct development and significant Tourism centre that becomes easily accessible to the Museum underpins the commercial strategy for the Museum to become financial more independent, moving away from the existing site will eliminate the Museum's opportunity to improve its performance financially
 - the Museum is currently the only cultural infrastructure on the inner western Sydney side of George Street.
- 1.90** The committee believes that the Powerhouse Museum should be restored to its former glory through staged capital works and revitalised exhibitions which would lead to increased patronage and financial sustainability. As a result, the committee recommends that the NSW Government, as part of fulfilling the above recommendation 1, restore the Powerhouse Museum at Ultimo, by providing a significant injection of funding for refurbishment and expansion.

Recommendation 2

That the NSW Government restore the Powerhouse Museum at Ultimo, by providing a significant injection of funding for refurbishment and expansion.

- 1.91** Parramatta deserves a world class museum that all of Sydney, in fact all of New South Wales and Australia, can get behind and support. Tragically, through political manoeuvring and sheer bloody-mindedness the current proposal fails to achieve this.
- 1.92** Instead of the divisive and culturally damaging project proposed by this government, Parramatta should have a world class museum that reflects its own distinct history and culture. This includes its extraordinary history of First Nations peoples for tens of thousands of years before 1788, the years that followed as Parramatta became a major colonial centre and the burst of diversity that has followed in the post war period with immigration and growth.

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- 1.93** These are the stories that should be told in Parramatta, and a cultural institution that draws on this history would unite people and become an iconic part of Australia's cultural establishment.
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Recommendation 3

That the NSW Government, instead of relocating the Powerhouse Museum, establish a world class cultural institution in Parramatta that reflects its own extraordinary history.

- 1.94** Further, the committee echoes its views in the first report that instead of relocating the Powerhouse Museum to Parramatta, it would be more appropriate for a Museum of Applied Arts and Sciences satellite site to be established in Western Sydney which could display items of the collection currently in storage and hold different exhibitions to those at the Ultimo museum. This could be in addition to a range of other cultural precincts or centres which could also be established in Parramatta, subject to genuine community consultation.
- 1.95** The committee therefore recommends that the NSW Government consider establishing a Museum of Applied Arts and Sciences satellite site in Western Sydney.
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Recommendation 4

That the NSW Government consider establishing a Museum of Applied Arts and Sciences satellite site in Western Sydney.

Chapter 2 Management, leadership and culture

This chapter examines concerns regarding the leadership, management and culture within the Powerhouse Museum over recent years, and the role and authority of the Board of Trustees. It also discusses a particularly recent controversial event – the museum's first fundraising fashion ball.

Management of the Powerhouse Museum and the role of the Board of Trustees

2.1 This section will consider management and staffing of the museum and the role of the Board of Trustees, particularly in the context of the NSW Government's plan to relocate the Powerhouse Museum from Ultimo to Parramatta.

Management and staffing

2.2 Several inquiry participants raised concerns in relation to the museum's management, and staffing changes and cuts.

2.3 In particular, the impact of a restructure in 2014 was highlighted. This restructure resulted in many roles being made redundant. For example, the committee heard that prior to 2014, the Powerhouse Museum had 'an extremely strong, well-respected regional program of travelling exhibitions, loans, advice and workshops'. However, during the restructure the 'regional managers' role was deleted ... and it never recovered'.⁹⁰

2.4 Ms Jennifer Sanders, Member, Powerhouse Museum Alliance, said that the 2014 restructure 'saw further numbers of experienced staff leave replaced by less staff to positions at a relatively junior level' with staff numbers reduced from 243 to 188.⁹¹

2.5 According to Ms Sanders, an assessment of positions and their necessity to the museum's functions was to be undertaken, however, it appears this assessment was minimal and dictated by budget savings. She was concerned about the loss of critical specialist positions:

...despite assurances by senior managers that no positions would be declared redundant until their necessity to the Museum's functions had been assessed, such assessment was minimal and the overwhelming driver was meeting the required budget savings. Consequently, many specialist positions, demonstrably essential to maintain the Museum's functions and reputation, were perfunctorily deleted.⁹²

2.6 Ms Sanders was of the view that 'weak governance, poor leadership, poor programing and poor decisions regarding the use of museum spaces' had led to the demise of the Powerhouse Museum in terms of exhibitions, interactives, and the amount of the collection on display.⁹³

2.7 The committee heard from a former board member that since 2008 when Dr Dawn Casey was appointed as Director of the Powerhouse Museum, and in the following years, the museum had

⁹⁰ *In camera* evidence, Witness B, 11 February 2019, p 11, published by resolution of the committee.

⁹¹ Supplementary submission 142h, Ms Jennifer Sanders, p 6.

⁹² Supplementary submission 142h, Ms Jennifer Sanders, p 6.

⁹³ Supplementary submission 142h, Ms Jennifer Sanders, p 5.

'fallen into a huge hole, hence the mess it is in today. It is not for any other reason but the management of the place and the way it was managed'.⁹⁴

- 2.8** Another concern relating to the management of the museum was that there had been a lack of investment in the upkeep and maintenance of the museum, especially since the relocation announcement. A former board member described the museum as having fallen into 'disrepair' and was a 'shell of itself' due to limited funding, efficiency dividends, bad management, and 'bad appointments to [the] board [of trustees]'.⁹⁵
- 2.9** On the issue of efficiency dividends, as noted in the first report, cultural institutions have been negatively impacted by their imposition. The negative impacts have included: an inability to build a revenue base; restrictions in terms of reach, programs and exhibitions; and reduction of staff numbers.⁹⁶ A number of inquiry participants supported the abolition of the efficiency dividend for cultural institutions.⁹⁷
- 2.10** The negative impacts of the efficiency dividend were again reiterated in recent evidence received by the committee, and in particular, the impact it has had on the Powerhouse Museum. Dr Grace Cochrane, Member, Powerhouse Museum Alliance, noted that 'over recent years the number of professionals in the museum have halved, and more reductions are likely with increasing "efficiency dividend" requirements'.⁹⁸
- 2.11** Dr Cochrane cautioned that this was detrimental to the operation of the museum given the level of expertise and skills required:
- [It] cannot easily or effectively be contracted in, or found in a different location; it is a relatively small specialist professional field of curators, conservators, registrars, designers, educators, editorial and IT professionals, especially those with long-term experience and knowledge of this collection.⁹⁹
- 2.12** This was echoed by Ms Sanders, who also argued that the introduction of efficiency dividends in 2006 at 1 per cent, which have now increased to 3 per cent 'have resulted in the steady erosion of the Museum's capacity to deliver programs to the public at a level which ensured its sustainability and a wide engagement'.¹⁰⁰ In addition to the efficiency dividends, the financial sustainability of the Powerhouse Museum has further deteriorated as a result of 'partially funded

⁹⁴ *In camera* evidence, Former board member (1995-2003, 2016-2017), 11 February 2019, p 3, published by resolution of the committee.

⁹⁵ *In camera* evidence, Former board member (1995-2003, 2016-2017), 11 February 2019, p 3, published by resolution of the committee.

⁹⁶ Portfolio Committee No. 4 – Legal Affairs, NSW Legislative Council, *First report: Museums and galleries in New South Wales* (2017), pp 9-10.

⁹⁷ See Submission 41, Council of Australasian Museum Directors, p 2; Submission 132, Dr Desmond Griffin, p 21; Submission 27, Engineers Australia NSW Division – Engineering Heritage Sydney, pp 5-6; Supplementary submission 149c, Ms Kylie Winkworth, p 6; Evidence, Professor Barney Glover, President, Board of Trustees, Museum of Applied Arts and Sciences, 5 September 2016, p 14.

⁹⁸ Supplementary submission 96d, Dr Grace Cochrane, p 6.

⁹⁹ Supplementary submission 96d, Dr Grace Cochrane, p 6.

¹⁰⁰ Supplementary submission 142h, Ms Jennifer Sanders, p 5.

salary agreements made by Government, reduction in funding due to several rounds of redundancies, and a general reduction in overall funding levels'.¹⁰¹

- 2.13** Ms Sanders spoke of the reduction in recurrent funding which had resulted in a 'serious depletion of staff with specialist knowledge, expertise and experience – many at a management or leadership level'. She described how overall staff numbers had been halved, from 448 staff in 2002-03 to only 202.4 in 2017-18.¹⁰²

Role of the Board of Trustees

- 2.14** Concerns from inquiry participants were also raised in relation to the role of the Board of Trustees, with one individual stating that the Board of Trustees, as at December 2017, 'did not seem to have authority ... was directionless ... [and] did not know what it wanted'.¹⁰³
- 2.15** Dr Lindsay Sharp, Member, Powerhouse Museum Alliance, observed that in the last five years there has been a deterioration in the quality of oversight by the Board of Trustees who were 'not doing the job they need to do'.¹⁰⁴
- 2.16** In this regard, the committee notes that in January 2019, five new appointments were made to the Museum of Applied Arts and Sciences Board of Trustees: Mr Darren Steinberg, Chief Executive Officer, Dexus; Ms Paddy Carney, chartered accountant; Mr David Borger, Western Sydney Director of the Sydney Business Chamber; Ms Kellie Hush, fashion entrepreneur and former Editor-in-Chief, Harper's BAZAAR Australia; and Mr Eddie Woo, Mathematics teacher, and Leader of Mathematics Growth for the NSW Department of Education.¹⁰⁵
- 2.17** Mr Nick Pappas, Member, Powerhouse Museum Alliance, expressed the view that the appointment of Mr Steinberg – Chief Executive Officer of one of Australia's leading real estate groups – and Mr Borger – a proponent of the relocation project – as trustees was 'highly unsuitable' and 'brazen'. He asserted that the trust was now 'comprised of staunch advocates of the destruction of a 135-year-old institution' and that the 'government could not have acted with more disdain towards the Powerhouse's legacy and its place on the cultural landscape of Sydney'.¹⁰⁶
- 2.18** On advice from Create NSW, Mr Craig Limkin, Executive-Director, Cultural Infrastructure Program Management Office, Arts, Screen and Culture Division, NSW Department of Planning and Environment, stated that the appointments were consistent with the *Museum of Applied Arts and Sciences Act 1945* and the Appointment Standards of the Public Service Commission.¹⁰⁷

¹⁰¹ Supplementary submission 142h, Ms Jennifer Sanders, p 26.

¹⁰² Supplementary submission 142h, Ms Jennifer Sanders, p 6.

¹⁰³ *In camera* evidence, Former board member (1995-2003, 2016-2017), 11 February 2019, p 5, published by resolution of the committee.

¹⁰⁴ Evidence, Dr Lindsay Sharp, Member, Powerhouse Museum Alliance, 12 September 2018, p 11.

¹⁰⁵ Museum of Applied Arts and Sciences, *About*, Trustees, <https://maas.museum/about/trustees/>

¹⁰⁶ Evidence, Mr Nick Pappas, Member, Powerhouse Museum Alliance, 11 February 2019, p 14; Dexus, Corporate Governance Darren Steinberg, <https://www.dexus.com/who-we-are/our-business/board/darren-j-steinberg>

¹⁰⁷ Answers to questions on notice, NSW Department of Planning and Environment, 18 February 2019, p 2.

2.19 In response to questions about the potential perceived conflict of interest in relation to Mr Steinberg, Mr Limkin stated Create NSW had advised that Mr Steinberg was directed to declare this conflict and that 'Dexus Funds Management Limited not submit any proposals for any work related to the Museum of Applied Arts and Sciences while Mr Steinberg was a 'Trustee'.¹⁰⁸

Museum of Applied Arts and Sciences Fashion Ball

2.20 In February 2018, the Museum of Applied Arts and Sciences (MAAS) held its first fundraising fashion ball. Mr Andrew Elliott, then Acting Director, Chief Financial Officer, and Director of Corporate Resources, Museum of Applied Arts and Sciences, explained that the MAAS Ball was designed to 'develop, build and establish critical long-term relationships and partnerships for the MAAS Centre for Fashion and to promote the museum's collection'.¹⁰⁹

2.21 Mr Elliott also outlined that the MAAS Ball had several other objectives, including:

- to introduce the Centre for Fashion to key stakeholders
- build relationships with key corporate, industry and cultural partners
- raise funding for the Australian Fashion Foundation
- increase the MAAS fashion collection
- enhance the reputation of MAAS as the leading public centre for fashion in Australia.¹¹⁰

2.22 According to Mr Elliott, Professor Barney Glover, President, Board of Trustees, Museum of Applied Arts and Sciences, and the Hon Don Harwin MLC, Minister for the Arts, the MAAS Ball was successful in achieving all of its objectives.¹¹¹

2.23 When questioned as to what the budget was for the event, the Museum of Applied Arts and Sciences advised that the 'original expenditure for the event was predicted to be \$333,261.50 (GST inclusive) with the final expenditure being \$388,391.32 (GST inclusive)'.¹¹²

2.24 Minister Harwin stated he had been advised by the museum that it had 'invested approximately \$215,000 into the ball from their development and external affairs annual budget, which is used for strategic events and promotional and communication activities'.¹¹³

2.25 As MAAS representatives and Minister Harwin advised, the MAAS Fashion Ball raised over \$70,000 in 'seed funding through donations for the Australian Fashion Fund, which will be used

¹⁰⁸ Answers to questions on notice, NSW Department of Planning and Environment, 18 February 2019, p 2.

¹⁰⁹ Evidence, Mr Andrew Elliott, Acting Director, Chief Financial Officer, and Director of Corporate Resources, Museum of Applied Arts and Sciences, 16 November 2018, p 6.

¹¹⁰ Evidence, Mr Elliott, 16 November 2018, pp 6-7.

¹¹¹ Evidence, Professor Glover, 16 November 2018, p 9; Evidence, Mr Elliott, 16 November 2018, pp 6-7; *Hansard*, NSW Legislative Council, 8 March 2018, p 38 (Don Harwin).

¹¹² Answers to question on notice, Museum of Applied Arts and Sciences, 14 December 2018, p 2.

¹¹³ Evidence, The Hon Don Harwin MLC, Minister for the Arts, 12 September 2018, p 28.

to acquire Australian fashion for the museum'.¹¹⁴ In addition, the ball also 'secured a new sponsor to support their exhibition program'.¹¹⁵

- 2.26** Media reports suggested that on the night of the MAAS Fashion Ball, an after party took place in the Director's suite where alcohol was consumed and other possibly illegal activities occurred.¹¹⁶
- 2.27** The committee received evidence that some staff members and their invited guests 'took advantage of [the alcohol] and ... were all very, very drunk'.¹¹⁷ These individuals were observed dancing drunkenly on a catwalk and some were also later found in the Director's office with 'bottles of ... champagne and vodka'.¹¹⁸
- 2.28** Dr Sharp considered the behaviour of museum staff after the MAAS Fashion Ball, including the museum's former director, to be 'bad management', 'appalling' and that such behaviour should have resulted in instant dismissal.¹¹⁹
- 2.29** During question time in the Legislative Council in March 2018, Minister Harwin admitted that while a 'small post-event function' did occur, beverages served were not paid for by taxpayers and that the 'museum strongly refut[ed] ... allegations of illegal activity at this post-event function'.¹²⁰
- 2.30** When questioned about the after party, Professor Glover told the committee he was 'deeply concerned and disappointed that people stayed late' past the official event. He advised that upon hearing that staff had remained at the museum after the event, he spoke to the then Director, Ms Dolla Merrillees and was assured 'that HR policies would be looked at and, if necessary, disciplinary action taken'.¹²¹
- 2.31** Mr Elliott noted that the museum and 'our security company have no record of a noise complaint being received ... or of any disorderly behaviour or the police being called on the night'.¹²²

¹¹⁴ Evidence, Minister Harwin, 12 September 2018, p 28; Evidence, Mr Elliott, 16 November 2018, p 10; Evidence, Professor Glover, 16 November 2018, p 9.

¹¹⁵ Evidence, Minister Harwin, 12 September 2018, p 28.

¹¹⁶ Clarissa Bye, 'Very big night at museum: Claims a big blight on the museum', *The Daily Telegraph*, 7 March 2018, p 1; Linda Morris, 'Fashion ball failure claims museums boss', *Sydney Morning Herald*, 26 July 2018, p 2; Matt Leclere, 'Debauched' fashion ball after-party attended by Sydney's A-list celebrities 'saw drunk museum staff swigging champagne from the bottle in the presence of white powder', *Daily Mail*, 7 March 2018, <https://www.dailymail.co.uk/news/article-5468455/Powerhouse-Museum-Sydney-staff-investigated-alleged-drugs-MAAS-Ball.html>.

¹¹⁷ *In camera* evidence, Witness C, 11 February 2019, pp 18 and 23 published by resolution of the committee.

¹¹⁸ *In camera* evidence, Witness C, 11 February 2019, p 19, published by resolution of the committee.

¹¹⁹ Evidence, Dr Sharp, Member, 12 September 2018, p 12.

¹²⁰ *Hansard*, NSW Legislative Council, 7 March 2018, p 28 (Don Harwin).

¹²¹ Evidence, Professor Glover, 16 November 2018, p 9. The committee made several attempts to invite Ms Merrillees to give evidence after her departure from the museum but was unsuccessful in contacting her.

¹²² Evidence, Mr Elliott, 16 November 2018, p 8.

- 2.32** Mr Elliott advised that an investigation was held into the matter which found that no illegal activities occurred at the post-event function.¹²³
- 2.33** Following the MAAS Fashion Ball, the position of Director of MAAS was reclassified, leading to the departure of Ms Merrillees. Minister Harwin advised that, in early 2018, the roles of 'director and chief executive of the Museum of Applied Arts and Sciences' were reclassified at a higher level to align with other equivalent roles in cultural institutions.¹²⁴
- 2.34** As a result, Minister Harwin told the committee that Ms Merrillees, then Director, informed the Department of Planning and Environment 'in writing that she did not intend to apply for the position at the higher level. As a result, her contract of employment came to an end'.¹²⁵ Ms Merrillees' employment at the museum concluded on 3 July 2018.¹²⁶ The committee notes that media reports have suggested that Ms Merrillees resigned as a result of the 'failed fashion ball that [allegedly] caused the museum to spend three times more money than it raised'.¹²⁷
- 2.35** From June 2018, Mr Elliott acted in the role of Director while a recruitment process was conducted.¹²⁸
- 2.36** On 9 November 2018, Minister Harwin announced that Ms Lisa Havilah, current Director of Carriageworks, had been appointed as the new Chief Executive Officer for the Museum of Applied Arts and Sciences.¹²⁹ Ms Havilah commenced in her new role on 7 January 2019.¹³⁰

Committee comment

- 2.37** In light of evidence about the loss of specialist staff in recent years, changes in management and leadership and budget cuts, the committee has concerns about the current state of the museum and whether it is be managed appropriately. Given the plans to relocate the museum from Ultimo to Parramatta, the committee questions whether the move has overshadowed the effective and ongoing operation of the museum at its current site.
- 2.38** The committee heard from numerous inquiry participants that since the relocation announcement in 2015, the Powerhouse Museum has been neglected, with collection items placed into storage, exhibitions and galleries closed and reduced funding allocated to the maintenance of the museum.
- 2.39** The committee notes too, the impact of annual efficiency dividends and how this has affected the ability of the Powerhouse Museum to operate effectively, sustainably and to its full potential. The committee acknowledges that similar problems are experienced by other state owned

¹²³ Evidence, Mr Elliott, 16 November 2018, p 8.

¹²⁴ Evidence, Minister Harwin, 12 September 2018, p 26.

¹²⁵ Evidence, Minister Harwin, 12 September 2018, p 26.

¹²⁶ Evidence, Minister Harwin, 12 September 2018, p 26.

¹²⁷ Linda Morris, 'Fashion ball failure claims museum boss', *Sydney Morning Herald*, 26 July 2018, p 2.

¹²⁸ Evidence, Mr Elliott, 16 November 2018, p 5.

¹²⁹ Media release, Create NSW, 'New MAAS CEO leads search for iconic powerhouse design', 9 November 2018.

¹³⁰ Evidence, Mr Elliott, 16 November 2018, p 5.

museums across the state. As set out in the first report, the committee sees merit in state owned museums being exempt from the annual efficiency dividend so as to allow these cultural institutions the ability to allocate funding to much needed staff and resources. A recommendation in this regard is made below.

Recommendation 5

That the NSW Government exempt state-owned museums from the annual efficiency dividend.

- 2.40** The committee is also concerned about the role the Board of Trustees and whether it has been an effective advocate in protecting the important institution that is the Powerhouse Museum and its valued collections. Indeed, there was a sense among inquiry participants that both management at the museum and the Board of Trustees have lost their way in terms of their function and role in the operation and governance of the museum. The committee shares this view.
- 2.41** The committee believes that the museum is not performing to the high standard it once did, and that the NSW Government has used this inappropriately to bolster its case to move the museum rather than focusing on refurbishment at its current site.
- 2.42** A recent example which raised some serious questions about the management and leadership at the museum and the role of Board of Trustees was the MAAS Fashion Ball which was held in February 2018. It is unacceptable that the Minister, management and the Trustees argued that the ball was a successful strategy and event. The fact is that the ball cost \$388,391.32 of taxpayers money, despite only raising \$70,000. In the committee's view, passing this event off as success in building relationships is preposterous and out of touch with community standards for the spending of public money. This event has clearly weakened the reputation of the museum, at a time that is already very challenging for the organisation.
- 2.43** Adding to these issues was the conduct of staff at the post-event function. The committee was appalled to hear that staff, including senior management, drank excessively and behaved inappropriately well into the early hours of the morning in the museum's staff offices.
- 2.44** The Fashion Ball raises questions more broadly about the state of management at the Powerhouse Museum, the deterioration in culture and the oversight role the Board of Trustees has regarding the management and operation of the museum.
- 2.45** Given these issues, and broader concerns the committee has in relation to governance of the arts and culture sector in New South Wales, it is imperative for there to be continuing parliamentary oversight, particularly in relation to the governance and management of the Powerhouse Museum relocation project. Therefore, the committee recommends that the Legislative Council, in the 57th Parliament, establish a Select Committee to inquire into and report on the governance of the arts and culture sector in New South Wales, with particular reference to the governance and management of the Powerhouse Museum relocation project.

Recommendation 6

That the Legislative Council, in the 57th Parliament, establish a Select Committee to inquire into and report on the governance of the arts and culture sector in New South Wales, with particular reference to the governance and management of the Powerhouse Museum relocation project.

Appendix 1 Order for papers 12 April 2018

2442

Legislative Council Minutes No. 149—Thursday 12 April 2018

23 ORDER FOR PAPERS—POWERHOUSE MUSEUM RELOCATION BUSINESS CASE

Mr Shoebridge moved, according to notice: That, under standing order 52, there be laid upon the table of the House within 7 days of the date of passing of this resolution the following documents in the possession, custody or control of the Premier, the Department of Premier and Cabinet, the Minister for the Arts, Create NSW, the Department of Planning and Environment or Infrastructure NSW:

- (a) the preliminary and final or current versions of the business case for the relocation of the Powerhouse Museum from Ultimo to Parramatta, and
- (b) any legal or other advice regarding the scope or validity of this order of the House created as a result of this order of the House.

Debate ensued.

Mr Farlow moved: That the motion of Mr Shoebridge be amended by omitting the words “and final or current versions of the” in paragraph (a).

Debate continued.

Mr Fang moved: That the motion of Mr Shoebridge be amended by omitting “7 days” and inserting instead “21 days”.

Debate continued.

Mrs Maclaren-Jones moved, according to sessional order:

- (a) that the time for debate on this motion be extended for 1 hour,
- (b) that the member speaking prior to the interruption of the debate be permitted to complete his/her contribution in his/her time remaining.

Question put.

The House divided.

Ayes 19

Mr Amato	Mr Franklin	Mr Mason-Cox
Mr Blair	Mr Green	Mrs Mitchell
Mr Clarke	Mr Harwin	Revd Mr Nile
Mr Colless	Mr MacDonald	Dr Phelps
Ms Cusack	Mrs Maclaren-Jones *	Mrs Taylor
Mr Fang *	Mr Martin	Mr Ward
Mr Farlow		

* Tellers

Noes 18

Mr Borsak	Mr Graham	Mr Searle
Mr Brown	Mrs Houssos	Mr Secord
Mr Buckingham	Mr Mookhey	Ms Sharpe
Mr Donnelly *	Mr Moselmane *	Mr Shoebridge
Dr Faruqi	Mr Pearson	Ms Walker
Mr Field	Mr Primrose	Mr Wong

* Tellers

Appendix 2 Submission list

No	Author
1	Mrs Carol Lynch
2	Ms Hall Best
3	Name suppressed
4	Name suppressed
5	Mr Tor Larsen
6	Name suppressed
7	Name suppressed
8	Ms Cedar Prest
9	Name suppressed
10	Name suppressed
11	Mr David Payne
12	Dr Jesse Adams Stein
13	Dutch Australian Cultural Centre, Ltd
14	Ms Alice Kershaw
15	Pymont History Group
16	Name suppressed
17	Friends of Fagan Park
18	Name suppressed
19	Mr Jeffrey Mellefont
20	Gunnedah Rural Museum Inc.
21	Save the Powerhouse Campaign
21a	Save the Powerhouse Campaign
22	Ultimo Village Voice
23	Millthorpe & District Historical Society
24	The Great Cobar Heritage Centre / Cobar Shire Council
25	NSW Government
26	The City of Greater Lithgow Mining Museum Inc
27	Engineers Australia NSW Division - Engineering Heritage Sydney
28	NSW Steam Preservation Co-Op Society Limited trading as Campbelltown Steam and Machinery Museum
29	Blue Mountains Cultural Centre - Blue Mountains City Council
30	Greater Western Sydney Heritage Action Group
31	Lithgow Small Arms Factory Museum
32	LGNSW
33	Regional and Public Galleries NSW (RPGNSW)
34	Mount Victoria and District Historical Society Inc.
35	Museums and Galleries of NSW
36	Western Sydney Arts and Cultural Lobby
37	Public Service Association
38	Museum of Applied Arts and Sciences, Board of Trustees
39	Australian Museum Trust
40	The Design Institute of Australia (DIA)
41	Council of Australasian Museum Directors

42	Museums Galleries Australia
43	International Council for Museums; Australia
44	North Parramatta Residents Action Group Inc.
44a	North Parramatta Residents Action Group Inc.
44b	North Parramatta Residents Action Group Inc.
44c	North Parramatta Residents Action Group Inc.
45	Library Council of New South Wales
46	National Trust of Australia
47	Snowy Scheme Museum/Adaminaby Snowy Scheme Collection Inc.
48	Lake Macquarie City Council
49	Border Flywheelers Club Inc
50	Australian Institute for the Conservation of Cultural Materials
51	National Association for the Visual Arts *(NAVA)
52	Shoalhaven Vintage Machinery Club Inc
53	Ceramic Collectors Society
54	Jacksons Landing Community Association
55	Save Bondi Pavilion group
56	Arts Mid North Coast
57	Australian Design Centre
58	Delegate Progress Association
59	Cherry Capital Collectors Club
60	The Australian Ceramics Association
61	Professional Historians Association NSW & ACT
62	Modern Art Projects (MAP)
63	Bega and District Historical Machinery Club Inc.
64	Name suppressed
65	Mr Terence Measham
66	Trustees of the Historic House Trust
67	Ms Judith White
67a	Ms Judith White
67b	Ms Judith White
68	Mr Keith Johnson
69	Dr Cecilia Spence
70	Mrs Manuela Epstein
71	Ms Diana Simmonds
72	Name suppressed
73	Mr Stephen Thompson
74	Dr Warren Brisley
75	Mr Brian Beconsall
76	Name suppressed
77	Name suppressed
78	Mr Garry Horvai
79	Paul Hannah
80	Name suppressed
81	Mrs Catherine Barnes
82	Dr Rebecca Spindler
83	Name suppressed

84	Mr Martin Cousins
85	Ms Barbara Radcliffe
86	Mr Peter Murray
87	Mrs Ruth Thomson
88	Mr Robert Pauling
89	Riverina Vintage Machinery Club Inc.
90	Dr Shirley Fitzgerald
91	Harden-Murrumburrah Historical Society
92	Mr Hernan Terrazzino
93	Dr Belinda Nemeč
94	Name suppressed
95	Name suppressed
96	Dr Grace Cochran
96a	Dr Grace Cochran
96b	Dr Grace Cochran
96c	Dr Grace Cochran
96d	Dr Grace Cochran
97	Ms Marina Garlick
98	Name suppressed
99	Name suppressed
100	Mr Frank Johnson
101	Ms Janet De Boer
102	Mr Bradley Powe
103	Ms Anne Schofield
103a	Ms Anne Schofield
104	Mr Carl Andrew
105	Mr Andrew Grant
105a	Mr Andrew Grant
105b	Mr Andrew Grant
106	Mr John August
107	Mr Duncan Bourne
108	Engineers Australia
109	Mrs Wendy McLean
110	Tourism & Transport Forum Australia (TTF)
111	Name suppressed
112	Ms Jeanie Kitchener
113	Mr Nicholas Pappas
113a	Mr Nicholas Pappas
114	Mr Allan and Ms Daphne Opferkuch
115	Dr Janis Wilton
116	Shoalhaven City Council and Shoalhaven Arts Board
117	Mr Jean-Pierre Alexandre
118	Mrs Darani Lewers
119	Leo Schofield
120	Ms Sue Boaden
121	Ms Patricia Johnson
122	Mr Tim McDonald

123	Mrs Elizabeth Gossell
124	Mr Nicholas McCallum
125	Ms Clare Ashton
126	Name suppressed
127	Name suppressed
128	Ms Irma Havlicek
129	Name suppressed
130	Name suppressed
131	Mr Leigh Mackay
132	Dr Desmond Griffin
133	Dr Megan Hicks
133a	Dr Megan Hicks
134	Name suppressed
135	Ms Sandra McEwen
136	Ms Christina Sumner OAM
137	Mr Tom Lockley
137a	Mr Tom Lockley
137b	Mr Tom Lockley
137c	Mr Tom Lockley
137d	Mr Tom Lockley
137e	Mr Tom Lockley
138	Mr David Payne
139	Ms Jane Burns
140	Mr John Harris
141	Mr Trevor Kennedy
142	Ms Jennifer Sanders
142a	Ms Jennifer Sanders
142b	Ms Jennifer Sanders
142c	Ms Jennifer Sanders
142d	Ms Jennifer Sanders
142e	Ms Jennifer Sanders
142f	Ms Jennifer Sanders
142g	Ms Jennifer Sanders
142h	Ms Jennifer Sanders
142i	Ms Jennifer Sanders
143	Ms Debbie Rudder
143a	Ms Debbie Rudder
144	Ms Louise Douglas
145	Mrs Vicki Lindsay
146	Mr Thomas Walder
147	Ms Helen OBoyle
148	Dr Lindsay Sharp
148a	Dr Lindsay Sharp
148b	Dr Lindsay Sharp
148c	Dr Lindsay Sharp
148d	Dr Lindsay Sharp
148e	Dr Lindsay Sharp

148f	Dr Lindsay Sharp
148g	Dr Lindsay Sharp
148h	Dr Lindsay Sharp
148i	Dr Lindsay Sharp
148j	Dr Lindsay Sharp
148k	Dr Lindsay Sharp
148l	Dr Lindsay Sharp
148m	Dr Lindsay Sharp
148n	Dr Lindsay Sharp
148o	Dr Lindsay Sharp
148p	Dr Lindsay Sharp
148q	Dr Lindsay Sharp
148r	Dr Lindsay Sharp
148s	Dr Lindsay Sharp
148t	Dr Lindsay Sharp
148u	Dr Lindsay Sharp
148v	Dr Lindsay Sharp
149	Ms Kylie Winkworth
149a	Ms Kylie Winkworth
149b	Ms Kylie Winkworth
149c	Ms Kylie Winkworth
149d	Ms Kylie Winkworth
149e	Ms Kylie Winkworth
149f	Ms Kylie Winkworth
149g	Ms Kylie Winkworth
150	Mr Ray Norman
150a	Mr Ray Norman
151	Mr Rodney Tonkin
152	Orange and District Historical Society
153	Ms Rosalind Ward
154	Port Macquarie Museum
155	Mr Lionel Glendenning
155a	Mr Lionel Glendenning
155b	Mr Lionel Glendenning
155c	Mr Lionel Glendenning
156	Mr Charles Wilson
157	Mr John Petersen
158	Ms Bernice Murphy
159	Australia International Council on Monuments and Sites (ICOMOS)
160	Mr Bruce Tindale
161	Mr Peter Wotton
162	Mr Marco Belgiorno-Zegna AM
163	Mr Alex Greenwich MP
164	Orange City Council
165	Asheville Art Museum
166	Australian Society for History of Engineering and Technology Inc. (ASHET)
167	Powerhouse Museum Alliance

167a	Powerhouse Museum Alliance
168	Ms Christine F
169	Mrs E Boesel
170	Ms Lindsey Foster
171	Woodford Academy Management Committee
172	Cr Linda Scott
173	Ms Robyn Petersen
174	Dr John Macintosh
175	Mr Max Underhill
176	Mr Alan Landis
177	Dr Cassi Plate
178	Mr Bob Roach
179	Historic Houses Association of Australia

Appendix 3 Witnesses at hearings

Date	Name	Position and Organisation
5 September 2016 Macquarie Room, Parliament House	Professor Barney Glover	President, Board of Trustees Museum of Applied Arts and Sciences
	Ms Dolla Merrillees	Director, Museum of Applied Arts and Sciences
	Ms Samantha Torres	Deputy Secretary, Justice Services, Arts and Culture Arts NSW
	Ms Liz Ann Macgregor	Director, Museum of Contemporary Art
	Mr Jean-Pierre Alexandre	Co-convenor, Save the Powerhouse campaign
	Ms Patricia Johnson	Convenor, Save the Powerhouse Campaign
	Mr Graham Quint	Director, Advocacy, The National Trust of Australia (NSW)
	Mr Jon Hillman	Vice President, North Parramatta Residents Action Group Inc.
6 September 2016 Macquarie Room, Parliament House	Mrs Suzette Meade	President, North Parramatta Residents Action Group Inc.
	Mr Michael Rose	Chairman, Trustees of the Historic House Trust
	Mr John Cheeseman	President, Regional and Public Galleries NSW (RPGNSW)
	Dr Lee-Anne Hall	Committee member, Regional and Public Galleries NSW (RPGNSW)
	Mr Paul Brinkman	Vice-President, Regional and Public Galleries NSW (RPGNSW)
	Dr Lindsay Sharp	Founding Director, Powerhouse Museum
	Mr Lionel Glendenning	Architect of Record, Powerhouse Museum
	Ms Donna Rygate	Chief Executive Officer, Local Government NSW
	Dr Sally Watterson	Arts and Culture Project Manager, Local Government NSW

Date	Name	Position and Organisation
	Dr Andrew Simpson	Immediate Past President, New South Wales Branch, Museums Galleries Australia
	Mr David Borger	Director, Western Sydney, Sydney Business Chamber
	Dr Grace Cochrane	Powerhouse Museum Alliance
	Ms Jennifer Sanders	Powerhouse Museum Alliance
	Mr Nicholas Pappas	Powerhouse Museum Alliance
	Ms Jennifer Barrett	Chair, Museums and Galleries of NSW Board
	Mr Michael Rolfe	Chief Executive Officer, Museums and Galleries of NSW
23 September 2016 Workshop Room, Blue Mountains Cultural Centre	Ms Lee Morgan	Director, Development and Customer Service, Blue Mountains City Council
	Ms Kelly Heylen	Creative Industries Cluster Manager, Blue Mountains Economic Enterprise
	Mr Paul Brinkman	Director, Blue Mountains Cultural Centre
	Mrs Beata Geyer	President, Modern Art Projects (MAP)
	Mr Kerry Guerin	Secretary, Lithgow Small Arms Factory Museum
	Ms Donna White	Custodian, Lithgow Small Arms Factory Museum
	Ms Jean Winston	President and Publicity Officer, Mount Victoria and District Historical Society Inc.
19 October 2016 Waratah Room, Parliament House	Professor Barney Glover	President, Board of Trustees, Museum of Applied Arts and Sciences
	Ms Dolla Merrillees	Director, Museum of Applied Arts and Sciences

Date	Name	Position and Organisation
14 November 2016 Jubilee Room, Parliament House	Ms Samantha Torres	Deputy Secretary, Justice Services, Arts and Culture Arts NSW
	Ms Madeleine Scully	Manager Community Services, Wagga Wagga City Council
	Ms Debbie Sommers	Volunteer Curator, Port Macquarie Museum, and Vice President, Port Macquarie Historical Society
	Ms Eliane Morel	Deputy Convenor, Save Bondi Pavilion
	Mr Murray Cox	Cultural Advisor, Save Bondi Pavilion
	Dr Janis Wilton OAM	Associate Professor in History, University of New England
	Mr Joseph Eisenburg OAM	Cultural Director Emeritus, Maitland City Council
	Ms Kylie Winkworth	Museum and Heritage Consultant
17 February 2017 Jubilee Room, Parliament House	Professor John Shine	Former President, Board of Trustees, Museum of Applied Arts and Sciences
	Mr Joe Agius	Director, Cox Architecture
	Ms Rachel Neeson	Director, Neeson Murcutt Architects Pty Ltd
	Mr Steven Casey	Director, Advisory, KPMG
	Mr Graham Brooke	Partner, KPMG
	Mr Michael Parry	Director, New Museum, Museum of Applied Art and Sciences
	Ms Dolla Merrillees	Director, Museum of Applied Art and Sciences
	Mr Peter Root	Managing Director, Root Projects Australia
The Hon Don Harwin MLC	Minister for Arts, and Minister for Resources and for Energy and Utilities, Vice-President of the Executive Council	

Date	Name	Position and Organisation
6 June 2017 Jubilee Room, Parliament House	Ms Alex O'Mara	Acting Deputy Secretary, Arts and Culture Division, Department of Planning and Environment
	Mr Craig Limkin	Acting Executive Director, Cultural Infrastructure Program, Management Office, Arts and Culture Division, Department of Planning and Environment
	Mr Michael Brealey	Chief Executive Officer, Department of Planning and Environment
	Ms Amanda Chadwick	Administrator, Parramatta City Council
29 August 2017 Macquarie Room, Parliament House	Ms Rebecca Grasso	Director Marketing and City Identity, Parramatta City Council
	The Hon Don Harwin MLC	Minister for Arts, and Minister for Resources and for Energy and Utilities, Vice-President of the Executive Council
	Ms Alex O'Mara	Deputy Secretary, Arts, Screen and Culture Division, Department of Planning and Environment
	Mr Craig Limkin	Executive Director, Cultural Infrastructure Program, Management Office, Arts, Screen and Culture Division, Department of Planning and Environment
	Mr Michael Brealey	Chief Executive Officer, Create NSW, Arts, Screen and Culture Division, Department of Planning and Environment
28 May 2018 Jubilee Room, Parliament House	Mr Greg Dyer	Former Chief Executive Officer, City of Parramatta
	Mr Craig Becroft	Former Chief Financial Officer, City of Parramatta

Date	Name	Position and Organisation
1 June 2018 Macquarie Room, Parliament House	Mr Mike Baird	Former Premier of New South Wales
	Mr Bay Warburton	Former Chief of Staff to Mr Mike Baird, former Premier
12 September 2018 Macquarie Room, Parliament House	Ms Kylie Winkworth	Member, Powerhouse Museum Alliance
	Dr Lindsay Sharp	Member, Powerhouse Museum Alliance
	Mr Andrew Grant	Transport Heritage Consultant
	The Hon Don Harwin MLC	Minister for Energy and Utilities, Minister for the Art and Vice President of the Executive Council
	Mr Craig Limkin	Executive-Director, Cultural Infrastructure Program Management Office, Arts, Screen and Culture Division, Department of Planning and Environment
	Ms Alex O'Mara	Deputy Secretary, Department of Planning and Environment
16 November 2018 Jubilee Room, Parliament House	Mr Andrew Elliott	Acting Director, Chief Financial Officer, and Director of Corporate Resources, Museums off Applied Arts and Sciences
	Mr Barney Glover	President, Board of Trustees, Museum of Applied Arts and Sciences
11 February 2108 Macquarie Room Parliament House	Former board member, (1995- 2003, 2016-2017)	
	Witness B	
	Witness C	

Date	Name	Position and Organisation
	Mr Brad Baker	Exhibition Consultant
	Mr Lionel Glendenning	Architect of Record, Powerhouse Museum
	Ms Jennifer Sanders	Member, Powerhouse Museum Alliance
	Mr Nick Pappas	Member, Powerhouse Museum Alliance
	Mr Craig Limkin	Executive-Director, Cultural Infrastructure Program Management Office, Arts, Screen and Culture Division, Department of Planning and Environment

Appendix 4 Minutes

Minutes no. 61

Tuesday 13 February 2018

Portfolio Committee No. 4 – Legal Affairs

Members' Lounge, Parliament House, 2.16 pm

1. Members present

Mr Borsak, *Chair*

Mr Shoebridge, *Deputy Chair* (from 2.21 pm)

Mr Clarke

Ms Cusack

Mr Farlow (until 2.18 pm)

Mr Khan

Mr Primrose

Mr Searle (until 2.18 pm)

Ms Voltz

2. Correspondence

The committee noted the following item of correspondence:

Received:

- 12 February 2018 – Email from Mr David Shoebridge requesting the committee extend the terms of reference for the Parklea inquiry to examine the benchmarking of prisons in New South Wales.

3. Inquiry into Parklea Correctional Centre and other operational issues

3.1 Proposed extension to terms of reference

Resolved, on the motion of Mr Searle: That the committee amend the terms of reference to include examination of the benchmarking of prisons in New South Wales.

3.2 Extension of submission period

Resolved, on the motion of Ms Voltz: That the committee extend the submission closing date to Wednesday 28 February 2018.

4. Previous minutes

Resolved, on the motion of Mr Khan: That draft minutes no. 59 be confirmed.

5. Inquiry into emergency services agencies

5.1 Proposed witnesses for 26 February hearing

Resolved, on the motion of Ms Voltz: That the committee adopt the Chair's proposed approach to the *in camera* witnesses on 26 February 2018.

Resolved, on the motion of Mr Khan: That the committee invite the Chair's proposed list of witnesses to give evidence at the hearing on 26 February 2018.

Resolved, on the motion of Ms Voltz: That the support person of Witness Q be permitted to attend the *in camera* hearing on 26 February 2018 and be sworn in as a witness.

5.2 Answers to questions on notice and supplementary questions

The committee noted that the following answers to questions on notice and supplementary questions were published by the committee clerk under the authorisation of the resolution appointing the committee:

- answers to questions on notice, supplementary questions and attachments – Mr Angus Skinner, Research Manager, Police Association of NSW – received 8 December 2017

- answers to questions on notice and attachment – Commissioner Michael Fuller, NSW Police Force – received 19 December 2017.

6. Inquiry into museums and galleries

6.1 Proposed meeting to discuss availability of witnesses

Resolved, on the motion of Mr Shoebridge: That the committee meet on Thursday 15 February 2018 to consider the options for compelling the attendance of witnesses for the hearing on 23 February 2018.

7. Adjournment

The committee adjourned at 2.29 pm, until Thursday 15 February 2018 (inquiry into museums and galleries).

Sarah Dunn

Committee Clerk

Minutes no. 62

Thursday 15 February 2018

Portfolio Committee No. 4 – Legal Affairs

Members' Lounge, Parliament House, 4.45 pm

1. Members present

Mr Borsak, *Chair*

Mr Shoebridge, *Deputy Chair*

Mr Farlow

Mr Franklin

Mr Mallard

Mr Graham (substituting for Mr Moselmane)

Mr Secord

2. Previous minutes

Resolved, on the motion of Mr Shoebridge: That draft minutes no. 60 be confirmed.

3. Correspondence

The committee noted the following items of correspondence:

Received:

- 1 February 2018 – Email from Ms Annabel Andrews, Executive Assistant to Mike Baird, Chief Customer Officer, National Australia Bank Limited to secretariat advising of Mr Baird's unavailability to attend hearing on 23 February 2018
- 7 February 2018 – Letter from Mr Bay Warburton, Head of Stakeholder Relations, Mirvac to secretariat declining the invitation to give evidence at the hearing on 23 February 2018
- 13 February 2018 – Letter from the Hon Gladys Berejiklian MP, Premier to Chair declining invitation to give evidence at the hearing on 23 February 2018
- 13 February 2018 – Email from the Hon Shaoquett Moselmane, Opposition Whip to secretariat, advising that Mr John Graham will be substituting for Mr Moselmane at the meeting on 15 February 2018.

Sent:

- 23 January 2018 – Letter from Director, to Hon Gladys Berejiklian MP, Premier inviting her to give evidence at a hearing on 23 February 2018
- 23 January 2018 – Letter from Director, to Mr Mike Baird, inviting him to give evidence at a hearing on 23 February 2018

- 5 February 2018 – Letter from Director, to Mr Mike Baird, inviting him to give evidence at a hearing on a date of his choosing
- 13 February 2018 – Letter from Chair to Mr Mike Baird, asking him to reconsider the invitation to give evidence at the hearing on 23 February 2018
- 13 February 2018 – Letter from Chair to Mr Bay Warburton, Head of Stakeholder Relations, Mirvac, asking him to reconsider the invitation to give evidence at the hearing on 23 February 2018.

4. Inquiry into museums and galleries

4.1 Witnesses – 23 February 2018

Mr Secord moved: That if Mr Mike Baird, Mr Bay Warburton and other Mirvac representatives decline the committee's final invitation to attend a hearing, the committee summon the following individuals to appear at a hearing on 4 April 2018:

- Mr Mike Baird
- Mr Bay Warburton
- Ms Susan Lloyd-Hurwitz, Managing Director, Mirvac.

The committee divided.

Ayes: Mr Borsak, Mr Graham, Mr Secord, Mr Shoebridge.

Noes: Mr Farlow, Mr Franklin, Mr Mallard.

Question resolved in the affirmative.

Resolved, on the motion of Mr Secord: That if Mr Mike Baird and Mr Bay Warburton decline the invitation to attend the hearing on 23 February 2018, the hearing for all other invited witnesses be postponed until 4 April 2018.

4.2 Report timeline

Resolved, on the motion of Mr Shoebridge: That the committee extend the reporting deadline to 28 June 2018.

5. Adjournment

The committee adjourned at 5.04 pm *sine die*.

Emma Rogerson
Committee Clerk

Minutes no. 64

Wednesday 7 March 2018

Portfolio Committee No. 4 – Legal Affairs

Members' Lounge, Parliament House, 10.30 am

1. Members present

Mr Borsak, *Chair*

Mr Shoebridge, *Deputy Chair* (from 10.34am)

Mr Farlow

Mr Franklin

Mr Mallard

Mr Moselmane

Mr Secord

2. Previous minutes

Resolved, on the motion of Mr Farlow: That draft minutes no. 62 be confirmed.

3. Correspondence

The committee noted the following items of correspondence:

Received:

- 16 February 2018 – Email from Mr Mike Baird, declining invitation to attend hearing on 23 February 2018
- 16 February 2018 – Letter from Mr Bay Warburton, Head of Stakeholder Relations, Mirvac, declining invitation to attend hearing on 23 February 2018
- 21 February 2018 – Email from Ms Rebecca Grasso, Director City Identity, Experience and Engagement, Parramatta City Council, to secretariat, advising that the additional documents provided with Parramatta City Council's answers to questions on notice can be published
- 2 March 2018 – Letter from Ms Judith Pini, Senior Legal Counsel, Mirvac to Chair, responding to invitation for Ms Susan Lloyd-Hurwitz to give evidence to the inquiry.

Sent:

- 19 February 2018 – Letter from Director, to Ms Susan Lloyd-Hurwitz, Managing Director, Mirvac inviting her to give evidence at a hearing on 4 April 2018.

4. Inquiry into museums and galleries

4.1 Witnesses – hearing 28 May 2018

The committee noted that Mr Baird and Mr Warburton agreed to appear voluntarily.

Resolved, on the motion of Mr Franklin: That the committee invite in the following order:

- Mr Greg Dyer, former Chief Executive Officer, and Mr Craig Becroft, Chief Financial Officer, Parramatta City Council to appear before the committee on 28 May 2018 for one hour
- Mr Mike Baird, former Premier to appear before the committee on 28 May 2018 for two hours
- Mr Bay Warburton, former Chief of Staff to Mr Mike Baird, to appear before the committee on 1 June 2018 for two hours.

Resolved, on the motion of Mr Shoebridge: That the committee write to Ms Susan Lloyd-Hurwitz, Managing Director, Mirvac via Ms Judith Pini, Senior Legal Counsel, Mirvac, inviting Ms Lloyd-Hurwitz to appear before the committee on 28 May 2018 (or a suitable alternative date) and that if Ms Lloyd-Hurwitz declines the invitation, that the committee summon her to attend.

5. Adjournment

The committee adjourned at 10.42 am, until 2.00 pm, Wednesday 7 March 2018, Members' Lounge (*Parklea deliberative*).

Emma Rogerson
Committee Clerk

Minutes no. 69

Monday 28 May 2018

Portfolio Committee No. 4 – Legal Affairs

Jubilee Room, Parliament House, 9.48 am

1. Members present

Mr Borsak, *Chair*
Mr Shoebridge, *Deputy Chair* (from 9.51 am)
Mr Farlow
Mr Khan (substituting for Mr Franklin)
Mr Mallard
Mr Moselmane
Mr Secord

2. Apologies

Mr Franklin

3. Previous minutes

Resolved, on the motion of Mr Farlow: That draft minutes no. 64 be confirmed.

4. Correspondence

The committee noted the following items of correspondence:

Received:

- 7 March 2018 – Letter from Ms Judith Pini, Senior Legal Counsel, Mirvac, to Chair, advising that Ms Susan Lloyd-Hurwitz is unavailable on 28 May 2018 but other Mirvac representatives will be attend the hearing
- 22 March 2018 - Letter from Ms Judith Pini, Senior Legal Counsel, Mirvac, to Chair, advising that Ms Lloyd-Hurwitz is available to attend a hearing after 30 June 2018 and seeking clarification about matters being examined by the committee
- 3 April 2018 – Email from Mrs Marina Garlick to Chair, requesting that the committee publicly announce it is against the Powerhouse move
- 27 April 2018 – Email from Ms Judith Pini, Senior Legal Counsel, Mirvac, to Chair, advising that the alternative hearing dates in August and September 2018 are not suitable
- 28 May 2018 – Letter from Government Whip to secretariat, advising that the Hon Trevor Khan MLC will be substituting for the Hon Ben Franklin MLC for the hearing for the museums and galleries inquiry on 28 May 2018.

Sent:

- 7 March 2018 – Letter from Chair, to Ms Judith Pini, Senior Legal Counsel, Mirvac, asking that Ms Susan Lloyd-Hurwitz reconsider the invitation to appear at a hearing on 28 May 2018
- 9 March 2018 – Letter from Chair to Ms Judith Pini, Senior Legal Counsel, Mirvac, asking for alternative dates that Ms Lloyd-Hurwitz and Mr Long could attend a hearing
- 27 April 2018 – Letter from Chair to Ms Judith Pini, Senior Legal Counsel, Mirvac, seeking availability of Ms Lloyd-Hurwitz, Mr Long and Ms Pini to attend a hearing in August or September sittings.

5. Inquiry into museums and galleries**5.1 Submissions**

The committee noted that the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 174 - 178 and supplementary submissions 96c, 113a, 148k – 148n, 159 and 167a.

5.2 Answers to questions on notice – Ms Amanda Chadwick, former Administrator, Parramatta City Council

Resolved, on the motion of Mr Moselmane: That the committee authorise the publication of the following documents provided by Parramatta City Council with their answers to questions on notice received on 12 September 2017, as consented to by the council:

- Deloitte - Market Analysis for Riverside Theatres – November 2014

- Riverside Masterplan – Stage 2 Report - July 2015
- Riverside Masterplan – Formulation and consolidation report – January 2013.

Mr Shoebridge joined the meeting.

5.3 Report timeline

Resolved, on the motion of Mr Secord: That the committee extend the reporting deadline to 17 October 2018.

5.4 Further committee activities

Resolved, on the motion of Mr Shoebridge: That the committee invite the following witnesses to a public hearing on a date to be canvassed with the committee to provide evidence on the NSW Government's *Final Business Case Summary: Powerhouse Museum in Western Sydney*:

- Hon Don Harwin MLC, Minister for Arts
- Mr Craig Limkin, Executive Director, Cultural Infrastructure Program Management Office, Arts, Screen and Culture Division, Department of Planning and Environment
- Mr Lindsay Sharp, Founding Director, Powerhouse Museum and member of Powerhouse Museum Alliance
- Mr Lionel Glendenning, Architect of Record, Powerhouse Museum
- Ms Kylie Winkworth, Powerhouse Museum Alliance
- Ms Jennifer Sanders, Powerhouse Museum Alliance.

5.5 Consideration of incident at MAAS fashion event

Resolved, on the motion of Mr Shoebridge: That the committee note the evidence surrounding a certain incident at the MAAS fashion event and that if formal evidence is received on the matter, the committee hold an in camera hearing to examine the evidence.

5.6 Public hearing

Witnesses, the public and media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witnesses were sworn and examined:

- Mr Greg Dyer, Former Chief Executive Officer, Parramatta City Council
- Mr Craig Becroft, Former Chief Financial Officer, Parramatta City Council.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Mike Baird, former Premier.

The evidence concluded and the witnesses withdrew.

6. Adjournment

The committee adjourned at 12.30 pm until 10.00 am, Friday 1 June 2018, Macquarie Room, Parliament House (*Museums and galleries public hearing*).

Emma Rogerson
Committee Clerk

Minutes no. 70

Friday 1 June 2018

Portfolio Committee No. 4 – Legal Affairs

Macquarie Room, Parliament House, 9.58 am

1. Members present

Mr Borsak, *Chair*

Mr Shoebridge, *Deputy Chair*

Mr Farlow

Mr Khan (substitution for Mr Franklin) (from 10.03 am)

Mr Secord

Mrs Ward (substituting for Mr Mallard)

2. Previous minutes

Resolved, on the motion of Mr Shoebridge: That draft minutes no. 69 be confirmed.

3. Inquiry into museums and galleries in New South Wales

3.1 Public submissions

The committee noted that the following supplementary submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: supplementary submission nos. 142f, 149f, and 149g.

Mr Khan arrived.

3.2 Public hearing

Witnesses, the public and media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witness was sworn and examined:

- Mr Bay Warburton, former Chief of Staff to former Premier, Mr Mike Baird.

The evidence concluded and the witness withdrew.

4. Adjournment

The committee adjourned at 11.07 am, until Friday 6 July 2018, Parliament House (*emergency services report deliberative*).

Teresa McMichael

Committee Clerk

Minutes no. 78

Monday 20 August 2018

Portfolio Committee No. 4 – Legal Affairs

Macquarie Room, Parliament House, Sydney, 9.22 am

1. Members presentMr Borsak, *Chair* (from 9.24 am)Mr Shoebridge, *Deputy Chair* (from 9.22 am – 9.26 am)(from 11.07 am – 11.30 am)

Mr Amato (substituting for Mr Khan)

Mr Clarke (from 9.24 am)

Ms Cusack (until 12.34 pm)

Mr Moselmane

Ms Voltz (from 9.31 am)

2. Chair

In the absence of the Chair, the Deputy Chair took the Chair.

3. Minutes

Resolved, on the motion of Mr Moselmane: That draft minutes 76 be confirmed.

4. Correspondence

The committee noted the following item of correspondence:

5. Inquiry into museums and galleries**5.1 Invitation to Ms Dolla Merrillees**

Mr Moselmane moved: That the committee invite Ms Dolla Merrillees, former Director, Museum of Applied Arts and Sciences to the hearing on 12 September 2018.

Question put.

The committee divided.

Ayes: Mr Moselmane and Mr Shoebridge.

Noes: Ms Cusack and Mr Amato.

Question resolved in the affirmative on the casting vote of the Chair.

6. Inquiry into the fire and emergency services levy**6.1 Public submissions**

Resolved, on the motion of Mr Moselmane: That the committee authorise the publication of submission no 25.

6.2 Chair

The Chair resumed the Chair.

6.3 Public hearing

Witnesses, the public and media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witness was sworn and examined:

- Cr Bill West, Deputy Mayor, Cowra Shire Council, and Members, Executive, Central NSW Councils (via teleconference).

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Paul Versteeg, Policy Coordinator, Combined Pensioners and Superannuants Association of NSW.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Michael Holton, President, Volunteer Fire Fighters Association
- Mr Brian Williams, Vice President, Volunteer Fire Fighters Association

Mr Borsak advised that Mr Holton is the Shooters, Fishers & Farmers candidate for the seat of Monaro.

Mr Holton tendered the following documents:

- 'Photo 1: Fire intensity within 1 km of ignition'
- 'Photo 2. Intensity of damage done to the environment'
- 'Photo 3. Taken approx. 150 metres into 2 year old HR'
- 'Photo 4. Dangerous steep country in the National Park that Volunteers had to extinguish and contain one flank of the fire'.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Chris Read, Senior Industrial Officer, Fire Brigade Employees Union
- Ms Gemma Lawrence, Fire Brigade Employees Union.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Garry Grant, Chair – Rural Affairs Committee, NSW Farmers Association.
- Ms Kathy Rankin, Policy Director – Rural Affairs & Business Economics and Trade, NSW Farmers Association.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Professor Allan Fels AO, Monitor, Emergency Services Levy Insurance Monitor
- Ms Joanna Ifield, Director, Emergency Services Levy Insurance Monitor.

The evidence concluded and the witnesses withdrew.

6.4 Tendered documents

Resolved, on the motion of Ms Voltz: That the committee accept and publish the documents tendered by Mr Holton during the public hearing:

- 'Photo 1: Fire intensity within 1 km of ignition'
- 'Photo 2. Intensity of damage done to the environment'
- 'Photo 3. Taken approx. 150 metres into 2 year old HR'
- 'Photo 4. Dangerous steep country in the National Park that Volunteers had to extinguish and contain one flank of the fire'.

7. Adjournment

The committee adjourned at 12.43 pm until 30 August 2018 (Budget Estimates hearing).

Kate Mihaljek
Committee Clerk

Minutes no. 82

Wednesday 12 September 2018

Portfolio Committee No. 4 – Legal Affairs

Macquarie Room, Parliament House, 9.19 am

1. Members present

Mr Borsak, *Chair*

Mr Shoebridge, *Deputy Chair* (from 9.25 am)

Mr Farlow

Mr Franklin

Mr Mallard

Mr Moselmane

Mr Secord

2. Previous minutes

Resolved, on the motion of Mr Farlow: That draft minutes no. 70 be confirmed.

3. Correspondence

The committee noted the following items of correspondence:

Received

- 7 June 2018 – Email from Ms Jacqueline Newman to committee, forwarding a newspaper article about Manning River student's fight to save Powerhouse Museum
- 19 July 2018 - Email From Mr Greg Dyer, former Chief Executive Officer, City of Parramatta to secretariat, explaining he is unable to access the information requested by the question on notice taken at the hearing on 28 May 2018
- 8 August 2018 - Letter from Mr Tom Lockley to committee, alleging that evidence given by former City of Parramatta Council representatives about site purchase of land was erroneous
- 31 August 2018 – Email from Dr Lindsay Sharp, Member, Powerhouse Museum Alliance to secretariat, requesting that the Powerhouse Museum Alliance appear before the committee on 12 September 2018 for at least 75 minutes
- 31 August 2018 – Email from Mr Jesse Price, Executive Officer, MAAS, to secretariat, advising that:
 - Professor Barney Glover President of MAAS Trust and Mr Andrew Elliott, Acting Director MAAS, accepting the committee's invitation to appear at a public hearing but not on 12 September 2018
 - Ms Judith Coombs, Head of Strategic Collections Management, MAAS, declining the committee's invitation due to extended leave.
- 3 September 2018 – Email from Mr Jesse Price, Executive Officer, MAAS, to secretariat, advising Ms Merrillees has declined the committee's invitation to appear at the public hearing on 12 September.

Sent:

- 24 August 2018 – Letter from Chair, to Hon Don Harwin MLC, Minister for Arts, inviting him to give evidence at the public hearing on 12 September 2018
- 24 August 2018 – Letter from secretariat to Ms Dolla Merrillees, former Director, MAAS, inviting her to give evidence at the public hearing on 12 September 2018
- 24 August 2018 – Letter from secretariat to Ms Judith Coombes, Head of Strategic Collections Management, MAAS, inviting her to give evidence at the public hearing on 12 September 2018.

4. Inquiry into museums and galleries in New South Wales**4.1 Public submissions**

The committee noted that the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: supplementary submission nos. 179 and supplementary submission nos 67b, 96d, 137c-e, 142g, 143a, 148o-t and 155c.

4.2 Answers to questions on notice and supplementary questions

The committee noted that the answers to questions on notice from Mr Mike Baird, received 22 June 2018 were published by the committee clerk under the authorisation of the resolution appointing the committee:

4.3 Future hearings and report timeline

Mr Secord moved: That the committee write to Ms Dolla Merrilless, Former Director, MAAS, inviting her to give evidence at a future hearing and that Ms Merrillees be reminded of the committee's powers to compel the attendance of witnesses.

Question put.

The committee divided.

Ayes: Mr Borsak, Mr Moselmane, Mr Secord.

Noes: Mr Farlow, Mr Franklin, Mr Mallard.

Question resolved in the affirmative on the casting vote of the Chair.

Resolved, on the motion of Mr Secord: That the committee invite Professor Barney Glover, President of MAAS Trust and Mr Andrew Elliot, Acting Director MAAS, to give evidence at a public hearing to be held on Friday 16 November at 1 pm.

Mr Shoebridge moved: That the committee extend its reporting deadline to 28 February 2019.

Question put.

The committee divided.

Ayes: Mr Borsak, Mr Moselmane, Mr Secord, Mr Shoebridge.

Noes: Mr Farlow, Mr Franklin, Mr Mallard.

Question resolved in the affirmative.

4.4 Public hearing

Witnesses, the public and media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witnesses were examined on their former oath:

- Dr Lindsay Sharp, Member, Powerhouse Museum Alliance
- Ms Kylie Winkworth, Member, Powerhouse Museum Alliance.

The following witness was sworn and examined:

- Mr Andrew Grant, Transport Heritage Consultant.

Mr Grant tendered the following document:

- Evidence of 'de-skilling' at the Museum of Applied Arts and Sciences.

The evidence concluded and the witnesses withdrew.

The Chair noted that Members of Parliament swear an oath to their office, and therefore do not need to be sworn prior to giving evidence before a committee.

The following witnesses were examined on their former oath:

- Mr Craig Limkin, Executive Director, Cultural Infrastructure Program Management Office, Arts, Screen and Culture Division, Department of Planning and Environment
- Ms Alex O'Mara, Deputy Secretary, Department of Planning and Environment.

The evidence concluded and the witnesses withdrew.

Tendered documents

Resolved, on the motion of Mr Shoebridge: That the committee accept and publish the following document tendered during the public hearing:

- Evidence of 'de-skilling' at the Museum of Applied Arts and Sciences, tendered by Mr Andrew Grant, Transport Heritage Consultant.

4.5 Return of answers to question on notice from the Department of Planning and Environment

Resolved, on the motion of Mr Shoebridge: That, if the Department of Planning are unable to provide answers to questions on notice by the due date, the committee consider the Department's reasons for not doing so and consider the matter further.

5. Adjournment

The committee adjourned at 12.12 pm, until Monday 24 September 2018, Parliament House (*Parklea site visit*).

Emma Rogerson
Committee Clerk

Minutes no. 89

Friday 16 November 2018
Portfolio Committee No. 4 – Legal Affairs
Jubilee Room, Parliament House, 2.51 pm

1. Members present

Mr Borsak, *Chair*
Mr Shoebridge, *Deputy Chair*
Mr Farlow (left at
Mr Khan (substituting for Mr Franklin)
Mr Moselmane
Me Secord

2. Apologies

Mr Mallard

3. Previous minutes

Resolved, on the motion of Mr Farlow: That draft minute no. 82 be confirmed.

4. Correspondence

The committee noted the following items of correspondence:

Received

- 27 September 2018 – Email from Mr Andrew Grant, Transport Heritage Consultant to secretariat, forwarding copy of letter dated 2 April to the Minister for Education expressing concern about the potential loss of the Powerhouse Museum as an educational institution.
- 15 October 2018 – Email from Mr Jesse Price, Executive Officer, Museum of Applied Arts and Sciences to secretariat, advising that he has been unable to contact Ms Dolla Merrillees regarding her availability to attend a public hearing on 16 November 2018.

- 19 October 2018 - Email from Government Whip to secretariat, advising that Mr Khan will be substituting for Mr Franklin at the hearing on 16 November 2018.

Sent

- 27 September 2018 – Letter from Chair to Ms Dolla Merrillees, care of Mr Jesse Price, Executive Officer, Museum of Applied Arts and Sciences inviting Ms Merrillees to give evidence at hearing on 16 November 2018.

5. Inquiry into museums and galleries

5.1 Document provided by Department of Planning and Environment

Resolved, on the motion of Mr Shoebridge: That the committee authorise the publication of the Final Business Case for the Renewal of the Powerhouse Museum, Powerhouse Museum dated 24 October 2014 as provided by the Department of Planning and Environment on 12 September 2018.

5.2 Answers to questions on notice

The committee noted that the following answers to questions on notice were published by the committee clerk under the authorisation of the resolution appointing the committee:

- answers to questions on notice from the Department of Planning and Environment received 9 October 2018.

5.3 Report deliberative

Resolved, on the motion of Mr Shoebridge: That the committee hold a report deliberative meeting for the inquiry into museums and galleries on Friday 22 February 2019 at 10am.

Mr Farlow left the meeting.

5.4 Further hearings

Resolved, on the motion of Mr Shoebridge: That the committee hold two further hearings on Monday 11 and Tuesday 12 February 2019 and invite the list of witnesses as proposed by the Chair.

Resolved, on the motion of Mr Shoebridge: That the secretariat, in consultation with the Chair, decide the allocation and ordering for each witness.

Mr Farlow re-joined the meeting.

5.5 Public hearing

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witness was examined on his former oath:

- Professor Barney Glover, President, Museum of Applied Arts and Sciences Trust

The following witness was sworn and examined:

- Mr Andrew Elliott, Chief Financial Officer and Acting Director, Museum of Applied Arts and Sciences.

Mr Shoebridge tabled the following document:

- Proposed site for Powerhouse Museum, Parramatta.

The evidence concluded and the witnesses withdrew.

The public hearing concluded at 4.06 pm. The public and the media withdrew.

Resolved, on the motion of Mr Shoebridge: That the names of the electrician and security officer be redacted from the transcript of evidence of 16 November 2018.

Resolved, on the motion of Mr Shoebridge: That the document tabled by Mr Shoebridge during the public hearing be published on the committee's webpage.

6. Adjournment

The committee adjourned at 4.15 pm, until 11 February 2019 (public hearing).

Emma Rogerson
Committee Clerk

Minutes no. 90

Wednesday 21 November 2018

Portfolio Committee No. 4 – Legal Affairs

Members' Lounge, Parliament House, Sydney at 10.45 am

1. Members present

Mr Borsak, *Chair*

Mr Shoebridge, *Deputy Chair* (from 10.47 am)

Mr Clarke

Ms Cusack (from 10.48 am)

Mr Khan (from 10.46 am)

Mr Moselmane

Ms Voltz

2. Previous minutes

Resolved, on the motion of Mr Moselmane: That draft minutes no. 88 be confirmed.

3. Correspondence

The committee noted the following items of correspondence:

Received:

- 7 November 2018 – Letter from Mr Andrew Cappie-Wood, Secretary, Department of Justice, to secretariat, requesting that the committee provide a copy of the legal advice it receives so that Mr Cappie-Wood can be given sufficient opportunity to respond
- 7 November 2018 – Letter from Mr Andrew Cappie-Wood, Secretary, Department of Justice, to secretariat, providing the Solicitor General's advice referred to in the Acting Crown Solicitor's advice of 24 October 2018
- 14 November 2018 – Letter from the Hon David Elliott MP, Minister for Counter Terrorism, Corrections, Veterans Affairs, to secretariat, providing a clarification to the transcript of 4 September 2018
- 15 November 2018 – Letter from the Hon David Elliott MP, Minister for Counter Terrorism, Corrections, Veterans Affairs, to secretariat, providing a clarification to a transcript of 31 October 2018 relating to Ms Melanie Hawyes evidence.
- 19 November 2018 – Email from Ms Tanya Raffoul, Office of the Hon David Elliott MP, Minister for Counter Terrorism, Corrections, Veterans Affairs, to secretariat, attaching answers to questions on notice and transcript corrections from the hearing of 31 October 2018
- 19 November 2018 – Email from Ms Nishita Dayal, Office of the Hon Troy Grant MP, Minister for Police, Emergency Services, to secretariat, attaching answers to questions on notice from the hearing of 31 October 2018

- 19 November 2018 – Email from Ms Fiona Rafter, Inspector of Custodial Services, to secretariat, attaching answers to questions on notice, transcript corrections and legal advice from the hearing on 31 October 2018
- 20 November 2018 – Letter from the Hon David Elliott MP, Minister for Counter Terrorism, Corrections, Veterans Affairs, to secretariat, providing a clarification to a response to supplementary question 138.

Sent:

- 31 October 2018 – Letter from secretariat, to Mr Andrew Cappie-Wood, Secretary, Department of Justice, requesting a copy of the Solicitor General's advice referred to in the Acting Crown Solicitor's advice of 24 October 2018
- 5 November 2018 – Email from secretariat, to Ms Nishita Dayal, Office of the Hon Troy Grant MP, Minister for Police, Emergency Services, attaching transcript of evidence with questions on notice highlighted, and instructions on how to correct the transcript and return answers to questions
- 5 November 2018 – Email from secretariat, to Ms Tanya Raffoul, Office of the Hon David Elliott MP, Minister for Counter Terrorism, Corrections, Veterans Affairs, and Ms Fiona Rafter, Inspector of Custodial Services, attaching transcript of evidence with questions on notice highlighted, and instructions on how to correct the transcript and return answers to questions.

4. Inquiry into Budget Estimates 2018-2019

4.1 Legal advice from Ms Fiona Rafter

Resolved, on the motion of Mr Khan:

- That the committee authorise the publication of correspondence dated 19 November 2018 from Ms Fiona Rafter, Inspector for Custodial Services, to secretariat, and the attached memorandum of advice prepared by Ms Anna Mitchelmore, Senior Counsel, on 'Powers of Legislative Council Portfolio Committee No 4 in the context of its inquiry into Budget Estimates 2018-2019'.
- That the committee authorise the publication of correspondence dated 31 October 2018 from Mr Andrew Cappie-Wood, Secretary, Department of Justice, to secretariat, and the attached Solicitor General's advice.
- That the committee request that the Clerk refer the Solicitor General's advice provided by Mr Cappie-Wood and the memorandum of advice provided by Ms Rafter to Mr Bret Walker SC for his overall consideration in relation to the five questions the Clerk has requested advice on, and in particular to seek Mr Walker's observations of paragraph 28 as to who makes the determination as to what is 'reasonably necessary'.
- That the committee authorise the publication of correspondence from Mr David Blunt, Clerk of the Parliaments, to Mr Bret Walker SC, dated 1 November 2018, seeking his advice on this matter.

Mr Shoebridge joined the meeting.

Ms Cusack joined the meeting.

4.2 Transcript clarifications – Minister Elliott

Resolved, on the motion of Ms Voltz: That:

- Ms Melanie Hawyes, Executive Director of Juvenile Justice NSW, be sent a copy of the letter from the Hon David Elliott MP, Minister for Counter Terrorism, Corrections, Veterans Affairs, dated 19 November 2018, to clarify if Ms Hawyes is aware of the clarification and would like it included as a footnote in the transcript of 31 October 2018
- the committee authorise the publication of correspondence received on 19 and 20 November 2018 from Hon David Elliott MP, Minister for Counter Terrorism, Corrections, Veterans Affairs, regarding clarification to the transcript and supplementary questions.

4.3 Further committee activity

The committee noted that it will await the advice from Mr Brett Walker SC before considering any further action and that the Clerk will provide an update on the timing of the advice.

5. Inquiry into museums and galleries

5.1 Formal resolution to redact transcript of evidence, 16 November 2018

Resolved, on the motion of Mr Shoebridge: That the committee authorise the redaction of the positions titles of the three individuals named in the transcript of evidence of 16 November 2018.

6. Adjournment

The committee adjourned at 10.52 am, *sine die*.

Rebecca Main
Committee Clerk

Minutes no. 94

Thursday 7 February 2019
Portfolio Committee No. 4 – Legal Affairs
Members' Lounge, Parliament House, 1.04 pm

1. Members present

Mr Borsak, *Chair*
Mr Shoebridge, *Deputy Chair*
Mr Farlow via teleconference
Mr Khan (substituting for Mr Franklin for the duration of the inquiry)
Mr Moselmane
Mr Secord via teleconference

2. Apologies

Mr Mallard

3. Previous minutes

Resolved, on the motion of Mr Khan: That drat minutes no. 89 be confirmed.

4. Correspondence

The committee noted the following items of correspondence:

Received:

- 15 January 2019 – Email from Witness A to secretariat, declining invitation to give evidence
- 25 January 2019 – Email from Mr Jesse Price, Executive Officer, Museum of Applied Arts and Sciences to secretariat, advising that witnesses are unavailable to attend hearing on 11 February 2019 for various reasons
- 31 January 2019 – Email from Witness A to secretariat, further declining the invitation to give evidence
- 7 February 2019 – Letter from Government Whip to secretariat, advising that Mr Trevor Khan MLC will be substituting for Mr Ben Franklin MLC for the duration of the inquiry into museums and galleries in New South Wales.

Sent:

- 25 January 2019 - Letter from Chair to Witness A regarding an invitation to give evidence
- 25 January 2019 – Email from secretariat to individual, withdrawing invitation to give evidence in private on 11 February 2019.

5. Inquiry into museums and galleries in New South Wales

5.1 Witnesses – 11 February 2019

Mr Secord moved: That the committee summon Witness A to appear at a private hearing on 11 February 2019.

Question put.

The committee divided.

Ayes: Mr Borsak, Mr Moselmane, Mr Secord, Mr Shoebridge

Noes: Mr Farlow, Mr Khan

Question resolved in the affirmative.

Resolved, on the motion of Mr Shoebridge: That the deliberative meeting on Monday 11 February 2019 start at 8.15 am and the first *in camera* witness appear at 8.30 am.

Resolved, on the motion of Mr Shoebridge: That the committee write to Ms Lisa Chung, Deputy President, Museum of Applied Arts and Sciences Trust, inviting her to attend a hearing on Tuesday 12 February 2019, at a time convenient to her between 9 am to 11 am.

Resolved, on the motion of Mr Secord: That the committee write to Create NSW requesting Ms Dolla Merrillees' contact details.

6. Adjournment

The committee adjourned at 1.23 pm, until Monday 11 February 2019, 8.15 am, Macquarie Room, Parliament House (hearing).

Emma Rogerson
Committee Clerk

Minutes no. 95

Monday 11 February 2019

Portfolio Committee No. 4 – Legal Affairs

Macquarie room, Parliament House, 8.15 am

1. Members present

Mr Borsak, *Chair*

Mr Shoebridge, *Deputy Chair*

Mr Farlow

Mr Khan

Mr Moselmane

Mr Secord

Mrs Ward (substituting for Mr Mallard)

2. Previous minutes

Resolved, on the motion of Mr Shoebridge: That draft minutes no. 93 be confirmed.

3. Inquiry into Budget Estimates 2018-2019

3.1 Content of draft report

The committee discussed the Chair's proposed content of the draft report including procedural issues in respect of the Corrections portfolio.

4. Correspondence

The committee noted the following items of correspondence:

Received:

- 18 January 2019 – Letter from the Hon David Elliott MP, Minister for Counter Terrorism, Corrections, Veterans Affairs, to secretariat, attaching answers to questions on notice and transcript corrections from the hearing of 19 December
- 18 January 2019 – Letter from Ms Fiona Rafter, Inspector of Custodial Services, to secretariat, attaching answers to questions on notice and transcript corrections from the hearing of 19 December 2018
- 25 January 2019 – Email from Mr Jesse Price, Executive Officer, Museum of Applied Arts and Sciences to secretariat, advising that witnesses are unavailable to attend hearing on 11 February 2019 for various reasons
- 25 January 2019 – Email from an individual, to secretariat, providing comment on the government response to the inquiry into emergency services agencies, particularly relating to the NSW Police Force
- 25 January 2019 – Email from an individual, to secretariat, providing comment on the government response for the inquiry into emergency services agencies, particularly relating to the NSW Ambulance Service
- 25 January 2019 – Email from an individual, to secretariat, providing comment on the government response to the inquiry into emergency services agencies
- 26 January 2019 – Email from an individual, to secretariat, providing comment on the government response to the inquiry into emergency services agencies, particularly relating to a case before the Industrial Relations Commission
- 29 January 2019 – Email from the Bullied Teachers Support Network, to Chair, providing comment on the government response to the inquiry into emergency services agencies, particularly relating to the NSW Department of Education
- 30 January 2019 – Email from an individual, to secretariat, providing comment on the government response for the inquiry into emergency services agencies, particularly relating to the NSW Ambulance Service
- 8 February 2019 – Letter from Mr James Hebron, Deputy Secretary, General Counsel, Department of Planning and Environment to Chair, advising that Ms Merrillees is not currently employed or contracted by Create NSW or the Department of Planning and Environment and is unable to provide her contact details
- 8 February 2019 – Letter from Government Whip to secretariat, advising that Mrs Natalie Ward MLC will be substituting for Mr Shayne Mallard MLC for the hearing on 11 February 2019
- 11 February 2019 – Email from Mr Jesse Price, Executive Officer, Museum of Applied Arts and Sciences to secretariat, advising that Ms Lisa Chung is unavailable to attend a hearing on Tuesday 12 February 2019.

Sent:

- 15 January 2019 – Letter from Chair, to Witness B inviting to private hearing on 11 February 2019
- 15 January 2019 – Letter from Chair, to Head of Security, Museum of Applied Arts and Sciences, inviting to hearing on 11 February 2019
- 15 January 2019 – Letter from Chair, to Ms Lisa Chung, Deputy President, Museum of Applied Arts and Sciences Trust, inviting to public hearing on 11 February 2019
- 15 January 2019 – Letter from Chair, to Mr Brad Baker, Design Manager, Museum of Applied Arts and Sciences Trust, inviting to public hearing on 11 February 2019
- 7 February 2019 – Letter from Chair to Create NSW requesting Ms Dolla Merrillees' contact details
- 7 February 2019 – Letter from Chair to Mr John Gregor, Director, Finance, Department of Parliamentary Services, requesting allowance for witness to appear before Portfolio Committee No. 4
- 8 February 2019 – Letter from Chair to Ms Lisa Chung, Deputy President, Museum of Applied Arts and Sciences Trust, inviting Ms Chung to give evidence at a hearing on 12 February 2019.

Resolved, on the motion of Mr Khan: That the committee keep the following items of correspondence confidential, as per the recommendation of the secretariat, as it contains identifying and/or sensitive information:

- email dated 25 January 2019 from an individual, to secretariat, providing comment on the government response to the inquiry into emergency services agencies, particularly relating to the NSW Police Force
- email dated 25 January 2019 from an individual, to secretariat, providing comment on the government response for the inquiry into emergency services agencies, particularly relating to the NSW Ambulance Service
- email dated 25 January 2019 from an individual, to secretariat, providing comment on the government response to the inquiry into emergency services agencies
- email dated 26 January 2019 from an individual, to secretariat, providing comment on the government response to the inquiry into emergency services agencies, particularly relating to a case before the Industrial Relations Commission
- email dated 29 January 2019 from the Bullied Teachers Support Network, to Chair, providing comment on the government response to the inquiry into emergency services agencies, particularly relating to the NSW Department of Education
- email dated 30 January 2019 from an individual, to secretariat, providing comment on the government response for the inquiry into emergency services agencies, particularly relating to the NSW Ambulance Service.

5. Inquiry into museums and galleries in New South Wales

5.1 Supplementary submissions

Resolved, on the motion of Mr Shoebridge: That the committee authorise the publication of supplementary submission nos. 142h and 142i.

5.2 Answers to questions on notice

The committee noted that the following answers to questions on notice were published by the committee clerk under the authorisation of the resolution appointing the committee:

- answers to questions on notice from the Museum of Applied Arts and Sciences, received 12 December 2018.

5.3 In camera witnesses

Resolved, on the motion of Mr Shoebridge: That the committee proceed to take *in camera* evidence from the following witnesses:

- Witness A
- Witness B
- Witness C.

5.4 Potential publication of in camera evidence

Resolved, on the motion of Mr Shoebridge: That the committee:

- keep confidential the transcript of evidence of Witness C and consult with the witness if certain sections are required for publication in the final report, with any publication subject to his name and position being suppressed
- keep confidential the evidence of Witness A and Witness B, and consult with each witness prior to the publication of any of their evidence if it is required for the final report.

5.5 Contact with Ms Merrillees

The committee noted that the secretariat has been unsuccessful on numerous occasions in trying to contact Ms Merrillees via email, phone and Facebook regarding the committee's invitation for her to give evidence to this inquiry.

5.6 Timeframe for answers to question on notice and supplementary questions

Resolved, on the motion of Mr Khan: That:

- members provide any supplementary questions to the secretariat within 1 day of receiving the transcript of evidence
- witnesses be required to provide answers to questions on notice/supplementary questions within 3 days.

5.7 In camera hearing

The committee previously resolved to take *in camera* evidence from witnesses A, B and C.

The committee proceeded to take *in camera* evidence.

Persons present other than the committee: Ms Susan Want, Ms Rebecca Main, Ms Tina Higgins, Ms Emma Rogerson, Ms Angeline Chung and Hansard reporters.

The following witness was sworn and examined:

- Witness A.

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Witness B.

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Witness C.

Witness C tendered photographs, two videos and emails as evidence.

The evidence concluded and the witness withdrew.

5.8 Public hearing

Witnesses, the public and media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witness was sworn and examined:

- Mr Brad Baker, Exhibition Consultant.

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Lionel Glendenning, Architect of Record, Powerhouse Museum.

The evidence concluded and the witness withdrew.

The following witnesses were examined under their former oath:

- Mrs Jennifer Sanders, Member, Powerhouse Museum Alliance
- Mr Nick Pappas, Member, Powerhouse Museum Alliance and former President, Museum of Applied Arts and Sciences Trust.

Ms Sanders tendered the following document:

- Development options of Ultimo site - excerpts from final business case for Powerhouse Museum

The evidence concluded and the witnesses withdrew.

The following witness was examined under his former oath:

- Mr Craig Limkin, Executive Director, Cultural Infrastructure and Program Management Officer, Arts, Screen and Culture Division, Department of Planning and Environment.

Mr Limkin tendered the following document:

- Cultural Infrastructure Plan 2025

The evidence concluded and the witness withdrew.

The public and media withdrew.

5.9 Tendered documents

Mr Secord moved that: That the committee accept and publish the following documents tendered during *in camera* evidence:

- Two videos depicting people dancing on catwalk at MAAS Fashion Ball, tendered by Witness C.
- Question put.

The committee divided.

Ayes: Mr Borsak, Mr Khan, Mr Moselmane, Mr Shoebridge, Mr Secord.

Noes: Mr Farlow, Mrs Ward.

Question resolved in the affirmative.

Resolved on the motion of Mr Shoebridge: That the committee keep confidential the email and photographs tendered by Witness C.

Resolved, on the motion of Mr Shoebridge: That the committee accept and publish the following document tendered during public hearing:

- Development options of Ultimo site - excerpts from final business case for Powerhouse Museum, tendered by Ms Jennifer Sanders, Member, Powerhouse Museum Alliance.

Resolved, on the motion of Mr Moselmane: That the committee accept and publish the following document tendered during public hearing:

- Cultural Infrastructure Plan 2025, tendered by Mr Craig Limkin, Executive Director, Cultural Infrastructure and Program Management Officer, Arts, Screen and Culture Division, Department of Planning and Environment.

5.10 Publication of *in camera* evidence

The committee deferred consideration of the publication of *in camera* evidence until the next meeting.

6. Adjournment

The committee adjourned at 1.23 pm, until Friday 22 February 2019, Room 1043, Parliament House (museums and galleries report deliberative).

Emma Rogerson
Committee Clerk

Draft minutes no. 96

Friday 22 February 2019

Portfolio Committee No. 4 – Legal Affairs

Room 1043, Parliament House, 10.01 am

1. Members present

Mr Borsak, *Chair*

Mr Shoebridge, *Deputy Chair* (from 10.03 am)

Mr Farlow (from 10.04 am)

Mr Khan
 Mr Mallard (Museums and galleries)
 Mr Moselmane
 Mr Secord
 Mr Clarke (Budget Estimates until 10.06 am)

2. Previous minutes

Resolved, on the motion of Mr Khan: That draft minutes nos. 94 and 95 be confirmed.

3. Correspondence

The committee noted the following items of correspondence:

Received:

- ***

Sent:

- 13 February 2019 – Letter from Secretariat to Witness C, providing *in camera* transcript for review
- 13 February 2019 – Letter from Secretariat to Witness A, providing *in camera* transcript for review
- 14 February 2019 – Letter from Secretariat to Witness B, providing *in camera* transcript for review.

Resolved, on the motion of Mr Khan: That:

- ***
- ***

Resolved, on the motion of Mr Khan: That the committee keep confidential the correspondence sent to Witnesses A, B and C concerning *in camera* transcripts for review.

4. Inquiry into Budget Estimates 2018-2019

4.1 Consideration of Chair's draft report

The Chair submitted his draft report entitled *Budget Estimates 2018-2019*, which having been previously circulated, was taken as being read.

Resolved, on the motion of Mr Shoebridge: That:

- a) The draft report be the report of the committee and that the committee present the report to the House;
- b) The transcripts of evidence, tabled documents, answers to questions on notice and supplementary questions, and correspondence relating to the inquiry be tabled in the House with the report;
- c) Upon tabling, all unpublished transcripts of evidence, tabled documents, answers to questions on notice and supplementary questions, and correspondence relating to the inquiry, be published by the committee, except for those documents kept confidential by resolution of the committee;
- d) The committee secretariat correct any typographical, grammatical and formatting errors prior to tabling;
- e) That the report be tabled on Thursday 28 February 2019.

5. Inquiry into museums and galleries in New South Wales

5.1 Supplementary submissions

Resolved, on the motion of Mr Shoebridge: That the committee authorise the publication of supplementary submission nos. 105a, 148u and 148v.

5.2 Answers to questions on notice

The committee noted that Witness A did not provide an answer to a question taken on notice.

The committee noted that the following answers to questions on notice were published by the committee clerk under the authorisation of the resolution appointing the committee:

- answers to questions on notice from Mr Craig Limkin, Executive Director, Cultural Infrastructure Program Management Office, Arts, Screen and Culture Division, NSW Department of Planning and Environment, received 18 February 2019.

5.3 Proposed publication of *in camera* transcripts, 11 February 2019

Mr Shoebridge moved: 'That the committee authorise the publication of the transcript of evidence of Witness A in full with the witness' name and that the evidence be referenced in the report to a 'former board member, who was on the board from x to x.'

Question put.

The committee divided.

Ayes: Mr Borsak, Mr Shoebridge, Mr Moselmane, Mr Secord.

Noes: Mr Farlow, Mr Khan, Mr Mallard.

Question resolved in the affirmative.

Resolved, on the motion of Mr Khan: That the committee keep Witness A's correspondence confidential.

Resolved, on the motion of Mr Khan: That:

- the Chair write to Witness A to inform them of the committee's decision regarding the publication of their transcript of *in camera* evidence and address other concerns raised, with the inclusion of the following sentence: 'Those committee members present at the hearing unanimously disagree with the proposition in your letter critiquing the committee's conduct.'
- the committee keep this correspondence confidential.

Resolved, on the motion of Mr Shoebridge: That the committee authorise the publication of the transcript of evidence of Witness B, with the exception of identifying and/or sensitive information which are to remain confidential as identified by the secretariat and per the request of the author.

Resolved, on the motion of Mr Shoebridge: That the committee authorise the publication of the transcript of evidence of Witness C, with the exception of identifying and/or sensitive information which are to remain confidential as identified by the secretariat and per the request of the author.

5.4 Transcript clarifications – 11 February 2019

Resolved, on the motion of Mr Shoebridge: That the committee authorise the following clarification to be inserted into Ms Sanders evidence of 11 February 2019, via a footnote:

'The imposition of admission charges under a Liberal Government in September 1991 saw admissions drop by about half.'

5.5 Clarification to tabled documents – 11 February 2019

Resolved, on the motion of Mr Shoebridge: That the committee authorise the addition of the following caption to the tabled document tendered by Ms Jennifer Sanders at the public hearing on 11 February 2019 as requested by the witness:

'The red diagram represents the impact of current Government development policies on the Powerhouse Museum Ultimo site. 'Planning Controls' (cited in the Crone diagram attached) can become 'State Significant

Development' subject to Ministerial direction; if so, approval can be granted with additional floor area/height and bulk for 'Design Excellence', 'Lyric' theatres, cultural spaces and other considerations.'

5.6 Consideration of Chair's draft report

The Chair submitted his draft report entitled *Museums and galleries in New South Wales*, which, having been previously circulated, was taken as being read.

Resolved, on the motion of Mr Secord: That the report title be amended by omitting 'Second Report' and inserting instead 'Final Report'.

Resolved, on the motion of Mr Shoebridge: That paragraph 1.9 be amended by inserting at the end: 'It is notable that this cost is only a fraction of the final built cost and does not reflect the real cost of the project, as it excludes the very substantial costs on fit out and other essential matters to turn a bare building shell into a functioning museum. The estimated real cost of the project ranged from \$944 million to \$1.18 billion'.

Mr Khan moved: That the following new paragraph be inserted after paragraph 1.13:

'In their business case summary, Infrastructure NSW expressed the view that "the Business Case for the relocated Powerhouse Museum, completed in February 2018, concluded that the Business Case had successfully demonstrated the case for change. The review encouraged closer dialogue with MAAS and Infrastructure NSW as the designated asset owner/operator and delivery entity respectively. This action has been taken, enabling realistic, risk-assessed estimates of overall costs and revenues to be established.' [FOOTNOTE: Infrastructure NSW, Final Business Case Summary: Powerhouse Museum in Western Sydney, p 9.]

Question put.

The committee divided.

Ayes: Mr Farlow, Mr Khan, Mr Mallard.

Noes: Mr Borsak, Mr Moselmane, Mr Secord, Mr Shoebridge.

The question resolved in the negative.

Resolved, on the motion of Mr Khan: That paragraph 1.14 be amended by omitting 'Infrastructure NSW claimed' and inserting instead 'Infrastructure NSW said'.

Mr Shoebridge moved: That the following new paragraph be inserted after paragraph 1.68:

'The government's plans for the proposed new facility includes having a large apartment tower on the museum site. This is despite the fact that the MAAS Board wrote to the government on 1 September 2016 and made it clear that their support for the project was contingent on the site being a stand-alone museum not compromised by other uses. That letter stated in part as follows:

- the 'whole site' option is required, unencumbered by other commercial developments, in order to realise an architecturally iconic, world-class flagship Museum;
- the New Museum will improve the exhibition and programs we presently provide the people of NSW, and not diminish the scale and scope of the museum, or opportunities we are able to provide to our audiences that are currently afforded at Ultimo; and
- sufficient funding is provided by the NSW Government in order for us to meet these requirements, as well as effectively and safely transition our collection and operations to the new site. [FOOTNOTE: Answers to question on notice, Professor Barney Glover, President, Board of Trustees, Museum of Applied Arts and Sciences, 17 November 2016, p11.]

Further the design brief itself gives little or no regard to the essential feature of the Powerhouse, which is its extraordinary collection of objects that help us to define our history. Given this, it is hard to understand how the only "detailed" consideration of the Powerhouse's collection in that design brief is the following comment:

"THE COLLECTION

The collection now comprises more than 500,000 objects, including a 1785 Boulton and Watt steam engine that features on the UK £50 note, and the Catalina flying boat that made the first flight across the South Pacific to South America in 1951.' [FOOTNOTE: Malcolm Reading Consultants, *Powerhouse Precinct at Parramatta International Design Competition, Search Statement*, (2019) p 22.]

Question put.

The committee divided.

Ayes: Mr Borsak, Mr Moselmane, Mr Secord, Mr Shoebridge.

Noes: Mr Farlow, Mr Khan, Mr Mallard.

Question resolved in the affirmative.

Mr Shoebridge moved: That the following new committee comment be inserted after the new paragraphs agreed to above:

'Committee comment

The design of the proposed new museum is already showing similar flaws to the rest of this very poorly conducted project. The proposed new building fails to comply with the minimum requirements of the Museum of Applied Arts and Sciences' own board, which of itself should see the project halted. Further, the design brief does not provide the focus, or information, needed to understand the real treasure of the Powerhouse, which is its unparalleled collection of artefacts and objects.'

Question put.

The committee divided.

Ayes: Mr Borsak, Mr Moselmane, Mr Secord, Mr Shoebridge.

Noes: Mr Farlow, Mr Khan, Mr Mallard.

Question resolved in the affirmative.

Mr Khan moved: That paragraphs 1.76 to 1.85, Finding 1, and Recommendations 1, 2 and 3 be omitted:

'This inquiry has been protracted because of the changing nature of the government's proposals for the Powerhouse Museum. Changes in Minister and Premier as well as the confusing public narratives about the relocation of the Powerhouse Museum have made it necessary for the committee to hold a number of public hearings and to recall a number of key witnesses.

Since this inquiry commenced in June 2016, there has been a lack of clear evidence to support the NSW Government's plans to relocate the Powerhouse Museum from Ultimo to Parramatta. The rationale for the project is problematic, and there are ongoing concerns about the potential costs involved in the relocation and whether the move represents value for money. There is also serious concerns about how historic and important collections will be preserved.

As noted in the committee's interim report, there has also been a lack of genuine community consultation about the project in both Ultimo and Parramatta, and serious questions raised as to the appropriateness of the Parramatta riverbank site for a museum, given its size, accessibility and risk of flooding.

Adding to the list of concerns the committee has regarding this project is the 2014 Final Business Case for the Renewal of the Powerhouse Museum, which stressed that the relocation of the Powerhouse

Museum was not a viable project option. The committee is perplexed by what changed over the course of 2014-2015 for the government to totally disregard a key conclusion of this report, given it was focused on refurbishing the museum rather than moving it. The committee notes that this report unequivocally stated that that relocation of the Powerhouse Museum was 'not a viable project option for further consideration'.

Further, the committee is unable to understand why the Final Business Case for the Powerhouse Museum in Western Sydney Project did not include a status quo or 'do nothing' baseline option for consideration and comparison, which is required under Treasury guidelines. It is perplexing as to why the Powerhouse Museum relocation project is being treated as an 'exception to the rule' by NSW Treasury in relation to its own guidelines for assessing public infrastructure projects. The committee finds that the Final Business Case for the Powerhouse Museum relocation project did not comply with NSW Treasury's Guide to Cost-Benefit Analysis. Given this, the committee considers that the Final Business Case was fundamentally flawed.

Finding 1

That the Final Business Case for the Powerhouse Museum relocation project did not comply with NSW Treasury's Guide to Cost-Benefit Analysis.

The committee is of the view that if it was not for the release of the Final Business Case for the Powerhouse Museum in Western Sydney Project prompted by proceedings in the Legislative Council, the committee and the public would still be unaware of the exact costs and details relating to the relocation project.

Consistent with the interim report, the committee remains unconvinced that the relocation of the Powerhouse Museum to Parramatta is necessary, represents good value for money, fulfils the needs of the people of Western Sydney, or responds to the various concerns voiced by passionate stakeholders who have come before this inquiry.

The committee reiterates its views in the interim report that we cannot see how the social or economic benefits of moving the Powerhouse Museum from its existing site to Parramatta would outweigh the value of retaining a world renowned cultural institution that contains such important collections in the heart of Sydney. The committee therefore recommends that the NSW Government not proceed with the relocation of the Powerhouse Museum from Ultimo to Parramatta.

Recommendation 1

That the NSW Government not proceed with the relocation of the Powerhouse Museum from Ultimo to Parramatta.

The committee believes that the Powerhouse Museum should be restored to its former glory through staged capital works and revitalised exhibitions which would lead to increased patronage and financial sustainability. As a result, the committee recommends that the NSW Government, as part of fulfilling the above recommendation X, restore the Powerhouse Museum at Ultimo, by providing a significant injection of funding for refurbishment and expansion.

Recommendation 2

That the NSW Government restore the Powerhouse Museum at Ultimo, by providing a significant injection of funding for refurbishment and expansion.

Further, the committee echoes its views in the interim report that instead of relocating the Powerhouse Museum to Parramatta, it would be more appropriate for a Museum of Applied Arts and Sciences satellite site to be established in Western Sydney which could display items of the collection currently in storage and hold different exhibitions to those at the Ultimo museum. This could be in addition to a range of

other cultural precincts or centres which could also be established in Parramatta, subject to genuine community consultation.

The committee therefore recommends that the NSW Government, instead of relocating the Powerhouse Museum, establish a Museum of Applied Arts and Sciences satellite site in Western Sydney.

Recommendation 3

That the NSW Government, instead of relocating the Powerhouse Museum, establish a Museum of Applied Arts and Sciences satellite site in Western Sydney', and the following new paragraph be inserted instead:

'The committee observes that there is strong disagreement between the parties seeking to preserve the Powerhouse Museum at Ultimo and stakeholders seeking the relocation of the museum to Parramatta.

The committee recognises that those differences of opinion are irreconcilable and reflect the differing priorities of the supporters of the MAAS at its current location and the Government and other stakeholders seeking to see the establishment of a world-class museum in Western Sydney.'

Question put.

The committee divided.

Ayes: Mr Farlow, Mr Khan, Mr Mallard.

Noes: Mr Borsak, Mr Moselmane, Mr Secord, Mr Shoebridge.

Question resolved in the negative.

Mr Shoebridge moved: That the following new paragraph be inserted after 1.80:

'The evidence we have seen makes it quite clear that the final business case was not a genuine attempt to determine the pros and cons of moving the Powerhouse to Parramatta. Instead it was a political document designed to justify, at any cost, the fundamentally flawed decision that the government had already taken to move the Powerhouse. This is highlighted by the fact that no attempt whatsoever was made in the 2018 Business Case to address the long list of carefully drafted reasons given for leaving the Powerhouse exactly where it is.

These kinds of actions by government undermine trust in the integrity of government decision-making and have undermined any remaining public trust in this damaging proposal.'

Question put.

The committee divided.

Ayes: Mr Borsak, Mr Moselmane, Mr Secord, Mr Shoebridge.

Noes: Mr Farlow, Mr Khan, Mr Mallard.

Question resolved in the affirmative.

Mr Shoebridge moved: That the following new paragraph be inserted after Recommendation 1:

'To this end we endorse the following carefully reasoned conclusions of the government's own 2014 Business Case that strongly recommended that the Powerhouse remain at Ultimo:

- community backlash stemming from MAAS's strong and important historical connection to the Ultimo and Pyrmont precincts as well as the City of Sydney
- the loss of synergies that the Museum's relationship with educational, digital and technological partners in Ultimo that have strengthened and are central to the Museums core functions as a Museum of technology and learning being diminished
- the loss of significance and difficulty in repurposing the Museum's cultural and heritage assets that capture and interpret its relationship to the neighbourhood and local community
- without a greenfield site option moving away from the Ultimo site is unlikely to be any more cost-effective than Options 4 or 5 without extensive investment
- it will likely be difficult to identify property which provides enough space for both the Museum and the storage of its collection (otherwise it would be required to incur additional costs of transportation to move the collection to and from the Museum)
- the extensive precinct development and significant Tourism centre that becomes easily accessible to the Museum underpins the commercial strategy for the Museum to become financial more independent, moving away from the existing site will eliminate the Museum's opportunity to improve its performance financially
- the Museum is currently the only cultural infrastructure on the inner western Sydney side of George Street.

Question put.

The committee divided.

Ayes: Mr Borsak, Mr Moselmane, Mr Secord, Mr Shoebridge.

Noes: Mr Farlow, Mr Khan, Mr Mallard.

The question resolved in the affirmative.

Mr Shoebridge moved: That:

- a) the following committee comment and recommendation be inserted after Recommendation 2: 'Parramatta deserves a world class museum that all of Sydney, in fact all of NSW and Australia, can get behind and support. Tragically, through political manoeuvring and sheer bloody-mindedness the current proposal fails to achieve this.

Instead of the divisive and culturally damaging project proposed by this government, Parramatta should have a world class museum that reflects its own distinct history and culture. This includes its extraordinary history of First Nations peoples for tens of thousands of years before 1788, the years that followed as Parramatta became a major colonial centre and the burst of diversity that has followed in the post war period with immigration and growth.

These are the stories that should be told in Parramatta, and a cultural institution that draws on this history would unite people and become an iconic part of Australia's cultural establishment.

Recommendation X

That the NSW Government instead of relocating the Powerhouse Museum establish a world class cultural institution in Parramatta that reflects its own extraordinary history.'; and

- b) paragraph 1.85 and Recommendation 3 be amended by omitting: 'instead of relocating the Powerhouse Museum, establish' and inserting instead: 'consider establishing'.

Question put.

The committee divided.

Ayes: Mr Borsak, Mr Moselmane, Mr Secord, Mr Shoebridge.

Noes: Mr Farlow, Mr Khan, Mr Mallard.

The question resolved in the affirmative.

Mr Khan moved: That paragraphs 2.39 to 2.45, Recommendation 4, and Recommendation 5 be omitted: "The committee notes too, the impact of annual efficiency dividends and how this has affected the ability of the Powerhouse Museum to operate effectively, sustainably and to its full potential. The committee acknowledges that similar problems are experienced by other state owned museums across the state. As set out in the interim report, the committee sees merit in state owned museums being exempt from the annual efficiency dividend so as to allow these cultural institutions the ability to allocate funding to much needed staff and resources. A recommendation in this regard is made below.

Recommendation 4

That the NSW Government exempt state-owned museums from the annual efficiency dividend.

The committee is also concerned about the role the Board of 'Trustees' and whether it has been an effective advocate in protecting the important institution that is the Powerhouse museum and its valued collections. Indeed, there was a sense among inquiry participants that both management at the museum and the Board of 'Trustees' have lost their way in terms of their function and role in the operation and governance of the museum. The committee shares this view.

The committee believes that the museum is not performing to the high standard it once did, and that the NSW Government has used this inappropriately to bolster its case to move the museum rather than focusing on refurbishment it at its current site.

A recent example which raised some serious questions about the management and leadership at the museum and the role of 'Trustees' was the MAAS fashion ball which was held in February 2018. It is unacceptable that the Minister, management and the Trustee's argued that the ball was a successful strategy and event. The fact is that the ball cost \$388,391.32 of taxpayers money, despite only raising \$70,000. In the committee's view, passing this event off as success in building relationships is preposterous and out of touch with community standards for the spending of public money. This event has clearly weakened the reputation of the museum, at a time that is already very challenging for the organisation.

Adding to these issues was the conduct of staff at the post-event function. The committee was appalled to hear that staff, including senior management, drank excessively and behaved inappropriately well into the early hours of the morning in the museum's staff offices.

The Fashion Ball raises questions more broadly about the state of management at the Powerhouse Museum, the deterioration in culture and the oversight role the Board of 'Trustees' has regarding the management and operation of the museum.

Given these issues, and broader concerns the committee has in relation to governance of the arts and culture sector in New South Wales it is imperative for there to be continuing parliamentary oversight, particularly in relation to the governance and management of the Powerhouse Museum relocation project. Therefore, the committee recommends that the Legislative Council in the 57th Parliament establish a Select Committee to inquire into and report on the governance of the arts and culture sector in New South Wales, with particular reference to the governance and management of the Powerhouse Museum relocation project.

Recommendation 5

That the Legislative Council in the 57th Parliament establish a Select Committee to inquire into and report on the governance of the arts and culture sector in New South Wales, with particular reference to the governance and management of the Powerhouse Museum relocation project.'

Question put.

The committee divided.

Ayes: Mr Farlow, Mr Khan, Mr Mallard.

Noes: Mr Borsak, Mr Moselmane, Mr Secord, Mr Shoebridge.

Question resolved in the negative.

Mr Shoebridge moved: That:

- a) The draft report as amended be the report of the committee and that the committee present the report to the House;
- b) The transcripts of evidence, submissions, proformas, tabled documents, answers to questions on notice and supplementary questions, and correspondence relating to the inquiry be tabled in the House with the report;
- c) Upon tabling, all unpublished attachments to submissions be kept confidential by the committee;
- d) Upon tabling, all unpublished transcripts of evidence, submissions, tabled documents, answers to questions on notice and supplementary questions, and correspondence relating to the inquiry, be published by the committee, except for those documents kept confidential by resolution of the committee;
- e) The committee secretariat correct any typographical, grammatical and formatting errors prior to tabling;
- f) The committee secretariat be authorised to update any committee comments where necessary to reflect changes to recommendations or new recommendations resolved by the committee;
- g) Dissenting statements be provided to the secretariat by 5.00 pm, Monday 25 February 2019;
- h) That the report be tabled on Thursday 28 February 2019 at 10.45 am.

Question put.

The committee divided.

Ayes: Mr Borsak, Mr Moselmane, Mr Secord, Mr Shoebridge.

Noes: Mr Farlow, Mr Khan, Mr Mallard.

Question resolved in the affirmative.

6. Adjournment

The committee adjourned at 10.45 am, *sine die*.

Rebecca Main
Committee Clerk

Appendix 5 Dissenting statements

From the Hon Trevor Khan MLC, The Nationals, The Hon Scott Farlow MLC, Liberal Party, and the Hon Shayne Mallard MLC, Liberal Party

The background to this inquiry and final report is the decision in February 2015 – that is before the last general election in March 2015 – by the then Premier of NSW, Mike Baird, to relocate the Powerhouse Museum to Parramatta. This decision reflects the government's desire to see the establishment of a world class museum in Western Sydney.

This inquiry was established in June 2016 and now reports in the dying days of the 56th Parliament. It is perhaps the longest running and least constructive of any committee inquiry during this Parliament. The proposal to relocate the Powerhouse Museum is the only substantive proposal that is presently advanced that will enhance the cultural amenity of Western Sydney. The government members of this committee recognise that there is strong disagreement between the parties seeking to preserve the Powerhouse Museum at Ultimo and those seeking the relocation of the museum to Parramatta. The government members however note the observation by Infrastructure NSW that "the business case for the relocated Powerhouse Museum ... has demonstrated the case for change." The dissenting members agree with that conclusion.

The government members reject all recommendations made in this report as they all fail to provide a pathway to providing greater cultural amenity in Western Sydney.

