



LEGISLATIVE COUNCIL

PUBLIC WORKS COMMITTEE

# Scrutiny of public works in New South Wales

Report 3

February 2019



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Public Works Committee

# Scrutiny of public works

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## Terms of reference

1. That the Public Works Committee inquire into and report on future arrangements for the ongoing scrutiny by the Legislative Council of the matters set out in paragraphs 2 and 3 of the resolution establishing the committee.

*Paragraphs 2 and 3 of the resolution note that:*

1. The committee may inquire into and report on all public works to be executed (including works that are continuations, completions, repairs, reconstructions, extensions, or new works) where the estimated cost of completing such works exceeds \$10 million.
2. In examining such works the committee is to consider:
  - a. the stated purpose of the work and the need to carry it out,
  - b. the current and prospective public value of such work,
  - c. the amount of revenue the work is expected to produce, where the purpose of the work is to increase revenue,
  - d. the timeframe for carrying out the work, and
  - e. any other related matter

The terms of reference were referred to the committee by the Legislative Council on 15 March 2018.<sup>1</sup>

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<sup>1</sup> *Minutes*, NSW Legislative Council, 15 March 2018. pp 2390-2393.

## Committee details

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### Committee members

<b>The Hon Robert Brown MLC</b>	Shooters, Fishers and Famers Party <i>Chair</i>
<b>Mr Justin Field MLC</b>	The Greens
<b>The Hon John Graham MLC</b>	Australian Labor Party
<b>The Hon Trevor Khan MLC</b>	The Nationals
<b>The Hon Scot MacDonald MLC</b>	Liberal Party
<b>The Hon Taylor Martin MLC</b>	Liberal Party
<b>The Hon Lynda Voltz MLC</b>	Australian Labor Party

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## Chair's foreword

In March 2018, the Legislative Council established the Public Works Committee within the context of the NSW Government's historic investment in critical state infrastructure. In the past year, the committee has conducted two inquiries into the Sydney stadia strategy and the impact of the Port of Newcastle sale arrangements on public works expenditure in New South Wales.

Key amongst the findings made regarding the Sydney stadia strategy, the committee concluded that while the significant safety and security concerns at the Sydney Football Stadium required immediate attention, warranting the demolition and rebuild of a facility in the Moore Park precinct, the projects announced under the government's stadia strategy had not met the government's own infrastructure spending criteria. The committee also made other findings and recommendations in response to the government's decision not to release business cases or other quality assurance processes, and in regards to the timeframe for works proposed at Stadium Australia.

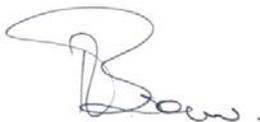
In the Port of Newcastle inquiry, the committee faced a limited reporting timeframe that also coincided with Federal Court proceedings which had some impact on the availability of evidence regarding the port transactions and the port commitment deeds. The committee determined that the inquiry be a first step in a thorough process of review by the Legislative Council and recommended that a future committee establish a new inquiry into ports transactions in the 57th Parliament, after the Federal Court proceedings have concluded.

These inquiries have demonstrated the effectiveness of the Public Works Committee, which has had the scope and oversight powers to scrutinise issues across portfolios. The committee model, comprising a non-government chair and non-government majority, has worked effectively, as its role, functions and structure differ to the existing Council committees. We have therefore recommended that the Legislative Council re-establish the Public Works Committee in the 57<sup>th</sup> Parliament.

While there is provision for a joint Public Works Committee under the *Public Works and Procurement Act 1912*, that committee has not been established since 1930. Significant powers are available to the statutory committee under the Act and this could be an argument of re-establishing the Public Works Committee as a joint statutory committee, however the committee is of the view that this should be a matter for the 57th Parliament to determine.

Finally, as I will not be contesting the March 2019 election, and thus will be leaving the Parliament, I take this opportunity to thank all those who have contributed to the Legislative Council committee system. I recognise the huge addition to the workload of the committees' secretariat, and to the Hansard staff, that has been created by the extension of the committees.

I thank you all.



The Hon Robert Brown MLC  
Committee Chair

## Recommendations

### Recommendation 1

17

The committee recommends that the Legislative Council re-establish the Public Works Committee in the 57<sup>th</sup> Parliament.

## Conduct of inquiry

The terms of reference for the inquiry were referred to the committee by the Legislative Council on 15 March 2018.

The committee received 4 submissions.

The committee did not conduct public hearings.

Inquiry related documents, including submissions, are available on the committee's website.

# Chapter 1      The scrutiny of public works in New South Wales

This chapter examines the history and operation of Public Works Committees in New South Wales and the statutory committee provisions set out under the *Public Works and Procurement Act 1912*.

## 1887-1930: A joint Public Works Committee

- 1.1 In 1887, the first Parliamentary Standing Committee on Public Works was established under the *Public Works Act 1888*, a joint committee of 13 members comprised of five members from the Legislative Council and eight members from the Legislative Assembly.<sup>2</sup>
- 1.2 The committee's function was to:
- ... consider and report upon all Public Works ... to be executed ... (and whether such works are continuations, completions, repairs, reconstructions, extensions or new works), in all cases where the estimated cost of completing such work exceeds twenty thousand pounds.<sup>3</sup>
- 1.3 While the committee investigated and reported on all major proposed public works, except for those in relation to military or naval defence,<sup>4</sup> rail and tramways were the major focus of inquiry, accounting for 217 of the reports tabled by the committee between 1888 and 1930.<sup>5</sup>
- 1.4 The committee tabled its final report in 1930. A paper produced by the NSW Parliamentary Library suggests that at this time, the NSW Government had borrowed large amounts of funds for public works and had the highest level of public expenditure in Australia.<sup>6</sup> As The Great Depression had an increasing impact, the government was forced to cut down on expenditure, and economic constraints may have contributed to the committee suspending its operations in 1930.<sup>7</sup>
- 1.5 A Public Works Committee was not re-established until 1995. This committee was not established under statute, and reflected a very different composition.

## 1995-2010: Legislative Assembly Public Works Committee

- 1.6 Following the 1995 State Election, which resulted in a change of government from the Coalition to the Australian Labor Party, on 25 May 1995 the new Legislative Assembly resolved to

<sup>2</sup> *Minutes*, NSW Legislative Council, 13 June 1888, p 225.

<sup>3</sup> *Public Works Act 1888*, s 12.

<sup>4</sup> *Public Works Act 1888*, s 12.

<sup>5</sup> State Archives and Records Authority of New South Wales, *Reports of the Parliamentary Standing Committee on Public Works regarding Railways*, <https://www.records.nsw.gov.au/series/15912>.

<sup>6</sup> Parliament of New South Wales, *1930 to 1939 – Depression and Crisis*, <https://www.parliament.nsw.gov.au/about/Pages/1930-to-1939-Depression-and-Crisis.aspx>.

<sup>7</sup> Clive Beauchamp, *Parliament, Politics and Public Works: a history of the New South Wales Public Works Committee 1888-1930* (New South Wales Parliamentary Library), p 1.

establish a Public Works Committee. The committee was not established under the terms of the *Public Works and Procurement Act 1912*; rather, the committee was established by motion as a standing committee of the Legislative Assembly.<sup>8</sup>

- 1.7 The committee was comprised of ten Assembly members only, with a government majority drawn from a membership comprising of six government members, three opposition members and one crossbench member:

That a Standing Committee on Public Works be appointed to inquire into and report from time to time, with the following terms of reference:

1. As an ongoing task, the Committee is to examine and report on such existing and proposed capital works projects, or matters relating to capital works projects in the public sector, including the environmental impact of such works, and whether alternative management practices offer lower incremental costs, as are referred to it by the Minister for Public Works and Services, or any Minister, or by resolution of the Legislative Assembly, or by motion of the Committee.
2. That such Committee consist of ten members of the Legislative Assembly...
3. That membership of the Committee consist of six members representing the Government, three members representing the Opposition and one Independent member to be nominated in writing to the Clerk of the Legislative Assembly...
4. That the Committee have power to make visits of inspection within the State of New South Wales and Territories of Australia.<sup>9</sup>

- 1.8 Speaking to the objectives of the committee, the mover of the motion, the Hon Paul Whelan, Minister for Police, stated that the committee's work was expected to incentivise the public sector to prioritise the cost-benefit of projects and ensure that projects provided value for money:

The committee will seek to find savings in capital works programs whilst achieving a net reduction in environment impacts by public sector developers. The committee's work is expected to provide incentives to the public sector to produce more robust cost-benefit analyses within the government budgetary process and to give more emphasis to least-cost planning approaches. The committee will be sufficiently resourced to enable it to conduct parallel inquiries into specific projects and capital works programs generally.<sup>10</sup>

- 1.9 The Hon Peter Macdonald OAM MP, independent Member for Manly, explained that the committee was intended to enhance the Parliament's scrutiny functions:

It is a role of Parliament to scrutinise public expenditure, and government is all about the allocation of public moneys, resources and services. The Standing Committee on

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<sup>8</sup> *Minutes*, NSW Legislative Assembly, 25 May 1995, pp 70-71.

<sup>9</sup> *Minutes*, NSW Legislative Assembly, 25 May 1995, pp 70-71.

<sup>10</sup> *Hansard*, NSW Legislative Assembly, 25 May 1995, p 284 (Paul Whelan).

Public Works will take on an important role in the enhancement of the process of government.<sup>11</sup>

- 1.10** While the committee did not table a report during the inaugural years of its operation, it was re-established after the 1999 State Election with a reduced membership of seven members<sup>12</sup> and went on to conduct a total of 14 inquiries into matters including urban water infrastructure, sick building syndrome, energy reduction targets, infrastructure provision in coastal areas, municipal waste management, sportsground management, private partnerships for asset development, arts and cultural infrastructure and graffiti and public infrastructure.<sup>13</sup> The committee last tabled a report in June 2010.<sup>14</sup>
- 1.11** The Legislative Assembly committee was not re-established following the 2011 State election. The reasons for this decision have not been canvassed in either House.

### A statutory Public Works Committee?

- 1.12** Like the 1888 Act, the *Public Works and Procurement Act 1912* makes provision for the Parliament of New South Wales to establish a Joint Public Works Committee. However, a committee has not been established under this Act since 1930.
- 1.13** The functions of the committee envisaged under s 24 of the Act are 'to consider and report on all public works ... (and whether such works are continuations, completions, repairs, reconstructions, extensions or new works) ... where the estimated cost of completing such works exceeds \$1,000,000'.
- 1.14** Section 24 further states that in considering and reporting on any such work, the committee shall have regard to the purpose of the work; the necessity or advisability of carrying it out; the amount of revenue which such work may reasonably be expected to produce, and to the present and prospective public value of such work; and the expediency of carrying out the work in question.
- 1.15** The Act envisages a committee with significantly greater powers than those provided to the Legislative Assembly committee.
- 1.16** For example, s 21 provides the committee with significant and broad-ranging powers to conduct site visits, including the power to 'enter and inspect any land building, place, or material, the entry or inspection of which appears to them requisite'.<sup>15</sup> Section 21 also specifies that the committee can 'compel the production of all books, maps, papers, and documents relating to the matters before them', and summons witnesses.<sup>16</sup>

<sup>11</sup> *Hansard*, NSW Legislative Assembly, 25 May 1995, p 284 (Peter Macdonald).

<sup>12</sup> *Hansard*, NSW Legislative Assembly, 3 June 1999, p 958 (Paul Whelan).

<sup>13</sup> Parliament of New South Wales, Legislative Assembly Standing Committee on Public Works, List of Inquiries, <https://www.parliament.nsw.gov.au/committees/listofcommittees/Pages/committee-details.aspx?pk=221>

<sup>14</sup> Standing Committee on Public Works, NSW Legislative Assembly, *Development of Arts and Cultural Infrastructure Outside the Sydney CBD* (2010).

<sup>15</sup> *Public Works and Procurement Act*, s 21(a).

<sup>16</sup> *Public Works and Procurement Act*, s 21(c).

- 1.17** Section 22 of the Act also empowers the committee to impose significant penalties where any person:
- (a) whose expenses have been paid or tendered to the person neglects to appear, or
  - (b) wilfully insults the committee or any member thereof, or
  - (c) misbehaves before the committee, or
  - (d) interrupts the proceedings of the committee, or
  - (e) being summoned or examined as a witness in an inquiry or matter pending before the committee, refuses to be sworn, or to produce any document mentioned in the summons served upon the person, or to make a solemn declaration as aforesaid, or prevaricates in the person's evidence, or refuses to answer any lawful question.
- 1.18** The Act further stipulates that works estimated to cost over \$10 million may not commence until the relevant Minister first submits and explains the project in the Legislative Assembly. The project is then referred to the committee for inquiry. Once complete, the committee reports back to the Legislative Assembly the result of their inquiries and the Assembly will resolve whether it is expedient or not to carry out the proposed work.<sup>17</sup>

### **Legislative Council Public Works Committee**

- 1.19** On 15 March 2018, the Legislative Council established a Public Works Committee. The committee is comprised of seven members, including three government members, two opposition members and two crossbench members, one of whom must be from The Greens. The resolution also specifies that the committee is to appoint a non-government chair.<sup>18</sup> The Council committee was not established under the terms of the *Public Works and Procurement Act 1912*.
- 1.20** Under the terms of the resolution, the committee may inquire into any matter referred by the House or matters self-referred with the agreement of a majority of the committee's membership.<sup>19</sup>
- 1.21** The functions of the committee are to inquire into and report on all public works to be executed (including works that are continuations, completions, repairs, reconstructions, extensions or new works) where the estimated cost of completing such works exceeds \$10 million.<sup>20</sup>
- 1.22** While the functions of the committee set out in the resolution of the House are modelled on those envisaged for the joint statutory committee under s 24 of the *Public Works and Procurement Act 1912*, they vary in that the statutory committee is authorised to inquire into works where the estimated cost exceeds only \$1 million. Although the powers of the Council committee extend only to those held by all parliamentary committees under the *Parliamentary Evidence Act*

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<sup>17</sup> *Public Works and Procurement Act*, s 34.

<sup>18</sup> *Minutes*, NSW Legislative Council, 15 March 2018, pp 2390-2393.

<sup>19</sup> *Minutes*, NSW Legislative Council, 15 March 2018, pp 2390-2393.

<sup>20</sup> *Minutes*, NSW Legislative Council, 15 March 2018, pp 2390-2393.

1912, its scope extends beyond the existing standing and portfolio committees, spanning all portfolios and projects under the government's administration.

- 1.23** In speaking in support of his motion to establish the committee, the Hon Robert Brown MLC explained that the impetus for a new Public Works Committee was the NSW Government's historic investment in critical state infrastructure, which had been estimated to incur a total expenditure of between \$80 billion to as much as \$200 billion. Mr Brown argued that 'this once-in-a-generation opportunity must receive proper oversight', noting that much public concern had already been directed towards the 'problematic implementation' of projects such as the Sydney CBD Light Rail and the WestConnex motorway. Mr Brown also observed that he held concerns regarding the Government's plans to rebuild Sydney's stadia and the transparency of the decision making process behind that decision.<sup>21</sup>
- 1.24** While the Council committee applies a higher base value of \$10 million to the works scrutinised than the \$1 million applicable to a statutory committee, Mr Brown observed that even a base of \$10 million was 'very low' in view of the estimated value of many of the projects announced by the Government. He stated that, within the context of the current works projected, it was 'obvious that a committee such as this would not waste its time worrying about small projects'.<sup>22</sup>
- 1.25** Arguing the need for the new committee, Mr Brown further observed that the joint committee envisaged under the *Public Works and Procurement Act 1912* had not been established since 1930, while the Legislative Assembly's committee had been inactive since 2011. While he was of the view that a statutory committee should be established to fulfil the requirements of the Act, the new Council committee would 'fill an obvious gap in accountability'.<sup>23</sup>
- 1.26** The Government opposed the motion, with the Hon Don Harwin, Minister for the Arts and Leader of the Government in the Legislative Council, arguing that the projects that would fall within the purview of the proposed committee already fell within the scope of existing committees. Mr Harwin observed that 'committees come at a price' and a significant budget had already been allocated to the Council's various standing and select committees. He concluded that 'scrutiny is worth paying for, but duplicating committees that can already do the job does not make sense'.<sup>24</sup>
- 1.27** The Greens supported the establishment of the committee, arguing that it was imperative that Parliament conduct a detailed inquiry into the unprecedented amounts of public money being allocated to infrastructure projects and ensure that business cases, costings and environmental impacts were subject to due scrutiny.<sup>25</sup>
- 1.28** The motion was agreed to with the support of the opposition and the crossbench, with the Government voting against. The motion passed on division (21:18).
- 1.29** Since its establishment the committee has completed two inquiries regarding the Sydney stadiums strategy and the impact of Port of Newcastle sale arrangements on public works expenditure in New South Wales. The outcomes of these inquiries are discussed further in

<sup>21</sup> *Hansard*, NSW Legislative Council, 15 March 2018, p 27.

<sup>22</sup> *Hansard*, NSW Legislative Council, 15 March 2018, p 27.

<sup>23</sup> *Hansard*, NSW Legislative Council, 15 March 2018, p 27.

<sup>24</sup> *Hansard*, NSW Legislative Council, 15 March 2018, pp 27-28.

<sup>25</sup> *Hansard*, NSW Legislative Council, 15 March 2018, p 28.

chapter 3, along with the committee's view on future arrangements for the Public Works Committee.

## Chapter 2 Public Works Committees

This chapter examines arguments for and against the establishment of a Public Works Committee submitted by stakeholders and the government. The chapter also canvasses Public Works Committees operating across comparable Australian jurisdictions.

### Support for a Public Works Committee in New South Wales

#### Stakeholder support

- 2.1 The committee received several submissions in support of the continuation of the Public Works Committee. All submissions emphasised the need for transparency, objectivity and more efficiency throughout the appraisal process and execution of proposed public works projects by the NSW Government.
- 2.2 The Institute of Public Works Engineering Australasia argued that all projects have financial, social and environmental impacts on local communities and it was vital to ensure that such projects deliver the intended benefits, within agreed cost and on time:
- This exercise is seen to hold people, governments, and companies accountable.
- All infrastructure projects have financial, social and environmental impacts on local areas and on the community at large and therefore scrutiny is important to ensure there is certainty that these projects will be able to deliver the intended benefits in accordance with the planned costs and timelines.<sup>26</sup>
- 2.3 Professionals Australia observed that within the context of the Government's 'ambitious and record-breaking infrastructure program', almost half of the public engineering projects underway in the national pipeline were located in New South Wales.<sup>27</sup>
- 2.4 Professionals Australia argued that systematic cuts to the engineering and technical workforce in the public sector, combined with lowest price contracting for services, have caused a chronic diminution of engineering expertise throughout the infrastructure life cycle, as well as undervaluing the impact engineering and technical professionals have throughout all sectors of the economy. They stated that 'the dilution of in-house expertise has created problems throughout the entire infrastructure delivery cycle, with bad decisions and overspending occurring at every step of the process'.<sup>28</sup>
- 2.5 Within this context, a Public Works Committee could inquire into waste and expenditure with a view to ensuring that government:
- Implements an infrastructure policy framework that delivers better outcomes
  - Becomes an informed purchaser of infrastructure and services

<sup>26</sup> Submission 1, Institute of Public Works Engineering Australasia (NSW Division), p 4.

<sup>27</sup> Submission 3, Professionals Australia, p 3.

<sup>28</sup> Submission 3, Professionals Australia, p 4.

- Involves engineers in developing a better infrastructure pipeline across local and state government, and
  - Develops and maintains a high-skill workforce.<sup>29</sup>
- 2.6 The City of Sydney argued that the current infrastructure appraisal process in New South Wales, under which all significant government projects are appraised through a Cost-Benefit Analysis (CBA), is inadequate and requires a more holistic approach.<sup>30</sup> While the City of Sydney's submission was primarily directed to recommendations the committee could make to reform the CBA process, the submission highlighted the need for a committee with the requisite purview to make recommendations on governance matters that extend beyond individual projects and inquiries.<sup>31</sup>

### **Government response**

- 2.7 Adding to the comments made by the Leader of the Government in the House, the NSW Government's submission to the committee argued against the need for a Public Works Committee, stating that the Government already has clearly documented processes in place to inform decisions regarding infrastructure projects.<sup>32</sup>
- 2.8 The Government further argued that there already exist a number of mechanisms to ensure effective oversight and accountability, including the Infrastructure NSW assurance framework, independent performance audits undertaken by the Auditor-General and inquiries conducted by Legislative Council committees.<sup>33</sup>

### **Public Works Committees in other jurisdictions**

- 2.9 Currently, committees similar to the Legislative Council Public Works Committee (LC PWC) operate in the Federal, South Australian and Tasmanian Parliaments.

#### **Commonwealth Parliament**

- 2.10 The Federal Parliament established its Parliamentary Standing Committee on Public Works (Federal PWC) in 1913 under the *Public Works Committee Act 1969* (Cth). The Federal PWC's role is to account for the Executive Government's planning decisions and capital expenditure through its Commonwealth entities.<sup>34</sup>

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<sup>29</sup> Submission 3, Professionals Australia, pp 14-16.

<sup>30</sup> Submission 2, City of Sydney, p 5.

<sup>31</sup> Submission 2, City of Sydney.

<sup>32</sup> Submission 4, NSW Government, p 6.

<sup>33</sup> Submission 4, NSW Government, p 2.

<sup>34</sup> Public Works Committee, Parliament of Australia, *Parliamentary Committee on Public Works – Procedure Manual* (28 June 2018), [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Public\\_Works/~/\\_media/B252156E0E904DDDF8D3B5E9F07117D56.ashx](https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Public_Works/~/_media/B252156E0E904DDDF8D3B5E9F07117D56.ashx), pp 3-4.

- 2.11** All public works for the Commonwealth estimated to cost more than \$15 million must be referred to the Federal PWC.<sup>35</sup> Although some exceptions exist (such as urgent works, works of a repetitive nature or works for defence purposes where scrutiny could be contrary to the public interest),<sup>36</sup> all public works that are sponsored by Commonwealth departments and major statutory authorities with large building programs will fall within the ambit of the Federal PWC's investigatory powers.<sup>37</sup>
- 2.12** Under s 17(3) of the *Public Works Committee Act 1969* (Cth), in considering and reporting on a public work, the committee shall have regard to:
- the stated purpose of the proposed work and its suitability for that purpose;
  - the need for, and advisability of, the work;
  - the cost-effectiveness of the proposal;
  - where the work purports to be revenue-producing, the amount of revenue the work may reasonably be expected to produce
  - the present and prospective public value of the work.<sup>38</sup>
- 2.13** In contrast to the LC PWC, the Federal PWC is a joint bipartisan committee with nine members comprised of six members from the House of Representatives and three Senators.<sup>39</sup> There are no independent or crossbench members on the committee. The Chair is a government member and the government holds the majority in the committee.
- 2.14** Public works that meet the \$15 million threshold cannot commence until they have first been referred to the committee, the committee has presented its final report to both Houses of Parliament, and the House of Representatives has resolved that it is expedient to carry out the work.<sup>40</sup>
- 2.15** A public work that exceeds the \$15 million threshold cannot be commenced unless the work has been referred to the Federal PWC in accordance with section 18 of the *Public Works Committee Act 1969*, the House of Representatives resolves that the urgency of the work makes it expedient to be carried out without having been referred to the committee, the Governor-General declares that the work is for defence purposes or contrary to the public interest, or the work is considered repetitive under s 18(8A).<sup>41</sup>
- 2.16** Unlike the LC PWC, the Federal PWC cannot self-refer inquiries. Referrals can only be made to the committee through either House of Parliament or more rarely, through the Executive

<sup>35</sup> *Public Works Committee Act 1969* (Cth), s 18.

<sup>36</sup> *Public Works Committee Act 1969* (Cth), ss 18(8) and 18(8A).

<sup>37</sup> Public Works Committee, Parliament of Australia, *Parliamentary Committee on Public Works – Procedure Manual* (28 June 2018), p 4, [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Public\\_Works/~/\\_media/B252156E0E904DDF8D3B5E9F07117D56.ashx](https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Public_Works/~/_media/B252156E0E904DDF8D3B5E9F07117D56.ashx).

<sup>38</sup> *Public Works Committee Act 1969* (Cth), s 17(3).

<sup>39</sup> *Public Works Committee Act 1969* (Cth), s 7(3).

<sup>40</sup> *Public Works Committee Act 1969* (Cth), s 18(7).

<sup>41</sup> *Public Works Committee Act 1969* (Cth), ss 18(8) and 18(8A).

Council, by order of the Governor-General, when both Houses have adjourned for over a month. Referrals are then coordinated by the Department of Finance.<sup>42</sup>

**2.17** The process by which inquiries are carried out are also different. At the Federal level, once a public works has been referred, the proponent entity must send two submissions to the committee as a matter of priority:

- a public submission – describing the proposal which forms the basis for public comment. It includes the purpose, need, cost, revenue generation and the current and prospective value of the works; and
- a confidential submission – contains information that may not be in the public interest to release. It includes a detailed breakdown of the costs, confidence ratings, risk assessment and management framework, and any other sensitive information.<sup>43</sup>

**2.18** The public submission is published on the committee's website and then a call for submissions is made to other stakeholders.

**2.19** A site visit is generally conducted by the committee, unless it determines that a site visit is not required or is not possible or practicable. If a site visit is not conducted, it is generally expected that the proponent entity will provide an 'inspection by presentation' to the committee (with the aid of diagrams, maps, videos and photographs) before a public or *in-camera* hearing.<sup>44</sup>

### ***Actions required on the completion of an inquiry***

**2.20** Under the current resolution establishing the Council committee, no follow-up activities are stipulated after an inquiry has been completed, apart from the requirement for the government to table a response within six months.<sup>45</sup> In contrast, the Federal PWC must be updated on any significant changes to the scope, time, cost, function or design for all projects, in writing.<sup>46</sup>

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<sup>42</sup> *Public Works Committee Act 1969* (Cth), ss 18; Public Works Committee, Parliament of Australia, *Parliamentary Committee on Public Works – Procedure Manual* (28 June 2018), p 9, [https://www.apw.gov.au/Parliamentary\\_Business/Committees/Joint/Public\\_Works/~media/B252156E0E904DDDF8D3B5E9F07117D56.ashx](https://www.apw.gov.au/Parliamentary_Business/Committees/Joint/Public_Works/~media/B252156E0E904DDDF8D3B5E9F07117D56.ashx).

<sup>43</sup> Public Works Committee, Parliament of Australia, *Parliamentary Committee on Public Works – Procedure Manual* (28 June 2018), pp 19-32, [https://www.apw.gov.au/Parliamentary\\_Business/Committees/Joint/Public\\_Works/~media/B252156E0E904DDDF8D3B5E9F07117D56.ashx](https://www.apw.gov.au/Parliamentary_Business/Committees/Joint/Public_Works/~media/B252156E0E904DDDF8D3B5E9F07117D56.ashx).

<sup>44</sup> Public Works Committee, Parliament of Australia, *Parliamentary Committee on Public Works – Procedure Manual* (28 June 2018), p 40, [https://www.apw.gov.au/Parliamentary\\_Business/Committees/Joint/Public\\_Works/~media/B252156E0E904DDDF8D3B5E9F07117D56.ashx](https://www.apw.gov.au/Parliamentary_Business/Committees/Joint/Public_Works/~media/B252156E0E904DDDF8D3B5E9F07117D56.ashx).

<sup>45</sup> NSW Legislative Council, *Standing Rules and Orders* (May 2004) s 233(1), p 77.

<sup>46</sup> Public Works Committee, Parliament of Australia, *Parliamentary Committee on Public Works – Procedure Manual* (28 June 2018), p 34, [https://www.apw.gov.au/Parliamentary\\_Business/Committees/Joint/Public\\_Works/~media/B252156E0E904DDDF8D3B5E9F07117D56.ashx](https://www.apw.gov.au/Parliamentary_Business/Committees/Joint/Public_Works/~media/B252156E0E904DDDF8D3B5E9F07117D56.ashx).

- 2.21 If the committee makes specific recommendations pertaining to the project, entities are required to provide updates on action or progress in accordance with the timeframes set out in the recommendations.<sup>47</sup>
- 2.22 Further, once the referred projects have been completed, the sponsoring entity must provide the committee with a post-implementation report. The purpose of the post-implementation report is to 'enhance accountability and transparency, and to assist entities to identify any lessons learned'.<sup>48</sup>

### Parliament of South Australia

- 2.23 The Parliament of South Australia appoints its Public Works Committee (SA PWC) under Section 12A of the *Parliamentary Committee Act 1991* (SA).<sup>49</sup> The committee is made up of five members from the House of Assembly (Lower House) and is bipartisan.<sup>50</sup> There are no crossbench members on the committee.
- 2.24 Similarly to the Federal PWC, the SA PWC has a government member as their Presiding Member (equivalent of chair) and a government majority.
- 2.25 Public works with a total construction value of over \$4 million are automatically referred to the committee.<sup>51</sup> The committee may also have inquiries referred to them through a resolution in the House of Assembly or by a reference from the Governor. Similarly to the LC PWC, the SA PWC has self-referring powers.<sup>52</sup>
- 2.26 The proponent entity may not apply for any funding regarding the construction of a public works project until the committee has tabled its final report.<sup>53</sup>
- 2.27 The committee has relatively short turnaround times for its inquiries - it generally tables its final report in Parliament within two to four weeks after an inquiry has commenced.
- 2.28 The proponent entity must also provide a written submission, including a summary of the project process so far, the intended construction project, and costs and timeframes. The

<sup>47</sup> Public Works Committee, Parliament of Australia, *Parliamentary Committee on Public Works – Procedure Manual* (28 June 2018), p 34, [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Public\\_Works/~/\\_media/B252156E0E904DDDF8D3B5E9F07117D56.ashx](https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Public_Works/~/_media/B252156E0E904DDDF8D3B5E9F07117D56.ashx).

<sup>48</sup> Public Works Committee, Parliament of Australia, *Parliamentary Committee on Public Works – Procedure Manual* (28 June 2018), p 14, [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Public\\_Works/~/\\_media/B252156E0E904DDDF8D3B5E9F07117D56.ashx](https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Public_Works/~/_media/B252156E0E904DDDF8D3B5E9F07117D56.ashx).

<sup>49</sup> *Parliamentary Committees Act 1991* (SA), s 12A.

<sup>50</sup> *Parliamentary Committees Act 1991* (SA), s 12B(1a).

<sup>51</sup> *Parliamentary Committees Act 1991* (SA), s 16A.

<sup>52</sup> Public Works Committee, Parliament of South Australia, *PWC Users Guide* (August 2018), p 3, <http://www.parliament.sa.gov.au/Committees/Pages/Committees.aspx?CTId=5&CIId=340>.

<sup>53</sup> *Parliamentary Committees Act 1991* (SA), s 16A(2).

submission must answer a number of standard pre-determined questions.<sup>54</sup> A public hearing and a site visit generally are also held.

- 2.29 Although rarely used, the committee has the power to summons witnesses, compel them to attend and to produce relevant documents.<sup>55</sup>

***Actions required on the completion of an inquiry***

- 2.30 Similarly to the Federal PWC, the SA PWC requires the relevant department to provide regular updates to the committee once the report has been tabled in Parliament.

- 2.31 The *Parliamentary Committees Act 1991* (SA) stipulates that the committee consider and report on the 'efficiency and progress of construction of the work and the reasons for any expenditure beyond the estimated costs of its construction'.<sup>56</sup> As a result, the committee requires that the department provide quarterly budgets of the project's progress. If there are variations to the budget, expected completion date, scope or any other significant aspect, it must be fully explained in the quarterly report. The final quarterly report is submitted after the project's completion.<sup>57</sup>

- 2.32 Apart from this, at any stage in the process, if there are any substantial changes to the nature of the projects, the relevant departments and agencies must write to the committee and notify them. If the information received renders the committee's report incorrect or misleading, the committee reserves the right to recall witnesses in relation to these issues and table a supplementary report.<sup>58</sup>

**Parliament of Tasmania**

- 2.33 The Tasmanian Joint Standing Committee on Public Works is appointed under section 3 of the *Public Works Committee Act 1914* (Tas). The committee is comprised of five members – three from the House of Assembly and two from the Legislative Council.<sup>59</sup>

- 2.34 The current committee has appointed a government chair, but the government does not hold the majority.

- 2.35 The committee must consider and report on every public work with an estimated cost of over \$5 million, which is proposed to be undertaken by a government body. Some exceptions may

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<sup>54</sup> Public Works Committee, Parliament of South Australia, *PWC Users Guide* (August 2018), p 7, <http://www.parliament.sa.gov.au/Committees/Pages/Committees.aspx?CTId=5&CIId=340>.

<sup>55</sup> Public Works Committee, Parliament of South Australia, *PWC Users Guide* (August 2018), p 4, <http://www.parliament.sa.gov.au/Committees/Pages/Committees.aspx?CTId=5&CIId=340>.

<sup>56</sup> *Parliamentary Committees Act 1991* (SA), s 12C(a)(vii).

<sup>57</sup> Public Works Committee, Parliament of South Australia, *PWC Users Guide* (August 2018), pp 4-5, <http://www.parliament.sa.gov.au/Committees/Pages/Committees.aspx?CTId=5&CIId=340>.

<sup>58</sup> Public Works Committee, Parliament of South Australia, *PWC Users Guide* (August 2018), p 6, <http://www.parliament.sa.gov.au/Committees/Pages/Committees.aspx?CTId=5&CIId=340>.

<sup>59</sup> *Public Works Committee Act (No. 32 of 1914)* (Tas), s 3.

apply if works are withdrawn from the operation of the *Public Works Committee Act 1914* (Tas) by a resolution of both Houses of Parliament.<sup>60</sup>

- 2.36** The public works project cannot commence until the inquiry is completed. Subject to the approval of the Tasmanian PWC, a tender can be advertised, quotations be sought and contractors engaged.<sup>61</sup>
- 2.37** The relevant department must prepare a written submission, which also needs to include a written and drawn submission by a consultant, and an executive summary of the need for the facility, proposed solution and how the solution meets the need.
- 2.38** A public hearing is generally held and the committee can also conduct a site visit if they wish.<sup>62</sup>
- 2.39** At the conclusion of the inquiry, if the committee does not recommend the public works, it can only proceed under the authorisation of an Act of Parliament.<sup>63</sup>

#### *Committee comment*

- 2.40** The committee acknowledges that there are significant structural and procedural differences between the Legislative Council Public Works Committee and its counterparts in other jurisdictions. In particular, committees appointed in the Federal Parliament and Tasmania are comprised of a joint membership.
- 2.41** The committee comments further on the merits of these models in chapter 3.

<sup>60</sup> *Public Works Committee Act (No. 32 of 1914)* (Tas), s 15(1).

<sup>61</sup> Tasmanian Government, *Treasurer's Instruction No 1205 – Pre-procurement Procedures for Major Works Procurement: building and construction* (1 March 2012), p 2, <https://www.treasury.tas.gov.au/Documents/II-1205.pdf>.

<sup>62</sup> *Public Works Committee Act (No. 32 of 1914)* (Tas), s 13.

<sup>63</sup> Tasmanian Government, *Buying for Government – Parliamentary Approval*, <https://www.purchasing.tas.gov.au/buying-for-government/building-and-construction/planning/parliamentary-approval>.



## Chapter 3 Public works inquiries

This chapter examines the two inquiries into public works undertaken by the committee since its establishment in March 2018. The chapter discusses the outcome of these inquiries, including their contribution to the effective oversight of the government's public works program for New South Wales. The chapter concludes with a recommendation to re-establish the Public Works Committee in the 57th Parliament.

### Inquiry into the Sydney stadiums strategy

- 3.1 On 10 April 2018, the committee adopted a self-reference into the Sydney stadiums strategy, established to examine the process by which the NSW Government's stadia strategy was developed; the justifications on which the strategy was based; the development and planning assessment process for the stadiums; and projected costs in order to increase transparency for the community.<sup>64</sup>
- 3.2 The inquiry was prompted in part by actions taken by the Legislative Council in ordering the production of documents from the NSW Government relating to the demolition, reconfiguration or rebuild of Allianz Stadium and ANZ Stadium, amongst other matters.<sup>65</sup>
- 3.3 The committee received 330 submissions and held three public hearings at Parliament House in Sydney, taking evidence from a range of witnesses representing government agencies, Infrastructure NSW, the Sydney Cricket and Sports Ground Trust, Botanic Gardens and Centennial Parklands (Centennial and Moore Park Trust), the Former Independent Chairman of the Stadia Strategy Steering Committee, sporting codes, local councils, community groups, independent consultancy firms and legal representatives.
- 3.4 The committee tabled its report in September 2018, making eight findings and ten recommendations. Key amongst these were that the significant safety and security concerns at the Sydney Football Stadium required immediate attention, warranting the demolition and rebuild of a facility in the Moore Park precinct, the projects announced under the government's stadia strategy had not met the government's own infrastructure spending criteria. The committee also made other findings and recommendations in response to the government's decision not to release business cases or other quality assurance processes, and in regards to the timeframe for works proposed at Stadium Australia.<sup>66</sup>
- 3.5 The government provided its response to the committee's report on 25 January 2019. Of the 10 recommendations made by the committee, four were supported and six were noted.<sup>67</sup>

<sup>64</sup> *Minutes*, NSW Legislative Council, 10 April 2018, p 2403.

<sup>65</sup> *Minutes*, NSW Legislative Council, 15 March 2018, p 2388; *Minutes*, 10 April 2018, p 2401.

<sup>66</sup> Public Works Committee, Report No. 1, *Sydney Stadiums Strategy*, September 2018, <https://www.parliament.nsw.gov.au/lcdocs/inquiries/2483/Final%20report%20-%20Sydney%20stadiums%20strategy.pdf>.

<sup>67</sup> Government response from the Hon Stuart Ayres MP, Minister for Western Sydney, Minister for Westconnex, Minister for Sport, to the Public Works Committee's report on the inquiry into the Sydney Stadiums strategy, received 25 January 2019,

## **Inquiry into the impact of Port of Newcastle sale arrangements on public works expenditure in New South Wales**

- 3.6** On 20 November 2018, the committee adopted a self-reference into the impact of Port of Newcastle sale arrangements on public works expenditure in New South Wales, including the extent to which limitations on container port operations currently in place following the sale of the Port of Newcastle contribute to increased pressure for transport and freight infrastructure in New South Wales. The inquiry canvasses the nature and status of the port commitment deeds, and the extent to which container port limitations contribute to additional costs for NSW industries importing or exporting from NSW, especially in the Port of Newcastle catchment.
- 3.7** The committee received 22 submissions and three supplementary submissions, and held one public hearing at Parliament House in Sydney.
- 3.8** The inquiry coincided with Federal Court proceedings involving the Australian Competition and Consumer Commission (ACCC) and NSW Ports, which were still at an early stage at the conclusion of the committee's inquiry. Throughout the inquiry the committee sought to ensure that its inquiry did not impact on these proceedings, however they did have had some impact on the availability of evidence to the committee regarding the port transactions and the PCDs.
- 3.9** In view of these complexities and the limited timeframe within which the committee was able to take evidence, the committee determined that the inquiry be the first step in a thorough process of review by the Legislative Council of the port transactions, specifically the extent to which container limitations and associated financial obligations have impacted the state's economy.
- 3.10** The committee further took the view that, once Federal Court proceedings involving NSW Ports have concluded, a future Legislative Council committee would be in a better informed position to conduct a more in depth inquiry. The committee therefore recommended that in the 57th Parliament, the Legislative Council consider establishing a inquiry regarding ports transactions, and specifically container limitations and associated financial obligations contained within the Port Commitment Deeds, after the conclusion of the Federal Court proceedings.

## **Committee comment on future arrangements for the Public Works Committee**

- 3.11** The Legislative Council Public Works Committee has operated at a time when the NSW Government is undertaking an ambitious infrastructure development program. The committee is broadly supportive of works to increase amenability for the people of New South Wales and ensure that the state is well-positioned to respond to future population growth and technical advances. However, such works must be subject to effective oversight, scrutiny and accountability to ensure that projects are delivered on time, within cost and that the case for each project is made to the public and to Parliament.
- 3.12** The inquiries undertaken into the stadia strategy and the Port of Newcastle have facilitated extensive public engagement and produced key findings and recommendations that address issues related to governance, transparency, community engagement and the government's fiscal

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<https://www.parliament.nsw.gov.au/lcdocs/inquiries/2483/Sydney%20stadiums%20strategy%20-%20Government%20Response.pdf>

responsibility to the people of New South Wales. The ports inquiry has also identified a key area of policy for further inquiry in the next Parliament.

- 3.13** The committee is of the view that the inquiries undertaken by the committee since March 2018, and the scale of the public works program currently underway in New South Wales, validate arguments in support of the continuation of a committee vested with appropriate oversight powers and with the purview to scrutinise public works projects across portfolios. To date, the model for the Public Works Committee has worked effectively, as its role, functions and structure are inherently different to the Legislative Council's existing portfolio and standing committees. In particular, the composition of the committee, which provided for a non-government chair and a non-government majority, ensured enhanced accountability.
- 3.14** For this reason, the committee recommends that the Legislative Council re-establish the Public Works Committee in the 57<sup>th</sup> Parliament.

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### **Recommendation 1**

The committee recommends that the Legislative Council re-establish the Public Works Committee in the 57<sup>th</sup> Parliament.

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- 3.15** The committee acknowledges that there exists a statutory provision, or opportunity, for the Parliament to establish a joint Public Works Committee comprised of members from both Houses. Sections 21 to 28 of the *Public Works and Procurement Act 1912* envisage a joint committee with substantial powers that extend beyond those currently held by the Council committee.
- 3.16** The committee acknowledges that there is a convincing argument to be made in support of the Parliament establishing a committee with the composition and strengthened powers provided for under the Act. A statutory committee would arguably have the necessary powers to scrutinise and verify spending on infrastructure, enforce compliance and even play a role in vetting proposed projects. However, this committee has not received any evidence in relation to the adequacy, desirability or operation of those powers during the course of this inquiry.
- 3.17** The committee acknowledges that the incoming 57<sup>th</sup> Parliament will bring a new membership and possibly a new government.
- 3.18** The committee is of the view that, if the Public Works Committee is re-established, the new committee should have the opportunity to negotiate the powers it will require to operate effectively within the context of a new membership and the government's public works program as it stands at that time. However, we encourage that committee to readopt a model that prioritises a non-government chair and non-government majority. The committee may also like to consider models operating in other jurisdictions (discussed in chapter 2), particularly where they entail ongoing oversight of a project following the committee's initial approval or inquiry.
- 3.19** The committee also acknowledges that the establishment of the Public Works Committee, alongside various other committees established in the 56<sup>th</sup> Parliament, did have an impact on the Department of the Legislative Council's budget and resources. This committee therefore believes that should the Public Works Committee be re-established in the 57<sup>th</sup> Parliament, appropriate representation be made to secure additional funding to ensure the committee has sufficient levels of resourcing available.



## Appendix 1 Resolution establishing the Legislative Council Public Works Committee<sup>68</sup>

Mr Brown moved, according to notice:

That notwithstanding anything contained in the standing orders:

### Appointment

1. A Public Works Committee be appointed.

### Functions

2. The committee may inquire into and report on all public works to be executed (including works that are continuations, completions, repairs, reconstructions, extensions, or new works) where the estimated cost of completing such works exceeds \$10 million.
3. In examining such works the committee is to consider:
  - a. the stated purpose of the work and the need to carry it out,
  - b. the current and prospective public value of such work,
  - c. the amount of revenue the work is expected to produce, where the purpose of the work is to increase revenue,
  - d. the timeframe for carrying out the work, and
  - e. any other related matter.
4. The committee is to inquire into future arrangements for the ongoing scrutiny by the Legislative Council of the matters set out in paragraphs 2 and 3.

### Referral of inquiries

5. The committee is to inquire into and report on any matter referred to the committee by resolution of the House.
6. A committee meeting to consider a self-reference may be convened at the request of any three committee members in writing to the Committee Clerk.
7. The Committee Clerk must convene a meeting within seven days of the receipt of the request, providing that members are given at least 24 hours' notice.
8. A majority of committee members is required to adopt the self-reference. The terms of reference are to be reported to the House on the next sitting day.

### Membership

9. The committee is to consist of seven members comprising:
  - a. three government members,
  - b. two opposition members, and
  - c. two crossbench members, one of whom shall be from The Greens.

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<sup>68</sup> *Minutes*, NSW Legislative Council, 15 March 2018, pp 2390-2393.

**Chair**

10. That the Chair of the committee be the Hon Robert Brown MLC.

**Substitute members**

11. Members may be appointed to the committee as substitute members for any matter before the committee by providing notice in writing to the Committee Clerk, with nominations made as follows:
  - a. nominations for substitute government or opposition members are to be made by the Leader of the Government, Leader of the Opposition, Government or Opposition Whip or Deputy Whip, as applicable, and
  - b. nominations for substitute crossbench members are to be made by the substantive member or another crossbench member.

**Electronic participation in deliberative meetings**

12. A committee member who is unable to attend a deliberative meeting in person may participate by electronic communication and may move any motion and be counted for the purpose of any quorum or division, provided that:
  - a. the Chair is present in the meeting room,
  - b. all members are able to speak and hear each other at all times, and
  - c. members may not participate by electronic communication in a meeting to consider a draft report.

**Conduct of committee proceedings**

13. Unless the committee decides otherwise:
  - a. submissions to inquiries are to be published, subject to the Committee Clerk checking for confidentiality and adverse mention and, where those issues arise, bringing them to the attention of the committee for consideration,
  - b. the Chair's proposed witness list is to be circulated to provide members with an opportunity to amend the list, with the witness list agreed to by email, unless a member requests the Chair to convene a meeting to resolve any disagreement,
  - c. the sequence of questions to be asked at hearings is to alternate between opposition, crossbench and government members, in that order, with equal time allocated to each,
  - d. transcripts of evidence taken at public hearings are to be published,
  - e. supplementary questions are to be lodged with the Committee Clerk within two days, excluding Saturday and Sunday, following the receipt of the hearing transcript, with witnesses requested to return answers to questions on notice and supplementary questions within 21 calendar days of the date on which questions are forwarded to the witness, and
  - f. answers to questions on notice and supplementary questions are to be published, subject to the Committee Clerk checking for confidentiality and adverse mention and, where those issues arise, bringing them to the attention of the committee for consideration.

Debate ensued.

Question put.

The House divided.

Ayes 21

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

\* Tellers

Noes 18

Mr Amato	Mr Farlow	Mr Mallard
Mr Blair	Mr Franklin	Mr Martin
Mr Clarke	Mr Harwin	Mrs Mitchell
Mr Colless	Mr Khan	Dr Phelps
Ms Cusack	Mr MacDonald	Mrs Taylor
Mr Fang *	Mrs Maclaren-Jones *	Mrs Ward

\* Tellers

Question resolved in the affirmative.



## Appendix 2 Terms of reference for the Public Works Committee inquiries

### Inquiry into the Sydney stadiums strategy

#### Terms of reference

1. That the Public Works Committee inquire into and report on the Government's Sydney stadiums strategy, and in particular:
  - a) the process by which the Government developed the strategy, including the input provided by Infrastructure NSW, Venues NSW, the Sydney Cricket Ground Trust and other government agencies,
  - b) modelling or cost benefit analyses that informed the strategy, including the compliance of such modelling or analyses with the Restart NSW Fund Act 2011,
  - c) economic and social justifications for the strategy, including experiences in other jurisdictions and relevant academic literature,
  - d) the development and planning assessment process for Sydney's sports stadiums, including opportunities for public input,
  - e) the management and adequacy of safety and maintenance at Allianz Stadium,
  - f) attendance rates at Sydney's sports stadiums and whether patrons are from Sydney, regional New South Wales, interstate or overseas,
  - g) the total cost of the strategy, including acquisition, demolition, construction, compensation to sports clubs and associations, and the reasons for increases in costs,
  - h) the impacts of the strategy on the community, including users of the Parramatta Memorial Pool and Parramatta Park, and proposed mitigation strategies,
  - i) options to protect, preserve and expand green space at Moore Park, and
  - j) any other related matter.
  
2. That the committee report by 28 September 2018.<sup>69</sup>

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<sup>69</sup> *Minutes*, Legislative Council, 10 April 2018, pp 2403-2404.

**Inquiry into the impact of Port of Newcastle sale arrangements  
on public works expenditure in New South Wales**

**Terms of reference**

1. That the Public Works committee inquire into and report on the impact of Port of Newcastle sale arrangements on public works expenditure in New South Wales, including:
  - (a) The extent to which limitations on container port operations currently in place following the sale of the Port of Newcastle contribute to increased pressure for transport and freight infrastructure in New South Wales, specifically:
    - (i) the Westconnex Gateway project
    - (ii) the Port Botany Rail Line duplication
    - (iii) intermodal terminals and rail road connections in southwest and western Sydney
    - (iv) other additional public road infrastructure requirements due to the additional road freight movements in Sydney under the existing port strategy.
  - (b) The nature and status of the port commitment deeds, the extent to which they contain limitations on container port movements, and the terms and binding nature of any such commitments.
  - (c) The extent to which container port limitations contribute to additional costs for NSW industries who are importing or exporting from New South Wales, especially in the Port of Newcastle catchment.
  - (d) Any other related matters.
2. That the committee report by 28 February 2019.<sup>70</sup>

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<sup>70</sup> *Minutes*, Legislative Council, 21 November 2018, pp 3294-3295.

## Appendix 3 Submissions

No.	Author
1	IPWEA (NSW)
2	City of Sydney
3	Professionals Australia
4	NSW Government Premier and Cabinet

## Appendix 4 Minutes

### Minutes no. 1

Tuesday 10 April 2018

Public Works Committee

Parkes Room, Parliament House, Sydney, at 1.44 pm

#### 1. Members present

Mr Brown, *Chair*

Dr Faruqi, *Deputy Chair*

Mr Graham

Mr Khan

Mr MacDonald

Mr Martin

Mr Searle (substituting for Ms Voltz)

#### 2. Tabling of resolution establishing the committee

The Chair tabled the resolution of the House establishing the committee.

#### 3. Correspondence

The committee noted the following item of correspondence:

##### **Received:**

- 5 April 2018 –Email from the Office of the Opposition Whip to the secretariat advising that the Hon Adam Searle will be substituting for the Hon Lynda Voltz for the committee’s meeting on 10 April 2018.

#### 4. Election of Deputy Chair

The Chair called for nominations for the Deputy Chair.

Mr Searle moved: That Dr Faruqi be elected Deputy Chair of the committee.

Mr MacDonald moved: That Mr Martin be elected as Deputy Chair of the committee.

The Clerk informed the committee that, there being two nominations, a ballot would be held.

The Clerk announced the result of the ballot as follows:

Dr Faruqi – 4 votes

Mr Martin – 2 votes

Dr Faruqi, having a majority of the members present and voting, was therefore declared elected Deputy Chair of the committee.

#### 5. Conduct of committee proceedings – media

Resolved, on the motion of Mr Khan: That unless the committee decides otherwise, the following procedures are to apply for the life of the committee:

- the committee authorise the filming, broadcasting, webcasting and still photography of its public proceedings, in accordance with the resolution of the Legislative Council of 18 October 2007
- the committee webcast its public proceedings via the Parliament’s website, where technically possible
- the committee adopt the interim guidelines on the use of social media and electronic devices for committee proceedings, as developed by the Chair’s Committee in May 2013

- media statements on behalf of the committee be made only by the Chair.

## 6. Consideration of terms of reference – Sydney stadiums strategy

The Chair tabled a letter to the Committee Clerk signed by Mr Brown, Dr Faruqi and Mr Graham requesting a meeting of the committee to consider the following self-reference:

1. That the Public Works Committee inquire into and report on the Government's Sydney stadiums strategy, and in particular:
  - (a) the process by which the Government developed the strategy, including the input provided by Infrastructure NSW, Venues NSW, the Sydney Cricket Ground Trust and other government agencies,
  - (b) modelling or cost benefit analyses that informed the strategy, including the compliance of such modelling or analyses with the Restart NSW Fund Act 2011,
  - (c) economic and social justifications for the strategy, including experiences in other jurisdictions and relevant academic literature,
  - (d) the development and planning assessment process for Sydney's sports stadiums, including opportunities for public input,
  - (e) the management and adequacy of safety and maintenance at Allianz Stadium,
  - (f) attendance rates at Sydney's sports stadiums and whether patrons are from Sydney, regional New South Wales, interstate or overseas,
  - (g) the total cost of the strategy, including acquisition, demolition, construction, compensation to sports clubs and associations, and the reasons for increases in costs,
  - (h) the impacts of the strategy on the community, including users of the Parramatta Memorial Pool and Parramatta Park, and proposed mitigation strategies,
  - (i) options to protect, preserve and expand green space at Moore Park, and
  - (j) any other related matter.
2. That the committee report by 28 September 2018.

Resolved, on the motion of Mr Searle: That the committee adopt the terms of reference.

## 7. Conduct of the inquiry into the Sydney stadiums strategy

### 7.1 Proposed timeline

Resolved, on the motion of Mr Khan: That the committee adopt the following timeline for the administration of the inquiry:

#### May

- Submissions close

#### Late June/July

- Possible site visit
- Hearings

#### August

- Hearing (reserve date).

### 7.2 Closing date for submissions

Resolved, on the motion of Mr Graham: That the closing date for submissions be Friday 25 May 2018.

**7.3 Stakeholder list**

Resolved on the motion of Mr Khan: That the secretariat circulate to members the Chairs' proposed list of stakeholders to provide them with the opportunity to amend the list or nominate additional stakeholders, and that the committee agree to the stakeholder list by email, unless a meeting of the committee is required to resolve any disagreement.

**7.4 Advertising**

The committee noted that all inquiries are advertised via twitter, stakeholder letters and a media release distributed to all media outlets in New South Wales.

**8. Consideration of terms of reference – Scrutiny of public works in New South Wales**

The Chair tabled a letter to the Committee Clerk signed by Mr Brown, Dr Faruqi and Mr Graham requesting a meeting of the committee to consider the following self-reference:

That, in accordance with paragraph 4 of the resolution establishing the Public Works Committee, the committee inquire into and report on future arrangements for the ongoing scrutiny by the Legislative Council of the matters set out in paragraphs 2 and 3 of the resolution establishing the committee.

Resolved, on the motion of Dr Faruqi: That the committee adopt the terms of reference.

**9. Conduct of the inquiry into the scrutiny of public works in New South Wales****9.1 Closing date for submissions**

Resolved, on the motion of Mr Khan: That the closing date for submissions be Tuesday 31 July 2018.

**9.2 Stakeholder list**

Resolved, on the motion of Mr Khan: That the secretariat circulate to members the Chairs' proposed list of stakeholders to provide them with the opportunity to amend the list or nominate additional stakeholders, and that the committee agree to the stakeholder list by email, unless a meeting of the committee is required to resolve any disagreement.

**9.3 Advertising**

The committee noted that all inquiries are advertised via twitter, stakeholder letters and a media release distributed to all media outlets in New South Wales.

**10. Adjournment**

The committee adjourned at 2.02 pm *sine die*.

Jenelle Moore  
**Committee Clerk**

**Minutes no. 8**

Tuesday 13 November 2018

Public Works Committee

Members' Lounge, Parliament House, 12.00 pm

**1. Members present**Mr Brown, *Chair*

Mr Graham

Mr Khan

Mr Mallard (substituting for Mr MacDonald)

Mr Martin

Ms Voltz

**2. Apologies**

Mr Field

**3. Previous minutes**

Resolved, on the motion of Mr Martin: That draft minutes no. 7 be confirmed.

**4. Correspondence**

The committee noted the following item of correspondence:

***Received***

- 7 May 2018 – Email from Ms Linda Shatilko, Executive Assistant to the Clerk and Acting Clerk of the Parliaments, Department of the Legislative Council, Parliament of Victoria, to Chair, informing the committee they will not be making a submission to the inquiry
- 31 July 2018 – Letter from Ms Margaret Crawford, Auditor-General of New South Wales, to secretariat, providing information to the committee
- 24 October 2018 – Correspondence from Mr Craig Carmody, Chief Executive Officer, Port of Newcastle, to the committee, proposal for container terminal at the Port of Newcastle
- 13 November 2018 – Email from the Hon Natasha Maclaren-Jones to the secretariat, advising that Mr MacDonald will be substituted by the Hon Shayne Mallard for the meeting on 13 November 2018.

**5. Inquiry into the scrutiny of public works in New South Wales****5.1 Public submissions****5.2** Resolved, on the motion of Mr Mallard: That the committee authorise the publication of submission nos 1-4.**5.3 Discussion paper****5.4** The committee considered the discussion paper entitled, 'Inquiry into the scrutiny of public works in New South Wales'.**6. Adjournment**The committee adjourned at 12.08 pm, *sine die*.

Jenelle Moore

**Committee Clerk**

**Draft minutes no. 11**

Tuesday 19 February 2019

Public Works Committee

McKell Room, Parliament House, 10:05 am

**1. Members present**Mr Brown, *Chair*Mr Martin, *Deputy Chair*

Ms Fachrmann

Mr Graham

Mr Khan

Mr MacDonald

Ms Voltz

**2. Previous minutes**

Resolved, on the motion of Mr Graham: That draft minutes no. 10 be confirmed.

**3. Correspondence**

The committee noted the following items of correspondence:

***Received***

- 1 February 2019 – Email from Mr Greg Cameron, to Chair, providing three newspaper articles discussed at the public hearing on 31 January 2019
- 3 February 2019 – Email from Mr Greg Cameron, to Chair, submitting a transcript clarification to evidence given at the hearing on 31 January 2019
- 11 February 2019 – Email from Mr Paul van den Bos, Director, Transport Modelling, providing additional information for the committee following the public hearing
- 11 February 2019 – Email from Mr Paul van den Bos, Director, Transport Modelling, submitting a transcript clarification to evidence given at the hearing on 31 January 2019
- 11 February 2019 – Email from Mr Greg Cameron, to Chair, regarding an email to the Treasurer

***Sent***

- 24 January 2019 – Email to Ms Marika Calfas, Chief Executive Officer, NSW Ports, from secretariat on behalf of Chair, advising submission will be discussed at the public hearing
- 14 February 2019 – Email to AlphaBeta, from the secretariat, regarding outstanding answers to questions on notice
- 14 February 2019 – Email to GrowerCo, from the secretariat, regarding outstanding answers to questions on notice.

**4. \*\*\*****5. Inquiry into the scrutiny of public works in New South Wales****5.1 Consideration of Chair's draft report**

The Chair submitted his draft report entitled 'Scrutiny of public works in New South Wales', which, having been previously circulated, was taken as being read.

Resolved, on the motion of Mr Khan: That:

- a) The draft report be the report of the committee and that the committee present the report to the House;
- b) The submissions 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 within 24 hours after receipt of the draft minutes of the meeting;
- h) That the report be tabled on 25 February 2019.

**6. Other business**

Resolved, on the motion of Mr Khan: That the committee extend its sincere thanks to the Chair for his outstanding chairmanship of the committee.

**7. Adjournment**

The committee adjourned at 11:34 am, sine die.

Stephanie Galbraith  
**Committee Clerk**



