

General Purpose Standing Committees

# **Budget Estimates Guide**

## **2006-2007**

## How to contact the Budget Estimates Secretariat

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### Telephone

- Principal Council Officer, Madeleine Foley: 9230 3586
- Council Officer, Dora Oravec: 9230 3311

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Email [budget.estimateds@parliament.nsw.gov.au](mailto:budget.estimateds@parliament.nsw.gov.au)

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Facsimile 9230 2981

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Location Room 812, Parliament House

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## Further information

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### Written correspondence

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Budget Estimates, Room 812

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Legislative Council

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Parliament House, Macquarie Street

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Sydney NSW 2000

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### Internet

- General [www.parliament.nsw.gov.au/budgetestimates](http://www.parliament.nsw.gov.au/budgetestimates)
  - GPSC No. 1 [www.parliament.nsw.gov.au/gpsc1](http://www.parliament.nsw.gov.au/gpsc1)
  - GPSC No. 2 [www.parliament.nsw.gov.au/gpsc2](http://www.parliament.nsw.gov.au/gpsc2)
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## Clerk's preface

This Guide provides Ministers, members and staff with information on the most common practices and procedures relevant to the inquiry into the Budget Estimates 2006-2007.

The resolution referring the Budget Estimates 2006-2007 contains some significant differences from the Estimates process of the last few years. This Guide details the administrative and procedural changes resulting from the new resolution.



 John Evans  
Clerk of the Parliaments

# Chapter 1 Introduction

## General Purpose Standing Committees<sup>1</sup>

1.1 Under the resolution of the House establishing the General Purpose Standing Committees (GPSCs):<sup>2</sup>

The Committees may inquire into and report on:

- (a) any matters referred to them by the House,
- (b) the expenditure, performance or effectiveness of any department of government, statutory body or corporation,
- (c) any matter in any annual report of a department of government, statutory body or corporation.<sup>3</sup>

1.2 The five GPSCs reflect Government Ministers' portfolio responsibilities. The portfolio areas allocated to each GPSC are:

General Purpose Standing Committee No. 1	Premier State Development Citizenship Education and Training Commerce Finance Industrial Relations Treasury Infrastructure Hunter The Legislature
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<sup>1</sup> Five GPSCs were first constituted in 1997. The committees were reappointed on 3 July 2003, shortly after the commencement of the present 53<sup>rd</sup> Parliament. Since 1997, the Budget Estimates and related papers have been referred to the GPSCs for inquiry and report. See the resolution establishing the GPSCs (hereafter referred to as the 'GPSC Resolution') of 3 July 2003, *Minutes of Proceedings, No. 17*, 1<sup>st</sup> Session of the 53<sup>rd</sup> Parliament, item 11; last amended 6 June 2006, *Minutes of Proceedings, No. 5*, 2<sup>nd</sup> Session of the 53<sup>rd</sup> Parliament, item 6.

<sup>2</sup> GPSC Resolution, para 1

<sup>3</sup> GPSC Resolution, para 2 (1)

General Purpose Standing Committee No. 2	Health Community Services Youth Ageing Disability Services Tourism and Sport and Recreation Women Aboriginal Affairs
General Purpose Standing Committee No. 3	Police Attorney General Justice Juvenile Justice Emergency Services Lands Rural Affairs Gaming and Racing Central Coast
General Purpose Standing Committee No. 4	Planning Redfern Waterloo Science and Medical Research Local Government Roads Housing Transport Western Sydney Fair Trading
General Purpose Standing Committee No. 5	Environment Arts Water Utilities Regional Development Illawarra Small Business Natural Resources Primary Industries Mineral Resources Energy Ports Waterways

## Powers of the GPSCs

### 1.3 Under standing order 208:

A committee has power:

- (a) to adjourn from time to time,
- (b) to adjourn from place to place,
- (c) to send for and examine persons, papers, records and things,
- (d) to make visits of inspection within New South Wales and, if authorised by the House, with the approval of the President, elsewhere in Australia and outside Australia, and
- (e) request the attendance of and examine members of the House.

### 1.4 Other relevant standing orders provide that a committee has:

- Power to authorise publication, before presentation to the House, of submissions received and evidence taken.<sup>4</sup>
- Leave to report to the House from time to time its proceedings, evidence taken in public, and recommendations as it deems fit.<sup>5</sup>

## Referral of the 2006-2007 Budget Estimates

1.5 On Thursday 8 June 2006, the Legislative Council resolved ‘that the Budget Estimates and related papers for the financial year 2006-2007 presenting the amounts to be appropriated from the Consolidated Fund be referred to the GPSCs for inquiry and report’.<sup>6</sup> Each committee is to examine the Budget Estimates for the relevant portfolios and report to the House by the last sitting day of November 2006.<sup>7</sup>

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<sup>4</sup> Standing order 223(1)

<sup>5</sup> Standing order 226(1)

<sup>6</sup> *Minutes of Proceedings, No 7*, 2<sup>nd</sup> Session of the 53<sup>rd</sup> Parliament, 8 June 2006, item 25

<sup>7</sup> *Minutes of Proceedings, No 7*, 2<sup>nd</sup> Session of the 53<sup>rd</sup> Parliament, 8 June 2006, item 25, para 12

**BUDGET ESTIMATES RESOLUTION OF 8 JUNE 2006**

1. That the Budget Estimates and related papers for the financial year 2006-2007 presenting the amounts to be appropriated from the Consolidated Fund be referred to the General Purpose Standing Committees for inquiry and report.
2. That the committees consider the Budget Estimates in accordance with the allocation of portfolios to the committees.
3. For the purposes of this inquiry any member of the House may attend a meeting of a committee in relation to the Budget Estimates and question witnesses, participate in the deliberations of the committee at such meeting and make a dissenting statement relating to the Budget Estimates, but may not vote or be counted for the purpose of any quorum.
4. The committees must hear evidence on the Budget Estimates in public.
5. Not more than three committees are to hear evidence on the Budget Estimates simultaneously.
6. When a committee hears evidence on the Budget Estimates, the Chair is to call on items of expenditure in the order decided on and declare the proposed expenditure open for examination.
7. The committees may ask for explanations from Ministers in the House, or officers of departments, statutory bodies or corporations, relating to the items of proposed expenditure.
8. The report of a committee on the Budget Estimates may propose the further consideration of any items.
9. That a daily Hansard record of the hearings of a committee on the Budget Estimates be published as soon as practicable after each day's proceedings.
10. That the hearings be held according to the following timetable:\*

Monday 28 August 2006

9.00 am to 1.00 pm

GPSC 1: Premier, State Development, Citizenship

GPSC 3: Justice, Juvenile Justice

2.00 pm to 6.00 pm

GPSC 4: Local Government, Western Sydney, Fair Trading

GPSC 5: Water Utilities, Regional Development, Small Business, Illawarra

8.00 pm to 10.30 pm

GPSC 1: The Legislature

GPSC 2: Tourism and Sport and Recreation, Women, Aboriginal Affairs

Friday 1 September 2006

9.00 am to 1.00 pm

GPSC 1: Industrial Relations, Commerce, Finance

GPSC 4: Roads

2.00 pm to 6.00 pm

GPSC 3: Police

GPSC 5: Energy, Ports, Waterways

8.00 pm to 10.30 pm

GPSC 3: Gaming and Racing, Central Coast

GPSC 4: Housing

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\* Note: This timetable has been varied by the Leader of the Government and is no longer the final timetable for Budget Estimates 2006-2007. The revised timetable is provided at Appendix 1.

Monday 4 September 2006

9.00 am to 1.00 pm

GPSC 1: Treasury, Infrastructure, Hunter

GPSC 2: Health

2.00 pm to 6.00 pm

GPSC 1: Education and Training

GPSC 5: Environment, Arts

8.00 pm to 10.30 pm

GPSC 2: Community Services, Youth

GPSC 5: Primary Industries

Friday 8 September 2006

9.00 am to 1.00 pm

GPSC 2: Ageing and Disability Services

GPSC 4: Planning, Redfern and Waterloo, Science and Medical Research

2.00 pm to 6.00 pm

GPSC 3: Lands, Emergency Services, Rural Affairs

GPSC 4: Transport

8.00 pm to 10.30 pm

GPSC 3: Attorney General

GPSC 5: Natural Resources, Mineral Resources.

11. The committees may hold supplementary hearings as required.
12. The committees are to present a final report to the House by the last sitting day in November 2006.
13. The timetable in paragraph 10 may be varied by the Leader of the Government, provided the time allocated for each portfolio hearing is not reduced.
14. Members may lodge with the Clerk to the committee proposed issues for questioning up to seven days prior to the holding of the initial hearing for that portfolio.
15. Members may lodge questions on notice with the Clerk to the committee during a Budget Estimates hearing and up to two days following.

## Hearings

- 1.6** Under the 2006-2007 Budget Estimates Resolution, not more than three committees can hear evidence simultaneously.<sup>8</sup> Budget Estimates hearings are held at Parliament House.
- 1.7** The 2006-2007 Budget Estimates Resolution included a timetable for the initial appearance of each Minister. This timetable has been varied by the Leader of the Government and is no longer the final timetable for Budget Estimates 2006-2007. The revised timetable is provided at Appendix 1. The timetable is also on the NSW Parliament's website at [www.parliament.nsw.gov.au/budgetestimates](http://www.parliament.nsw.gov.au/budgetestimates).

<sup>8</sup> *Minutes of Proceedings, No 7, 2<sup>nd</sup> Session of the 53<sup>rd</sup> Parliament, 8 June 2006, item 25, para 5*

- 1.8** It is usual to hold a short deliberative meeting to deal with procedural matters prior to the commencement of each hearing (see paras 3.11-3.12). Accordingly, members are requested to attend Budget Estimates hearings 15 minutes prior to the advertised commencement times. This will ensure that procedural matters can be dealt with before the arrival of witnesses and maximise the time available for the examination of witnesses.
- 1.9** Committees may choose to hold supplementary hearings to further consider proposed expenditure (see paras 3.40-3.42).<sup>9</sup> Individual committees are responsible for making decisions about future hearing dates.

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<sup>9</sup> *Minutes of Proceedings, No 7*, 2<sup>nd</sup> Session of the 53<sup>rd</sup> Parliament, 8 June 2006, item 25, para 11

## Chapter 2      Operation of General Purpose Standing Committees

### Committee membership

#### 2.1      According to the GPSC Resolution:

Each Committee is to consist of seven members, comprising:

- (a)    three Government members,
- (b)    two Opposition members,
- (c)    two Cross Bench members.<sup>10</sup>

#### 2.2      The membership of each committee is listed at Appendix 2.

### Role of the chair and deputy chair

2.3      While there are no specific standing orders relating to the role of the chair of a committee, the role is comparable to that of the President in the House. This includes maintaining order, conducting divisions and acting as a spokesperson on behalf of the committee. The committee chair, like the President, should act with authority and impartiality. Successful committee operations depend on effective chairing. Some committees have increased their effectiveness and cohesion through the close co-operation of the chair and deputy chair.

2.4      At all meetings, and especially when hearing evidence, the chair is responsible for maintaining order and decorum. The standing orders that apply to debates can serve as a model for committee operations. This involves ensuring that appropriate procedures for the moving of motions and amendments, for calling divisions and for other methods of resolving disputes between members are applied. The chair may also make rulings on the admissibility of questions, particularly if they are not relevant to the committee's terms of reference.

2.5      Although the chair is in control of the meeting or hearing and directs the proceedings, it is valuable for the chair to discuss with the committee members how he or she proposes to conduct the hearing and to seek agreement from committee members on such matters as allocation of time to members for questions, and the order of questioning. This helps to avoid dissent and conflict arising during the meeting.

2.6      The deputy chair acts as chair when the chair is absent from a meeting of a committee. In the absence of both the chair and deputy chair, a member of the committee is elected by the members present to act as chair for that meeting of the committee.<sup>11</sup>

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<sup>10</sup>      GPSC Resolution, para 3

<sup>11</sup>      Standing order 211(2), (3)

- 2.7 The chair, deputy chair or other member acting as chair at a meeting of a committee has a deliberative vote and, in the event of an equality of votes, a casting vote.<sup>12</sup>

### **Substitute members**

- 2.8 Substitute members may be appointed for any matter before the GPSCs by notice in writing to the chair of the relevant committee. Nominations for substitute Government or Opposition members may be made by the Leader of the Government or Leader of the Opposition, or Government or Opposition Whips or Deputy Whips, as applicable. Nominations for substitute Cross Bench members may be made by another Cross Bench member.<sup>13</sup>

### **Participating members**

- 2.9 Any member of the House may attend a meeting of a committee in relation to the Budget Estimates and question witnesses, participate in the deliberations of the committee at the meeting and make a dissenting statement relating to the Budget Estimates, but may not vote or be counted for the purpose of any quorum.<sup>14</sup>
- 2.10 In order to inform members of the committee, it is desirable for members wishing to participate in a Budget Estimates hearing to advise the chair in writing prior to the commencement of that hearing.

### **Quorum**

- 2.11 The quorum of a committee is three members. If, after 15 minutes from the time appointed for the commencement of a meeting of a committee, a quorum is not present, the meeting is adjourned and the chair of the committee will fix a time for the next meeting of the committee.<sup>15</sup>

#### **Absence of a quorum**

- 2.12 If, during a meeting of a committee, the absence of a quorum is brought to the attention of the chair by another committee member, after 10 minutes has elapsed the chair will suspend the proceedings of the committee to a later hour. If a quorum is not then present, the committee will be adjourned to another day, to be fixed by the chair.<sup>16</sup>

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<sup>12</sup> Standing order 211(4)

<sup>13</sup> GPSC Resolution, para 5

<sup>14</sup> *Minutes of Proceedings, No 7*, 2<sup>nd</sup> Session of the 53<sup>rd</sup> Parliament, 8 June 2006, item 25, para 3

<sup>15</sup> Standing order 214

<sup>16</sup> Standing order 215

## Chapter 3 Hearings

### Hearings to be held in public

- 3.1 The 2006-2007 Budget Estimates Resolution provides that the GPSCs must hear evidence on the Budget Estimates in public.<sup>17</sup> This prevents the committees from hearing confidential evidence in camera.

### Attendance of Ministers and government officers

- 3.2 The 2006-2007 Budget Estimates Resolution provides that:

The committees may ask for explanations from Ministers in the House, or officers of departments, statutory bodies or corporations, relating to the items of proposed expenditure.<sup>18</sup>

- 3.3 Ministers who are members of the Legislative Assembly may be invited to give evidence before a GPSC, but cannot be compelled to do so. It is anticipated that Ministers from the Legislative Assembly will attend the initial round of hearings according to the timetable at Appendix 1.
- 3.4 Ministers who are members of the Legislative Assembly who attend voluntarily and give evidence before a committee should follow any procedures established by the committee, such as time limits for Government/Opposition/Cross Bench questioning. However, the Minister may decide to leave a hearing at any time, if he or she does not wish to comply with any procedures established by the committee.<sup>19</sup>
- 3.5 It is usual for Ministers to bring officers of their choice from departments, statutory bodies or corporations to the initial Budget Estimates hearings. Where a member requests the attendance of a particular witness, the committee should advise the Minister in writing prior to the hearing. After the initial hearings, it is usual that the committee request the attendance of officers from departments, statutory bodies or corporations only, however the Minister may choose to attend.
- 3.6 Although government officers normally appear voluntarily at initial and supplementary hearings, GPSCs have the power to send for and examine persons who are not members, including officers from departments, statutory bodies or corporations.<sup>20</sup>

<sup>17</sup> *Minutes of Proceedings, No 7, 2<sup>nd</sup> Session of the 53<sup>rd</sup> Parliament, 8 June 2006, item 25, para 4*

<sup>18</sup> *Minutes of Proceedings, No 7, 2<sup>nd</sup> Session of the 53<sup>rd</sup> Parliament, 8 June 2006, item 25, para 7*

<sup>19</sup> Legislative Council, Clerk's Advice, *Advice to General Purpose Standing Committees in relation to Budget Estimates hearings*, September 1999, reproduced in *Budget Estimates Guide 2001-2002*, Appendix D

<sup>20</sup> Standing order 208(c)

### **Role of ministerial contact officers**

- 3.7** Normally, a ministerial contact officer is nominated from each Minister's office to co-ordinate matters between the Minister, his or her department or relevant statutory body or corporation, and the Budget Estimates Secretariat.
- 3.8** The ministerial contact officer will liaise with, and ensure the attendance of, all witnesses from departments, statutory bodies or corporations. Prior to a hearing, a ministerial contact officer should contact the Budget Estimates Secretariat to:
- provide a written list of witnesses identified by job title and agency
  - advise of any requests by witnesses in relation to the time of their appearance (for example, a witness request to leave the hearing early to attend another engagement)
  - advise of any witness who requires a holy book other than the Bible for taking the oath.
- 3.9** After a hearing, the ministerial contact officer is expected to liaise with the Budget Estimates Secretariat in relation to the co-ordination of answers to questions taken on notice.

## **Meeting procedures**

### **Procedures for questioning during hearings**

- 3.10** At the first meeting of each of the five GPSCs of the 53<sup>rd</sup> Parliament, the committees resolved in relation to Budget Estimates inquiries:
- That if a Minister has to absent himself/herself from the hearings to attend a division, the committee will continue the examination of the portfolio areas in the Minister's absence.
  - That the sequence of questions to be asked be left in the hands of the chair.
  - That unless the committee decides otherwise, Ministers be requested to return answers to questions on notice taken during Budget Estimates hearings within 35 days of the day on which the question is forwarded to the Minister by the committee clerk.
  - That, under section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975* and under the authority of standing order 252, the committee authorises the clerk of the committee to publish the answers provided to questions on notice, after these answers have been circulated to committee members.

- 3.11** A deliberative meeting is held prior to the first hearing to consider whether to amend these procedural resolutions. Possible alternative resolutions are outlined below.

**MOTION TO ALLOCATE QUESTIONS**

Member says—

Mr/Madam Chair—

I move: That the sequence of questions to be asked alternate between Government, Opposition and Cross Bench members with XX minutes allocated to each.

**MOTION FOR RETURN OF ANSWERS TO QUESTIONS ON NOTICE**

Member says—

Mr/Madam Chair—

I move: That Ministers be requested to return answers to questions on notice taken during Budget Estimates hearings within XX days of the day on which the question is forwarded to the Minister by the Committee Clerk.

**Deliberative meeting prior to each hearing**

- 3.12** Prior to the commencement of each Budget Estimates hearing, the committee may consider the following matters:

- substitute member arrangements (see para 2.8)
- participating member arrangements (see paras 2.9-2.10)
- time limits for the examination of each portfolio and the order in which portfolios will be examined (see possible resolution below)
- return date for answers to any questions on notice, if not resolved by the committee prior to the first hearing (see para 4.17).

**MOTION FOR ORDER OF EXAMINATION OF PORTFOLIOS**

Member says—

Mr/Madam Chair—

I move: That [portfolio] be examined from [time] until [time] and [portfolio] be examined from [time] until [time].

### Swearing in witnesses

- 3.13** Under s10 of the *Parliamentary Evidence Act 1901 (NSW)* ‘every witness attending to give evidence before a Committee other than a Committee of the Whole shall be sworn by the chairman of such Committee’.<sup>21</sup> For the 2006-2007 Budget Estimates, all witnesses from departments, statutory bodies or corporations will be sworn when giving evidence.
- 3.14** Ministers are an exception to the policy of swearing all witnesses, as members of Parliament have previously sworn an oath to that office.
- 3.15** If a witness makes more than one appearance before a committee, it is not necessary to swear that witness at each subsequent hearing. The witness need only be reminded at subsequent hearings that he or she is giving evidence on their former oath or affirmation.

### Chair’s opening statement

- 3.16** When declaring a committee hearing open the chair normally makes a short statement to:
- advise the media about the rules governing the broadcasting of the committee’s public proceedings (see paras 3.35-3.38)
  - inform the audience that a staff member from Chamber and Support Services is on duty for the delivery of messages from members of the public gallery
  - inform the Minister of the proposed allocated times and order for examination of portfolio areas.
- 3.17** If the Minister is a member of the Legislative Assembly, the chair should ask whether the Minister has a pair in the House and consult the Minister regarding procedures in the event of a division in the Assembly.
- 3.18** The chair should then declare the proposed expenditure open for examination and call on items of expenditure in the order agreed.<sup>22</sup>
- 3.19** The chair may ask the Minister if he or she wishes to make a brief opening statement before members ask questions.

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<sup>21</sup> *Parliamentary Evidence Act 1901 (NSW)*, s10(2)

<sup>22</sup> *Minutes of Proceedings, No 7*, 2<sup>nd</sup> Session of the 53<sup>rd</sup> Parliament, 8 June 2006, item 25, para 6

### **Deliberative meeting after the hearing**

- 3.20** Once questioning has concluded the chair should ensure the room is cleared before the committee commences any deliberations. At this deliberative meeting the committee may need to consider the following matters:
- a resolution to make public tabled documents (see paras 3.26-3.29)
  - future committee activity, such as supplementary hearings (see paras 3.40-3.42).

### **Tabled documents**

- 3.21** Committees must decide whether to accept and publish documents tabled by witnesses during hearings. Where a witness is seeking to table a document, the witness should identify the document, indicate whether the document is already publicly available, and state clearly why the document is being provided.
- 3.22** It is preferable that any decision on publication be deferred until after the hearing, to give the committee sufficient time to consider the contents of the document that is to be published on their authority.
- 3.23** Members are also able to table documents during Budget Estimates hearings. If the document identifies an individual, the committee should confirm that the member has the consent of that individual to table the document.
- 3.24** It is not necessary or desirable for documents referred to in evidence that are published and publicly available to be tabled as part of a committee inquiry. However, such documents can be circulated to members for their information if the committee so desires.
- 3.25** A witness should provide nine copies of any document that he or she wishes to table: one for each committee member, one for the committee clerk and one for Hansard.

### **Authority to publish documents and evidence**

- 3.26** Section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975(NSW)* authorises a committee to publish a document received by it or evidence given before it.
- 3.27** Section 6 of the Act provides a defence to any action or proceeding, civil or criminal, arising from the publication of any document that was authorised under section 4.
- 3.28** Standing order 224 states that evidence taken by a committee and documents presented to the committee which have not been reported to the House, may not, except with the permission of the committee, be disclosed or published by any member of the committee or by any other person.

3.29 A resolution to publish tabled documents is outlined below.

**MOTION TO PUBLISH TABLED DOCUMENTS**

Member says—

Mr/Madam Chair—

I move: That under Section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975* and under the authority of standing order 224, the Committee authorises the Clerk of the Committee to publish the documents accepted by the Committee during the hearing.

**This motion may be varied if the Committee does not wish to publish all documents. In this case, the documents to be published must be clearly identified in the motion.**

### Documents in the possession of witnesses

- 3.30 In previous Budget Estimates inquiries the issue has arisen as to whether committees can compel witnesses to provide, immediately, material in their possession, such as briefing folders, despite an objection from the witness.
- 3.31 It is now well established that the House possesses an implied or inherent common law power to compel the production of State papers from the executive government. The existence of this power was affirmed by the High Court in *Egan v Willis* (1998) 158 ALR 527.
- 3.32 Under standing order 208 the House has delegated to committees the power ‘to send for and examine persons, papers, records and things’. However, if an order by a committee for the immediate provision of material is resisted, the committee itself does not have the power to deal with the consequences of that failure. The committee may, however, report the matter to the House by way of a special report.
- 3.33 Accordingly, it is incumbent on a committee to use the power delegated to it in a measured and considered manner. It is possible that the House would not support an unreasonable or punitive demand by a committee. For example, it would not be fair for a witness who appears voluntarily by invitation to be required to produce a document other than by invitation.
- 3.34 The usual process for a committee to request the production of a document is to pass a resolution mirroring that used by the House. This provides a set time frame (usually 14-21 days) for the document to be provided to the Clerk of the Committee, and establishes procedures for resolving claims of privilege.

## Broadcasting of proceedings

**3.35** The five GPSCs have previously resolved to authorise the broadcasting of their proceedings, in accordance with the resolution of the House that permits a committee to authorise the sound recording and television broadcasting of its public proceedings (known as the Broadcasting Resolution).

**3.36** The Broadcasting Resolution states that:

A committee may:

- (a) determine terms and conditions, not inconsistent with paragraphs 1(3) and 1(4), for the sound recording and television broadcasting of its proceedings;
- (b) give instructions for the observance of terms and conditions determined under paragraph (a);
- (c) order that part of its proceedings not be recorded or broadcast.<sup>23</sup>

**3.37** A witness who wishes to object to the broadcasting or televising of proceedings should inform the chair at the beginning of the hearing. The committee must consider an objection having regard to the protection of the witness and the public interest in the proceedings, and must bear in mind the Budget Estimates resolution that requires evidence be heard in public.<sup>24</sup> If the committee decides to permit the broadcasting or televising of proceedings despite the objection of a witness, the witness must be informed of the committee's decision and the reasons for that decision.<sup>25</sup>

**3.38** A resolution of the committee should be passed if broadcasting is to be discontinued. A members should move a motion as outlined below.

### MOTION FOR DISCONTINUANCE OF BROADCASTING

Member says—

Mr/Madam Chair—

I move: That the broadcasting of these proceedings be discontinued until ....

<sup>23</sup> Broadcasting Resolution, para 2 (2)

<sup>24</sup> *Minutes of Proceedings, No 7*, 2<sup>nd</sup> Session of the 53<sup>rd</sup> Parliament, 8 June 2006, item 25, para 4

<sup>25</sup> Broadcasting Resolution, para 2 (3)

## Dissent from a ruling of the chair

- 3.39** Where a member dissents from a ruling of the chair during a public hearing, the room is cleared of witnesses, members of the public and media to permit debate in private. The member should move a motion as outlined below.

### MOTION FOR DISSENT FROM CHAIR'S RULING

Member says—

Mr/Madam chair—

I move: That the Committee dissent from the ruling of the Chair.

*The Chair requests everyone except Committee members and staff to leave until the dissent motion has been dealt with.*

*The dissenting member must then put the objection in writing. A pro-forma for this purpose is available from the Committee Clerks.*

*The Chair then informs the Committee of the member's objection.*

*Debate may ensue.*

*Question is put. If resolved in the affirmative, the ruling of the Chair is overturned. If resolved in the negative, the ruling stands.*

*When the witnesses and public return the Chair advises of the outcome of the deliberative meeting.*

## Supplementary hearings

- 3.40** Under the 2006-2007 Budget Estimates Resolution, the GPSCs may hold supplementary hearings as required.<sup>26</sup> Individual committees are responsible for making decisions about future hearing dates.
- 3.41** If a committee were to resolve to restrict questions during a hearing to a particular period of time, the committee may later resolve to change its view on this matter, and extend the time or have additional hearings.<sup>27</sup>

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<sup>26</sup> *Minutes of Proceedings, No 7, 2<sup>nd</sup> Session of the 53<sup>rd</sup> Parliament, 8 June 2006, item 25, para 11*

<sup>27</sup> *Legislative Council, Clerk's Advice, Advice to General Purpose Standing Committees in relation to Budget Estimates hearings, September 1999, reproduced in Budget Estimates Guide 2001-2002, Appendix D*

- 3.42 Procedures for supplementary Budget Estimates hearings are largely the same as those for the initial hearings. A motion for a further hearing is outlined below.

**MOTION FOR FURTHER HEARING**

Member says—

Mr/Madam Chair—

I move: That the Committee hold a further hearing on:

- date/time

***OR***

- a date to be determined by the Chair after consulting with Committee members

to consider matters relating to the portfolio area(s) of ..... (*portfolio area(s)*).

### Transcripts of evidence

- 3.43 A transcript of evidence of the Budget Estimates hearings will be published as soon as practicable after each day's proceedings.<sup>28</sup>
- 3.44 Hard copies of proof transcripts will be provided to committee members and the Minister who attended the hearing. In addition, proof transcripts will be available on each committee's website.
- 3.45 Ministers will be asked to distribute electronic copies of proof transcripts to those witnesses from departments, statutory bodies or corporations who accompanied them to the hearing, with a request to return the corrected transcripts by a specified date.
- 3.46 The usual rules regarding corrections to Hansard transcripts apply. The transcript is regarded as a record of oral evidence, with its normal differences from written expression. The transcript should show what was said, therefore alterations may be made only if they are necessary to correct the record.

<sup>28</sup> *Minutes of Proceedings, No 7*, 2<sup>nd</sup> Session of the 53<sup>rd</sup> Parliament, 8 June 2006, item 25, para 9

## Chapter 4 Examination of witnesses

- 4.1 Committees possess substantial powers to require answers to questions and have a number of mechanisms for obtaining information. The most effective form is oral questioning of witnesses.

### Issues submitted in advance

- 4.2 Unlike previous years, the 2006-2007 Budget Estimates Resolution states that ‘members may lodge with the Clerk to the committee proposed issues for questioning up to seven days prior to the holding of the initial hearing for that portfolio’.<sup>29</sup>
- 4.3 The intended purpose of lodging ‘proposed issues for questioning’ is to give Ministers and witnesses from departments, statutory bodies or corporations advance notice of the areas likely to be the subject of questioning during the hearing. It would be expected that witnesses with relevant knowledge of the ‘proposed issues’ attend the hearing or provide detailed briefings to the witnesses who will attend.

### Questioning witnesses

- 4.4 There is no formal procedure for the examination of witnesses. In general, the chair is responsible for maintaining order in the committee and in the order of questioning. The chair should ensure that questions are relevant to the terms of reference and the information sought is necessary for the purpose of the inquiry. The chair is to ensure the fair, respectful and appropriate treatment of witnesses during hearings.
- 4.5 The following is an overview of the procedures for questioning witnesses during hearings:
- Witnesses generally attend voluntarily and will be sworn prior to questioning.
  - The chair, all members of the committee, and any participating members, are permitted to ask questions of the Minister, or officers of departments, statutory bodies or corporations, relating to the items of proposed expenditure.
  - Committees have the power to limit the time taken by a witness to answer a question. However, it is hoped that any committee resolving to impose a limit on the time taken by a witness to answer a question would make provision for a witness to apply for an extension of time if required, and that any such time limits would be applied somewhat flexibly.<sup>30</sup>

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<sup>29</sup> *Minutes of Proceedings, No 7, 2<sup>nd</sup> Session of the 53<sup>rd</sup> Parliament, 8 June 2006, item 25, para 14*

<sup>30</sup> Legislative Council, Clerk’s Advice, *Advice to General Purpose Standing Committees in relation to Budget Estimates hearings*, September 1999, reproduced in *Budget Estimates Guide 2001-2002*, Appendix D

- The chair will determine if questions are in order or are disorderly. Where a committee disagrees with the decision of the chair the issue may be determined in the usual manner (see para 3.39).<sup>31</sup>

### Rules governing questions

- 4.6** Due to the broad nature of the Budget Estimates inquiries, wide latitude is allowed in asking questions on any of the proposed expenditure contained in the Budget Papers or prior expenditure.
- 4.7** It is an accepted principle that questions should be relevant to the matter that has been referred to a committee for inquiry and report.<sup>32</sup> In the case of the Budget Estimates inquiry, this means the estimates of expenditure from the Consolidated Fund and other matters covered by the budget papers. The estimates of expenditure relate to the activities of departments, which in many cases reflect the implementation of policy. For this reason, the Budget and related papers contain information relating to departmental activities and implementation of policy. Similarly, information from other sources, such as annual reports of departments, reports by the Audit Office and policy announcements by Ministers or other government officials relate to expenditure from the Consolidated Fund and would be considered relevant to the Budget Estimates inquiry.<sup>33</sup>
- 4.8** It should be noted that the Budget Estimates inquiry might be one of several inquiries before a particular committee. The purpose of Budget Estimates hearings is to inquire into and report on the conduct of government and government policies for expenditure of public monies authorised by Parliament. In exercising this role, there is bound to be a degree of overlap with current committee inquiries.
- 4.9** Questions asked as part of the Budget Estimates should not attempt to debate the unreported proceedings of other committee inquiries. However, this does not prevent members from asking any questions that deal with the subject matter of an inquiry. There is a significant difference between debating the unreported proceedings of a committee and asking questions on the general subject of an inquiry before a committee.<sup>34</sup>

<sup>31</sup> Legislative Council, Clerk's Advice, *Advice regarding questioning in Budget Estimates with respect to Committee's other terms of reference and the content of questions*, June 2001, reproduced in *Budget Estimates Guide 2002-2003*, Appendix E

<sup>32</sup> For further discussion see Odgers, *Australian Senate Practice*, 11<sup>th</sup> ed, 'Chapter 16 – Committees: Estimates Committees', <[www.aph.gov.au/senate/pubs/odgers/chap1618.htm](http://www.aph.gov.au/senate/pubs/odgers/chap1618.htm)> (accessed 20 June 2006)

<sup>33</sup> Legislative Council, Clerk's Advice, *Advice regarding questioning in Budget Estimates with respect to Committee's other terms of reference and the content of questions*, June 2001, reproduced in *Budget Estimates Guide 2002-2003*, Appendix E

<sup>34</sup> Legislative Council, Clerk's Advice, *Advice regarding questioning in Budget Estimates with respect to Committee's other terms of reference and the content of questions*, June 2001, reproduced in *Budget Estimates Guide 2002-2003*, Appendix E

- 4.10** Convention dictates that public servants should not be required to justify government policy as this is the role of the Minister. If the Minister is not present, the chair may remind public servants about this convention. As stated in Odgers' *Australian Senate Practice*:

The rule relating to the giving of opinions on matters of policy is designed to avoid public servants becoming involved in discussion or disputation with committee members about the merits of government policy as determined by ministers. Public servants may explain government policy, describe how it differs from alternative policies, and provide information on the process by which a particular policy was selected, but may not be asked to express opinions on the relative merits of alternative policies.<sup>35</sup>

### **Objections to questioning**

- 4.11** A witness may object to a question or a particular line of questioning and seek a ruling from the chair. A witness may object to a question on procedural grounds, for example:

- The question seeks adverse reflection on another person.
- The question is not relevant to the committee's inquiry, ie outside the terms of reference.
- The disclosure of information required by the question would be prejudicial to the privacy or the rights of other persons, particularly parties in legal proceedings.

- 4.12** A witness may also object to a question on the basis of legal or other advice from government, for example:

- The question asks for an opinion from an officer of a department, statutory body or corporation on a matter of government policy.
- The question raises issues relating to public interest immunity, the sub judice convention and statutory secrecy provisions.

- 4.13** Where a witness has raised an objection to answering a question the witness should be invited by the committee to state the ground upon which the objection is taken. Unless the committee determines immediately that the question should not be pressed, the committee should then consider, in private, whether it will insist upon an answer to the question, having regard to the:

- basis of the objection
- relevance of the question to the committee's inquiry
- importance to the inquiry of the information sought.

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<sup>35</sup> Odgers, *Australian Senate Practice*, 11<sup>th</sup> ed, 'Chapter 17 – Witnesses: Public servants as witnesses', <[www.aph.gov.au/senate/pubs/odgers/chap1709.htm](http://www.aph.gov.au/senate/pubs/odgers/chap1709.htm)> (accessed 20 June 2006)

### Immunity of witnesses

4.14 The immunities for witnesses appearing before the committees are:

- The privilege under article 9 of the Bill of Rights adopted in New South Wales by the *Imperial Acts Application Act 1969* which provides that the freedom of speech and of debates or proceedings in Parliament ought not be impeached or questioned in any court or place outside of Parliament. Since committees are a creature of the House, their proceedings are covered by this article.
- The defense of absolute privilege given by section 18 of the *Defamation Act 1974* in relation to publication in the course of an inquiry under the authority of a House of Parliament.
- The defense of absolute privilege given by ss 17(1) & 17(2) of the *Defamation Act 1974* in relation to the publication of a document under the authority of a House of Parliament, and the authorised publication of the debates and proceedings of the House.

### Questions on notice

4.15 Questions may be placed on notice in one of two ways:

- First, questions taken on notice during a hearing. If a witness is unable to answer a question during a hearing, the witness may undertake to provide the answer at a later time.
- Second, written questions taken on notice after a hearing. Members may lodge written questions with the committee clerk during or up to two days after a hearing, to be sent to witnesses with a request for a written answer.

4.16 Questions taken on notice by witnesses during a hearing should be sent to Ministers' offices at the same time as any written questions on notice lodged by members.

4.17 In nominating a date for the provision of answers to questions on notice committees may be guided by standing order 67, relating to questions placed on the Questions and Answers paper in the House, which requires that 'Ministers must lodge answers to questions on notice within 35 calendar days'. However, committees can resolve to set a shorter deadline, if necessary.

### Questions taken on notice during hearings

4.18 It is important for the chair to confirm with a witness during the hearing that he or she has agreed to take a question on notice. On receipt of the proof transcript of evidence, the Budget Estimates Secretariat will identify questions taken on notice and highlight them within the transcript.

**Written questions on notice**

- 4.19** The procedure for written questions on notice has changed since last year. Under the 2006-2007 Budget Estimates Resolution, members may lodge written questions on notice with the clerk to the committee during a Budget Estimates hearing, and up to two days following.<sup>36</sup>
- 4.20** This differs from the previous three Budget Estimates inquiries, where members were required to place their questions on the Questions and Answers paper in the House.
- 4.21** In past years, members have lodged up to 1,000 written questions on notice relating to Budget Estimates. Due to the significant impact of this workload, members must provide an electronic copy of all written questions on notice to the Budget Estimates Secretariat. Members are asked to proofread their questions prior to lodgement, as committee clerks will not check questions for typographical or grammatical errors.
- 4.22** Written questions on notice should be sent to [budget.estimated@parliament.nsw.gov.au](mailto:budget.estimated@parliament.nsw.gov.au). The subject line of the email should specify the committee number, the hearing date, and the relevant portfolio area, for example: 'GPSC 1: Monday 28 August: Premier, State Development, Citizenship'. If an amended version(s) of the questions on notice is later sent, the subject line should specify the version number.
- 4.23** It is suggested that written questions on notice follow the format of questions lodged on the Question and Answer paper in the House, namely using the numbered outline view instead of bullet points, as shown below:

**Money contributed by parents to public schools**

1. (a) Does the Department of Education and Training keep any records of the amount of money that parents contribute to public schools, such as:
  - (i) Nominal school fees?
  - (ii) Additional school fees for special purposes, for example specialist teachers for music, sport, languages?
  - (iii) Library fund contributions?
  - (iv) Fundraising monies for school asset acquisition?
- (b) If so, can details of those figures be provided?
- (c) If not, is any such information provided to the department by individual public schools that could be collected?
- (d) Has this ever been considered in the past?
- (e) If so, when and by whom?

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<sup>36</sup> *Minutes of Proceedings, No 7, 2<sup>nd</sup> Session of the 53<sup>rd</sup> Parliament, 8 June 2006, item 25, para 15*

## Chapter 5 Conclusion of inquiry

### Reporting date

- 5.1 The GPSCs are required to report to the House on the Budget Estimates by the last sitting day of November 2006 (currently 30 November 2006).<sup>37</sup>

### Report content

- 5.2 Budget Estimates reports are brief, containing details of hearings and witnesses, a list of key issues examined for each portfolio, and the minutes of proceedings.

- 5.3 The standing orders require that the report of a committee, as far as practicable, should reflect a unanimity of opinion within the committee, and it is the responsibility of committee members to seek to achieve this. Where unanimity is not practicable, the committee's report should reflect the views of all members.<sup>38</sup> Any member of the committee may append to the report a brief statement of dissent, provided that:

- the member has sought to have his or her opinions included in the report agreed to by the committee
- the statement of dissent is relevant to the committee's report and the terms of reference of the inquiry
- the statement does not contain any matter which would unreasonably adversely affect or injure a person, or unreasonably invade a person's privacy
- the statement of dissent is signed by the member or members making it
- the statement of dissent is not more than 1,000 words in length.<sup>39</sup>

- 5.4 The 2006-2007 Budget Estimates Resolution also provides that:

For the purposes of this inquiry any member of the House may attend a meeting of a committee in relation to the Budget Estimates and question witnesses, participate in the deliberations of the committee at such meeting and make a dissenting statement relating to the Budget Estimates, but may not vote or be counted for the purpose of any quorum.<sup>40</sup>

<sup>37</sup> *Minutes of Proceedings, No 7*, 2<sup>nd</sup> Session of the 53<sup>rd</sup> Parliament, 8 June 2006, item 25, para 12

<sup>38</sup> Standing order 228 (3)

<sup>39</sup> Standing order 228 (4)

<sup>40</sup> *Minutes of Proceedings, No 7*, 2<sup>nd</sup> Session of the 53<sup>rd</sup> Parliament, 8 June 2006, item 25, para 3

## Tabling reports

**5.5** At the conclusion of the inquiry the committee will table the following:

- committee report (including minutes of proceedings)
- answers to questions taken on notice
- tabled documents
- transcripts of evidence.

**5.6** On tabling of a committee report a motion may be moved without notice ‘That the House take note of the report’.<sup>41</sup>

**5.7** If the House is not sitting when a committee wishes to report, a committee is authorised to present its report to the Clerk of the Parliaments.<sup>42</sup> A report presented to the Clerk is deemed to have been laid before the House and published by order or under authority of the House. The tabling of the report is announced to the House on the next sitting day and is recorded in the minutes of the proceedings.

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<sup>41</sup> Standing order 232(1)

<sup>42</sup> Standing order 231

## Appendix 1 Timetable: Budget Estimates hearings

**Monday, 28 August 2006**

Time	Portfolios	Committee No.	Room
9am – 1 pm	Local Government	4	Waratah
9am – 1 pm	Justice, Juvenile Justice	3	Jubilee
10:30am – 1pm	The Legislature	1	814
2pm – 6pm	Water Utilities, Regional Development, Small Business, Illawarra	5	Jubilee
4pm – 6.30pm	Western Sydney, Fair Trading	4	Waratah
4pm – 8pm	Premier, State Development, Citizenship	1	814
8pm – 10.30pm	Aboriginal Affairs	2	Jubilee

**Friday, 1 September 2006**

Time	Portfolios	Committee No.	Room
9am – 1pm	Industrial Relations, Commerce, Finance	1	814
9am – 1pm	Roads	4	Jubilee
2pm – 6pm	Energy, Ports, Waterways	5	Jubilee
3pm – 7pm	Police	3	814
8pm – 10.30pm	Gaming and Racing, Central Coast	3	814
8pm – 10.30pm	Housing	4	Jubilee

**Monday, 4 September 2006**

<b>Time</b>	<b>Portfolios</b>	<b>Committee No.</b>	<b>Room</b>
9am – 1pm	Treasury, Infrastructure, Hunter	1	814
9am – 1pm	Health	2	Jubilee
2pm – 6pm	Education and Training	1	814
2pm – 6pm	Environment, Arts	5	Jubilee
7pm – 11pm	Primary Industries, Natural Resources, Mineral Resources	5	Jubilee
8pm – 10.30pm	Community Services, Youth	2	814

**Friday, 8 September 2006**

<b>Time</b>	<b>Portfolios</b>	<b>Committee No.</b>	<b>Room</b>
9am – 1pm	Ageing, Disability Services	2	Jubilee
9am – 1pm	Planning, Redfern Waterloo, Science and Medical Research	4	814
2pm – 6pm	Lands, Emergency Services, Rural Affairs	3	Jubilee
2pm – 6pm	Transport	4	814
8pm – 10.30pm	Attorney General	3	Jubilee
8pm – 10.30pm	Tourism and Sport and Recreation, Women	2	814

## Timetable for each committee

### General Purpose Standing Committee No. 1

Date	Time	Portfolios	Room
Monday 28 August	10.30am – 1pm	The Legislature	814
Monday 28 August	4pm – 8pm	Premier, State Development, Citizenship	814
Friday 1 September	9am – 1pm	Industrial Relations, Commerce, Finance	814
Monday 4 September	9am – 1pm	Treasury, Infrastructure, Hunter	814
Monday 4 September	2pm – 6pm	Education and Training	814

### General Purpose Standing Committee No. 2

Date	Time	Portfolios	Room
Monday 28 August	8pm – 10.30pm	Aboriginal Affairs	Jubilee
Monday 4 September	9am – 1pm	Health	Jubilee
Monday 4 September	8pm – 10.30pm	Community Services, Youth	814
Friday 8 September	9am – 1pm	Ageing, Disability Services	Jubilee
Friday 8 September	8pm – 10.30pm	Tourism, Sport and Recreation, Women	814

### General Purpose Standing Committee No. 3

Date	Time	Portfolios	Room
Monday 28 August	9am – 1 pm	Justice, Juvenile Justice	Jubilee
Friday 1 September	3pm – 7pm	Police	814
Friday 1 September	8pm – 10.30pm	Gaming and Racing, Central Coast	814
Friday 8 September	2pm – 6pm	Lands, Emergency Services, Rural Affairs	Jubilee
Friday 8 September	8pm – 10.30pm	Attorney General	Jubilee

**General Purpose Standing Committee No. 4**

<b>Date</b>	<b>Time</b>	<b>Portfolios</b>	<b>Room</b>
Monday 28 August	9am – 1 pm	Local Government	Waratah
Monday 28 August	4pm – 6.30pm	Western Sydney, Fair Trading	Waratah
Friday 1 September	9am – 1pm	Roads	Jubilee
Friday 1 September	8pm – 10.30pm	Housing	Jubilee
Friday 8 September	9am – 1pm	Planning, Redfern and Waterloo, Science and Medical Research	814
Friday 8 September	2pm – 6pm	Transport	814

**General Purpose Standing Committee No. 5**

<b>Date</b>	<b>Time</b>	<b>Portfolios</b>	<b>Room</b>
Monday 28 August	2pm – 6pm	Water Utilities, Regional Development, Small Business, Illawarra	Jubilee
Friday 1 September	2pm – 6pm	Energy, Ports and Waterways	Jubilee
Monday 4 September	2pm – 6pm	Environment, Arts	Jubilee
Monday 4 September	7pm – 11pm	Primary Industries, Natural Resources, Mineral Resources	Jubilee

## Appendix 2 Committee membership

### General Purpose Standing Committee No. 1

Revd the Hon Fred Nile MLC ( <i>Chair</i> )	Christian Democratic Party (Fred Nile Group)
The Hon Robyn Parker MLC ( <i>Deputy Chair</i> )	Liberal Party
The Hon Catherine Cusack MLC	Liberal Party
The Hon Peter Primrose MLC	Australian Labor Party
Ms Lee Rhiannon MLC	The Greens
The Hon Penny Sharpe MLC	Australian Labor Party
The Hon Ian West MLC	Australian Labor Party

### General Purpose Standing Committee No. 2

The Hon Patricia Forsythe MLC ( <i>Chair</i> )	Liberal Party
The Hon Tony Catanzariti MLC ( <i>Deputy Chair</i> )	Australian Labor Party
The Hon Dr Arthur Chesterfield-Evans MLC	Australian Democrats
Ms Sylvia Hale MLC	The Greens
The Hon Melinda Pavey MLC	The Nationals
The Hon Christine Robertson MLC	Australian Labor Party
The Hon Henry Tsang MLC	Australian Labor Party

### General Purpose Standing Committee No. 3

The Hon Amanda Fazio MLC ( <i>Chair</i> )	Australian Labor Party
The Hon Greg Pearce MLC ( <i>Deputy Chair</i> )	Liberal Party
The Hon Jon Jenkins MLC	Outdoor Recreation Party
The Hon Charlie Lynn MLC	Liberal Party
The Hon Eddie Obeid MLC	Australian Labor Party
Ms Lee Rhiannon MLC	The Greens
The Hon Ian West MLC	Australian Labor Party

**General Purpose Standing Committee No. 4**

The Hon Jenny Gardiner MLC ( <i>Chair</i> )	The Nationals
Ms Sylvia Hale MLC ( <i>Deputy Chair</i> )	The Greens
The Hon Jan Burnswoods MLC	Australian Labor Party
The Hon David Clarke MLC	Liberal Party
The Hon Greg Donnelly MLC	Australian Labor Party
The Hon Kayee Griffin MLC	Australian Labor Party
The Hon David Oldfield MLC	Independent

**General Purpose Standing Committee No. 5**

Mr Ian Cohen MLC ( <i>Chair</i> )	The Greens
The Hon Richard Colless MLC ( <i>Deputy Chair</i> )	The Nationals
The Hon Tony Catanzariti MLC	Australian Labor Party
The Hon Greg Donnelly MLC	Australian Labor Party
Ms Sylvia Hale MLC	The Greens
The Hon Don Harwin MLC	Liberal Party
The Hon Henry Tsang MLC	Australian Labor Party