

INQUIRY INTO SCRUTINY OF PUBLIC ACCOUNTABILITY IN NEW SOUTH WALES

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25 June 2018

Revd the Hon Fred Nile MLC
Committee Chair
Public Accountability Committee
Legislative Council of New South Wales
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Revd Nile,

INQUIRY INTO THE SCRUTINY OF PUBLIC ACCOUNTABILITY IN NSW

Thank you for your e-mail of 15 May 2018 in which you sought a submission to the Public Accountability Committee's inquiry into future arrangements for the ongoing scrutiny of public accountability in New South Wales. As you may be aware, an analogous committee has been established since 1913 in the Australian Parliament, and I thought a brief summary of how this committee – the Joint Committee of Public Accounts and Audit – operates may be of assistance to your inquiry.

Background

As I mentioned, the Joint Parliamentary Committee of Public Accounts was established by statute in 1913 to examine the public accounts of the Commonwealth. Amendments to the establishing Act in 1998 increased the powers of the renamed Joint Committee of Public Accounts and Audit (JCPAA) to provide oversight of the Audit Office. The Committee was given additional duties for oversight of the Parliamentary Budget Office in 2012.

The current JCPAA is a joint statutory committee with 16 members, 10 members appointed by the House of Representatives and 6 members appointed by the Senate. The current Chair is Senator Dean Smith and the current Deputy Chair is Mr Julian Hill MP.

The purpose of the committee is to hold Commonwealth agencies to account for the lawfulness, efficiency and effectiveness with which they use public monies. The Committee oversees the Australian National Audit Office (ANAO), the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), the Parliamentary Budget Office (PBO), and scrutinises Defence acquisition and sustainment.

Duties and powers of the committee

The legislative duties and powers of the JCPAA are contained within the following Acts:

- *Public Accounts and Audit Committee Act 1951*
- *Auditor-General Act 1997*
- *Parliamentary Service Act 1999*
- *Public Governance, Performance and Accountability Act 2013* (the PGPA Act)

The JCPAA is established under the *Public Accounts and Audit Committee Act 1951* (the PAAC Act). Section 8(1) of this Act sets out the Committee's specific duties, which include among other things, to "examine the accounts of the receipts and expenditure of the Commonwealth" and the operation of the Audit Office.

In addition, section 8A of this Act, together with the *Auditor-General Act 1997*, provides that the Committee must approve or reject any nomination to fill the positions of Auditor-General and Independent Auditor (a person appointed on a part-time basis from the private sector to serve as external auditor to the ANAO). This power, and the Auditor-General's status under the Act as an Independent Officer of the Parliament, reflect the fact that the Auditor-General's primary client is the Parliament rather than the Executive.

The *Auditor-General Act 1997*, the *Parliamentary Service Act 1999*, and the *Public Governance, Performance and Accountability Act 2013* also set out a range of functions and responsibilities for the committee.

Traditionally the committee has been chaired by a Government member. It was chaired by a non-Government member (a crossbench member of the House of Representatives) during the 43rd Parliament when the Government did not enjoy a majority in the House of Representatives. My perception is that the fact that the committee generally has been chaired by a Government member has not detracted from its ability to operate independently.

I would also provide the observation that the committee has been very effective as a result of being a joint committee and being able to reflect the perspective of both Houses in its membership. Of course the committee was created from the outset as a joint committee. The committee also has gained status and clarity of purpose by being a statutory committee, as will be clear from the responsibilities of the committee outlined below.

Overview of JCPAA activities

(i) Oversight

ANAO: this includes examining reports of the ANAO on behalf of Parliament, advising the Auditor-General of the audit priorities of the Parliament, reviewing ANAO annual budgets and making recommendations to Parliament and the Executive, approving or rejecting any nomination for an appointment to the role of Auditor-General, and oversight of the Independent Auditor of the ANAO.

The ANAO produces approximately 50 performance audits each year. Although the Committee examines all reports of the Auditor-General, only a limited set of reports are

selected for detailed inquiry (averaging around 12 inquiries per year, done in groups of two or three batches). JCPAA inquiry reports are tabled in the Parliament, including any recommendations it wishes to make additional to those already made by the Auditor-General. The Committee, unlike the ANAO, may also make recommendations about Government policy.

Parliamentary Budget Office (PBO): this includes reviewing PBO annual work plans, reviewing PBO annual budgets and making recommendations to Parliament, approving or rejecting any nomination for an appointment to the role of Parliamentary Budget Officer, and considering initiating reviews of the PBO following elections (required under the *Parliamentary Service Act 1999*).

(ii) Review

The review function of the Committee includes oversight of the PGPA Act and Rule which provide the overall resource management framework for all Commonwealth agencies.

The JCPAA is also required to review the ANAO/Defence Major Projects Report (MPR) which is published annually by the ANAO and reviews the progress of major defence projects in terms of cost, schedule, capability and project management and governance each year. It is established practice for the JCPAA to conduct inquiries into these Defence MPRs. The most recent MPR review report by the JCPAA, *Report 468 Defence Major Projects Report (2015–16)*, covered 26 projects with a combined approved budget of \$62.7 billion. The Committee made four recommendations aimed at improving transparency in Defence expenditure, through better monitoring and reporting.

Additionally, the Committee undertakes international engagement activities, including participating in the Australasian Council of Public Accounts Committees meetings and conferences, which bring together public accounts committees from other jurisdictions to discuss matters of mutual concern, such as improving public sector performance and accountability. The Committee also tables an annual report on the performance of its duties during the year.

(iii) Inquiry work

The Committee has the capacity to determine its own work program and priorities. This power is unique among parliamentary committees and gives the JCPAA a significant degree of independence from the Executive arm of government. The JCPAA must also undertake inquiries referred to it from either house of parliament, such as inquiries into Bills under consideration. Unlike other committees, due to the PAAC Act, inquiry referrals can only come from either house of parliament and not from a Minister.

Responses to recommendations within JCPAA reports are due within six months of the tabling date of the report. Responses can be provided to the Committee through a Government response tabled in both Houses or by means of an Executive Minute.

Where the Committee has made policy recommendations, it has been the practice that the Government will prepare a response that is tabled in both Houses. Where the Committee has made administrative recommendations, an 'Executive Minute' response is prepared and

delivered directly to the committee secretary by the responsible accountable authority (departmental secretary or chief executive). It is the Committee's practice to authorise publication of Executive Minutes on its website as soon as practicable after they are received. The Committee later tables in Parliament a compendium of the Executive Minutes received.

Finally, the most up-to-date information in relation to the work of the JCPAA including completed inquiries and reports and current inquiries can be found on the Committee's website at www.aph.gov.au/jcpaa.

I hope these comments will assist you and your colleagues in your inquiry. We would be happy to provide any further information on any matters covered in this submission that may of interest to your committee.

Yours sincerely

DAVID ELDER
Clerk of the House