



LEGISLATIVE COUNCIL

PUBLIC ACCOUNTABILITY COMMITTEE

# Scrutiny of public accountability in New South Wales



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Report 3

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Public Accountability Committee

# **Scrutiny of public accountability in New South Wales**

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## Terms of reference

1. That, in accordance with paragraph 4 of the resolution establishing the Public Accountability 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.

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

2. The functions of the committee are to inquire into and examine the public accountability, financial management, regulatory impact and service delivery of New South Wales government departments, statutory bodies or corporations.
3. In performing its functions under paragraph 2, the committee may:
  - (a) Examine the consolidated financial statements and general government sector financial statements transmitted to the Legislative Council by the Treasurer,
  - (b) examine the financial reports of authorities of the State, being financial reports that have been:
    - (i) audited by the Auditor-General or an auditor appointed under section 47(1) of the *Public Finance and Audit Act 1983*, or
    - (ii) laid before the Legislative Council by a Minister of the Crown,
  - (c) examine the opinion or any report of the Auditor-General transmitted with the consolidated financial statements and general government sector financial statements or laid before the Legislative Council with the financial report of an authority of the State (including any documents annexed or appended to any such opinion or report),
  - (d) examine any report of the Auditor-General laid before the Legislative Council,
  - (e) report to the Legislative Council from time to time upon any item in, or any circumstances connected with, those financial reports, or reports or documents which the Committee considers ought to be brought to the notice of the Legislative Council,
  - (f) report to the Legislative Council from time to time any alteration which the Committee thinks desirable in the form of those financial reports or in the method of keeping them or in the method of receipt, expenditure or control of money relating to those financial reports, and
  - (g) inquire into expenditure by a Minister of the Crown made without Parliamentary sanction or appropriation or otherwise than in accordance with the provisions of the *Public Finance and Audit Act 1983* or any other Act and report to the Legislative Council from time to time upon any matter connected with that expenditure which the Committee considers ought to be brought to the notice of the Legislative Council.

The terms of reference were self-referred by the committee on 8 May 2018.

## Committee details

### Committee members

<b>Revd the Hon Fred Nile MLC</b>	Christian Democratic Party	<i>Chairman</i>
<b>The Hon Matthew Mason-Cox MLC</b>	Liberal Party	<i>Deputy Chair</i>
<b>The Hon Greg Donnelly MLC</b>	Australian Labor Party	
<b>Mr Justin Field MLC</b>	The Greens	
<b>The Hon Courtney Houssos MLC</b>	Australian Labor Party	
<b>The Hon Trevor Khan MLC</b>	The Nationals	
<b>The Hon Natalie Ward MLC</b>	Liberal Party	

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## Chairman's foreword

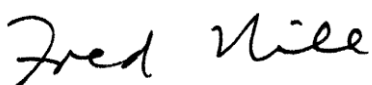
The Public Accountability Committee was established by the Legislative Council in March 2018 and since that time has proven to be an important part of the state's public accountability structure.

The committee has conducted public inquiries into two of the state's most significant infrastructure projects: the WestConnex project and the CBD and South East Light Rail project. Both of these inquiries delivered important outcomes, facilitating extensive public engagement and enabling the robust investigation of government decision making and service delivery processes.

In this report, the committee has considered the future arrangements for the ongoing scrutiny of public accountability by the Legislative Council. The committee reviewed the outcomes delivered by its two inquiries, as well as historical calls by the Legislative Council and its members for the re-constitution of the Legislative Assembly Public Accounts Committee as a joint committee. It was the view of this committee that in the absence of agreement by the Legislative Assembly to this approach, the establishment of a Public Accountability Committee fills an obvious gap in the state's public accountability framework.

In the interests of ensuring continued high level scrutiny of public expenditure in the future, this committee has recommended that the Legislative Council re-establish the Public Accountability Committee in the 57th Parliament.

I sincerely thank my committee colleagues for their efforts during this inquiry. On behalf of all committee members, I also thank those who provided written submissions to the inquiry, and the committee secretariat for their professional support throughout.



Revd the Hon Fred Nile MLC  
**Committee Chairman**



## Recommendations

### Recommendation 1

*16*

That the Legislative Council re-establish the Public Accountability Committee in the 57th Parliament.

## **Conduct of inquiry**

The terms of reference for the inquiry were self-referred by the committee on 8 May 2018.

The committee received 2 submissions. The committee also issued a brief discussion paper which provided some background to the inquiry and suggested topics for discussion by submission makers.

The committee did not conduct public hearings.

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

# Chapter 1 Public accountability in New South Wales

This chapter considers the role of parliamentary committees in providing public accountability in New South Wales. It discusses the role of the Legislative Assembly Public Accounts Committee and the Legislative Council Public Accountability Committee. The chapter also summarises the role of the New South Wales Auditor-General in supporting the New South Wales Parliament hold the government to account.

## The role of parliamentary committees in delivering public accountability

- 1.1 Public accountability is fundamental to good government and a number of bodies play an important role in this regard in New South Wales. These include parliamentary committees, the Auditor-General, and other independent organisations such as the NSW Ombudsman and the Independent Commission Against Corruption.
- 1.2 Parliamentary committees play a vital role. Inquiries conducted by parliamentary committees provide accountability of the government and public service through scrutiny of the government's activities.<sup>1</sup> This is particularly the case for committees of the Legislative Council, which is a House of review with a crucial function to scrutinise the actions of the executive government and hold it to account.<sup>2</sup>
- 1.3 The Legislative Council's committees undertake a broad range of inquiries across government policy, expenditure and legislation in order to hold the government to account, promote public debate and increase awareness of issues under consideration by Parliament. The Budget Estimates process is one example, and is a key element of parliamentary scrutiny and public accountability of government expenditure in New South Wales. The Budget Estimates process involves Ministers and senior public servants attending public hearings to answer questions about the expenditure, performance and effectiveness of their agencies.
- 1.4 A subset of parliamentary committees are known as 'public accounts committees'. Public accounts committees have a long and established history and are found in almost all Westminster-type parliaments. Their role is to scrutinise public expenditure on behalf of parliament, and they usually work closely with the Auditor-General.<sup>3</sup> Public accounts committees can take different forms in different jurisdictions and vary in membership, size and function.
- 1.5 In New South Wales, there are two public accounts committees: the Legislative Assembly Public Accounts Committee and the recently established Legislative Council Public Accountability Committee.

<sup>1</sup> Lynn Lovelock and John Evans, *New South Wales Legislative Council Practice* (Federation Press, 2008), p 527.

<sup>2</sup> Lynn Lovelock and John Evans, *New South Wales Legislative Council Practice* (Federation Press, 2008), p 44.

<sup>3</sup> Kerry Jacobs, Kate Jones and David Smith, 'An Analysis of the Sources of Public Accounts Committee Inquiries: The Australian Experience', (Autumn 2010) 25(1) *Australasian Parliamentary Review*, p 17.

### Legislative Assembly Public Accounts Committee

- 1.6** The Legislative Assembly Public Accounts Committee was first appointed in 1902 and is the oldest committee of the New South Wales Parliament.<sup>4</sup> It is appointed under section 54 of the *Public Finance and Audit Act 1983*, and comprises six members from the Legislative Assembly.<sup>5</sup>
- 1.7** Under section 57 of the *Public Finance and Audit Act 1983*, the Public Accounts Committee's functions include:
- to examine the consolidated financial statements and general government sector financial statements transmitted to the Legislative Assembly by the Treasurer,
  - to examine the financial reports of authorities of the State, being financial reports that have been:
    - (i) audited by the Auditor-General or an auditor appointed under section 47 (1), or
    - (ii) laid before the Legislative Assembly by a Minister of the Crown,
  - to examine any report of the Auditor-General laid before the Legislative Assembly,
  - to report to the Legislative Assembly from time to time upon any item in, or any circumstances connected with, those financial reports, reports or documents which the Committee considers ought to be brought to the notice of the Legislative Assembly.<sup>6</sup>
- 1.8** The Public Accounts Committee exercises its powers by examining reports of the Auditor-General and by examining and inquiring into matters raised by and recommendations of the Auditor-General.<sup>7</sup> The committee regularly conducts reviews into matters raised in Auditor-General performance audit reports.
- 1.9** Inquiries may be referred to the committee by the Legislative Assembly, Ministers or the Auditor-General. The committee can initiate its own inquiries but cannot examine matters of government policy unless those matters have been specifically referred to the committee.<sup>8</sup>
- 1.10** The committee has a statutory responsibility to review the operations of the Audit Office of New South Wales every four years, and the committee appoints an independent reviewer to conduct the review.<sup>9</sup> The committee also has a veto power over proposed appointments to the position of Auditor-General.<sup>10</sup> The committee may monitor and review the operations of the Parliamentary Budget Officer, and the Parliamentary Budget Officer is required to furnish a

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<sup>4</sup> Public Accounts Committee, NSW Legislative Assembly, *Report of the Public Accounts Committee of the 55<sup>th</sup> Parliament* (2014), p 2.

<sup>5</sup> *Public Finance and Audit Act 1983*, s 54.

<sup>6</sup> *Public Finance and Audit Act 1983*, s 57.

<sup>7</sup> Public Accounts Committee, *Report of the Public Accounts Committee of the 55<sup>th</sup> Parliament*, p 4.

<sup>8</sup> Public Accounts Committee, *Report of the Public Accounts Committee of the 55<sup>th</sup> Parliament*, p 4; *Public Finance and Audit Act 1983*, s 57, cl 2.

<sup>9</sup> *Public Finance and Audit Act 1983*, s 48A, Audit Office of New South Wales, Frequently Asked Questions, <https://www.audit.nsw.gov.au/about-us/frequently-asked-questions>.

<sup>10</sup> *Public Finance and Audit Act 1983*, s 57A.

report to the Public Accounts Committee as soon as practicable after the holding of a state general election.<sup>11</sup>

- 1.11** The membership of the Public Accounts Committee has been the subject of recent parliamentary debate, and there have been a number attempts to appoint members of the Legislative Council to the committee and have it operate as a joint committee. This issue is discussed further in Chapter 2.

### **Legislative Council Public Accountability Committee**

- 1.12** On 15 March 2018, the Legislative Council resolved to establish the Public Accountability Committee. The committee comprises seven members from the Legislative Council, being three government members, two opposition members and two crossbench members.
- 1.13** The resolution establishing the committee, moved by the Hon Robert Brown MLC, specified that the Chair would be Revd the Hon Fred Nile MLC, and that the Deputy Chair would be the Hon Matthew Mason-Cox MLC.<sup>12</sup>
- 1.14** The functions of the Public Accountability Committee set out within the resolution of the House are to ‘inquire into and examine the public accountability, financial management, regulatory impact and service delivery of New South Wales government departments, statutory bodies or corporations’.<sup>13</sup>
- 1.15** The functions resolved by the Legislative Council are modelled on those of the Public Accounts Committee specified by statute. The resolution establishing the Public Accountability Committee is attached in full as Appendix 1.
- 1.16** The resolution provides that the committee may examine Auditor-General opinions and reports and financial reports of state authorities which have been audited by the Auditor-General. It can also examine the consolidated financial statements and general government sector financial statements transmitted to the Legislative Council by the Treasurer, and inquire into expenditure by a Minister made without Parliamentary sanction or appropriation or otherwise than in accordance with legislation. The committee can receive inquiry referrals from the House. The committee can also self-refer inquiries. The committee cannot examine, inquire into or report on estimates of any proposed expenditure by the government or a government authority.
- 1.17** During the debate on the motion to appoint the committee, Revd Nile argued that the establishment of the Public Accountability Committee was critical to ensuring proper oversight of government administration and the many reports of the Auditor-General tabled in the Legislative Council.<sup>14</sup>
- 1.18** Revd Nile argued that ‘the Legislative Council does not have a committee that is comparable to the Public Accounts Committee to oversee the important work of the Auditor-General’, and

<sup>11</sup> *Parliamentary Budget Officer Act 2010*, s 15.

<sup>12</sup> *Minutes*, NSW Legislative Council, 15 March 2018, pp 2384-2387.

<sup>13</sup> *Minutes*, NSW Legislative Council, 15 March 2018, pp 2385.

<sup>14</sup> *Hansard*, NSW Legislative Council, 15 March 2018, p 14 (Fred Nile).

that 'there is no more important issue to the Legislative Council as a House of review than the full accountability and transparency of the Government of the day'.<sup>15</sup>

- 1.19** In reference to the fact that the legislation underpinning the Public Accounts Committee (the *Public Finance and Audit Act 1983*) had not been amended to re-establish it as a joint committee, Revd Nile argued that 'the establishment of the proposed Public Accountability Committee will fill this obvious gap in public accountability'.<sup>16</sup>
- 1.20** The Hon Don Harwin MLC, Minister for Resources, Minister for Energy and Utilities, Minister for the Arts, and Leader of the Government in the Legislative Council, spoke in opposition to the motion. Minister Harwin stated that there is 'a perfect overlap' between the jurisdiction of the portfolio committees and the proposed Public Accountability Committee.<sup>17</sup>
- 1.21** Minister Harwin also advised that the Legislative Council Select Committee on the Legislative Council Committee System had not recommended the establishment of a Public Accountability Committee, and that a new Public Accountability Committee would place pressure on the Department of the Legislative Council's budget and resources.<sup>18</sup>
- 1.22** The Opposition, The Greens, the Christian Democratic Party, the Shooters, Fishers and Farmers Party and the Animal Justice Party all voted for the motion to appoint the Committee, with the Government voting against. The motion passed on division (21:18).<sup>19</sup>
- 1.23** Since its establishment the Public Accountability Committee has completed two inquiries regarding public expenditure and service delivery involved in two significant infrastructure projects in New South Wales: the WestConnex and the CBD and South East Light Rail projects. The outcomes of these inquiries are discussed further in Chapter 3, along with the Committee's view on the future of the Public Accountability Committee.

## The Auditor-General of New South Wales

- 1.24** The Auditor-General of New South Wales also plays an important role in ensuring public accountability in the state. The Auditor-General is an independent statutory officer who leads the Audit Office of New South Wales, a statutory authority that conducts financial and performance audits, principally under the *Public Finance and Audit Act 1983* and the *Local Government Act 1993*, to help the Parliament hold government accountable for its use of public resources.<sup>20</sup>
- 1.25** The Auditor-General Ms Margaret Crawford provided a submission to this inquiry in which she described her role:

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<sup>15</sup> *Hansard*, NSW Legislative Council, 15 March 2018, pp 13-14 (Fred Nile).

<sup>16</sup> *Hansard*, NSW Legislative Council, 15 March 2018, p 14 (Fred Nile).

<sup>17</sup> *Hansard*, NSW Legislative Council, 15 March 2018, p 15 (Don Harwin).

<sup>18</sup> *Hansard*, NSW Legislative Council, 15 March 2018, p 15-16 (Don Harwin).

<sup>19</sup> *Minutes*, NSW Legislative Council, 15 March 2018, pp 2384-2387. See also Appendix 1.

<sup>20</sup> Audit Office of New South Wales, *Annual Report 2017-18*, <https://annualreport2018.audit.nsw.gov.au>, p 2.

The Auditor-General plays an important role in supporting parliament hold government accountable for its use of public resources. In accordance with the Public Finance and Audit Act 1983 and the Local Government Act 1993, I annually audit the financial statements of all NSW local councils and all the reporting entities in the NSW State government and NSW University sectors. I report the outcomes of these audits to Parliament in a series of reports. These include reports on State Finances, each of the clusters that make up the NSW public sector, NSW Universities and Local Government. Additionally, I conduct and report to Parliament on a series of performance audits of NSW Government agencies and Local Government. These performance audits examine efficiency, economy, effectiveness and compliance with the law.<sup>21</sup>

- 1.26** During 2018 the Public Accountability Committee met with the Auditor-General and the Deputy Auditor-General, who provided members with a briefing on the work and role of the Audit Office. The committee also resolved at its first meeting that the Auditor-General be invited to brief the committee once during every Parliamentary session.
- 1.27** The Auditor-General conducts financial audits which provide an independent opinion on the reliability of information presented in government agency financial reports. Financial audit reports identify whether agencies comply with accounting standards and relevant laws, regulations and government directions.<sup>22</sup>
- 1.28** The Auditor-General also conducts performance audits which consider the efficiency, effectiveness, economy (and in certain circumstances, compliance aspects) of a particular government activity. Performance audit results are reported to the chief executive officer of the agency concerned, the responsible Minister, the Treasurer and Parliament.<sup>23</sup> The Auditor-General produces between 15 to 20 performance audit reports annually, covering different issues and topics across government and local councils.<sup>24</sup>

<sup>21</sup> Submission 1, Auditor-General of New South Wales, p 1.

<sup>22</sup> Audit Office of New South Wales, Financial Audit Reports, <https://www.audit.nsw.gov.au/publications/financial-audits>.

<sup>23</sup> Public Accounts Committee, NSW Legislative Assembly, *Quadrennial Review of the Audit Office 2017* (2018), p 9.

<sup>24</sup> Audit Office of New South Wales, Performance Audit Reports, <https://www.audit.nsw.gov.au/publications/performance-audit-reports>.





## Chapter 2 Joint public accounts committees

This chapter discusses calls and recommendations to re-establish the Legislative Assembly Public Accounts Committee as a joint committee with a membership including Legislative Council members. It also presents information on public accounts committees in comparable jurisdictions.

### Calls for a New South Wales Joint Public Accounts Committee

- 2.1 Over the years concerns have been expressed by some members of the Legislative Council that the Public Accounts Committee should be a joint committee.
- 2.2 There have been several efforts to alter the composition of the Public Accounts Committee to allow Legislative Council members to serve on the committee, including the following:

#### *Recommendation of the Joint Committee upon Public Accounts and Financial Accounts of Statutory Authorities*

- 2.3 In May 1981, the Joint Committee upon Public Accounts and Financial Accounts of Statutory Authorities recommended that the Public Accounts Committee become a joint committee of five members from the Legislative Assembly and three members from the Legislative Council.<sup>25</sup> However, the recommendation was not acted on when the now *Public Finance and Audit Act 1983* was later introduced, and the new Act only provided for Legislative Assembly members to be appointed to the committee.

#### *Proposed amendments to the Public Finance and Audit Bill 1983*

- 2.4 The Public Finance and Audit Bill 1983 introduced new procedures for the administration and audit of the state's finances and also repealed the *Audit Act 1902*. During debate on the bill in the Legislative Council the issue of joint membership of the Public Accounts Committee was again raised and amendments were moved in the House to allow for the committee to have a membership drawn from both Houses. These amendments were defeated at division.<sup>26</sup>

#### *2001 Legislative Council motion*

- 2.5 In 2001 a motion was moved in the Legislative Council by the Hon Doug Moppett MLC seeking the concurrence of the Legislative Assembly to appoint three Legislative Council members to the Public Accounts Committee.<sup>27</sup>
- 2.6 The motion was agreed to by the House on division on 29 November 2001, and a message was sent to the Legislative Assembly seeking its concurrence.<sup>28</sup> However, the matter was never considered by the Legislative Assembly, and the Legislative Council's message remained on the Legislative Assembly Business Paper until the end of the parliamentary session.

<sup>25</sup> Joint Committee upon Public Accounts and Financial Accounts of Statutory Authorities, NSW Parliament, *Report from the Joint Committee of the Legislative Council and the Legislative Assembly upon Public Accounts and Financial Accounts of Statutory Authorities* (1981), p 7.

<sup>26</sup> *Hansard*, NSW Legislative Council, 28 November 1983, p 3550.

<sup>27</sup> *Minutes*, NSW Legislative Council, 26 September 2001, p 1186.

<sup>28</sup> *Minutes*, NSW Legislative Council, 29 November 2001, p 1307.

***Amendments to the Government Sector Finance Legislation (Repeal and Amendment) Bill 2018***

- 2.7** The Government Sector Finance Legislation (Repeal and Amendment) Bill 2018, cognate with the Government Sector Finance Bill 2018, was introduced into the Legislative Council on 5 June 2018, having already passed the Legislative Assembly.
- 2.8** The Government Sector Finance Bill established a new financial management framework that covered all public financial management matters, except audit matters. The Government Sector Finance Legislation (Repeal and Amendment) Bill repealed, renamed and amended certain legislation consequent on the proposed enactment of the Government Sector Finance Bill, including renaming the *Public Finance and Audit Act 1983* as the *Government Sector Audit Act*.
- 2.9** On 6 June 2018, Mr Justin Field MLC moved four amendments to the Government Sector Finance Legislation (Repeal and Amendment) Bill to reconstitute the Public Accounts Committee as a joint committee with a membership of four members from each House. The amendments provided for a non-government Chair as well as several other changes to the committee's operation.<sup>29</sup> The amendments were agreed to on division and were forwarded to the Legislative Assembly for concurrence.
- 2.10** The amendments regarding the Public Accounts Committee were considered by the Legislative Assembly on 14 November 2018. The Legislative Assembly resolved to disagree with the amendments, providing the following reasons:
1. It [the Legislative Assembly] is persuaded by the views of Professor Anne Twomey, Professor of Constitutional Law, on the financial prerogative of the Legislative Assembly, which is based upon (a) history, tradition and inheritance; (b) representative government; (c) responsible government; and (d) accountability. As advised by Professor Twomey, the Legislative Assembly has constitutional primacy in relation to financial matters and has scrutinised the public accounts of the State through its Public Accounts Committee since 1902. It is important that the Legislative Assembly retain control of the Committee, given its significant and long-standing role in relation to the scrutiny of public finance and the part it plays in the Assembly's constitutional functions with respect to public finance.
  2. The proposed amendments could not achieve the intended objective of an effective Joint Committee. The existing Public Accounts Committee's statutory functions are retained under the proposed amendments. These functions refer only to the Legislative Assembly and would not provide for the necessary powers, jurisdiction and reporting structure of a Joint Committee. For example, the proposed Joint Committee would report to, and receive referrals from, only the Legislative Assembly (whereas Joint Committees must be able to receive referrals from either or both Houses, and report to both Houses).
  3. The amendments are outside the scope of the Bill.<sup>30</sup>
- 2.11** After receiving the Legislative Assembly's message with its reasons for disagreement the Legislative Council debated a motion by the Hon Don Harwin MLC that it would not insist on its amendments. Mr Field then moved seven alternative amendments to the Government Sector

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<sup>29</sup> *Minutes*, NSW Legislative Council, 6 June 2018, pp 2693-2704.

<sup>30</sup> *Minutes*, NSW Legislative Council, 14 November 2018, p 3188.

Finance Legislation (Repeal and Amendment) Bill, which also proposed to reconstitute the Public Accounts Committee as a joint committee. These further amendments were not agreed to by the House at division.<sup>31</sup>

- 2.12** The Council agreed not to insist on its original amendments, and the bill passed the Parliament. The bill was assented to on 22 November 2018.

### ***2011 NSW Financial Audit Report***

- 2.13** There have also been recommendations for a review of the membership of the Public Accounts Committee from outside the Parliament. In 2011, the NSW Financial Audit Report (known as the Lambert Report) contained a number of recommendations regarding the Auditor-General and the Public Accounts Committee. The Lambert Report noted that the Public Accounts Committee does not represent the views of both Houses, and recommended that the committee's membership should be reviewed:

As the PAC is only a Committee of the Legislative Assembly, the current structure does not represent the views of the whole Parliament. Other jurisdictions have made their equivalent Public Accounts Committees joint committees of both Houses of Parliament. Furthermore, the NSW Parliament has already established the Committees overseeing the Independent Commission Against Corruption (ICAC) and Ombudsman as Joint Committees of both Houses of Parliament. Similarly, the PFAA should be amended to make the PAC a joint committee of both Houses of Parliament.<sup>32</sup>

- 2.14** In its November 2014 Report on the Public Accounts Committee of the 55th Parliament, the Public Accounts Committee commented on the references to the committee in the Lambert Report:

The Committee was supportive of certain proposals in the Lambert Report, such as enhancing accountability of the Auditor-General to the Committee, as well [as] other potential reforms, such as changing the structure of the Committee to a Joint Standing Committee. The Committee is disappointed that these reforms have yet to be properly addressed.<sup>33</sup>

### ***Committee Comment***

- 2.15** The committee notes the historical calls for joint membership of the Public Accounts Committee. The committee's opinion on this issue is outlined in Chapter 3.

## **Public accounts committees in other bicameral Australian jurisdictions**

- 2.16** Each of Australia's parliaments has its own public accounts committee or committees. Several public accounts committees in other Australian bicameral parliaments are joint committees,

<sup>31</sup> *Minutes*, NSW Legislative Council, 14 November 2018, pp 3204-3210.

<sup>32</sup> *NSW Financial Audit 2011*, [https://www.treasury.nsw.gov.au/sites/default/files/2017-03/NSW\\_Financial\\_Audit\\_Report\\_Part\\_2011-\\_Full\\_pdf.pdf](https://www.treasury.nsw.gov.au/sites/default/files/2017-03/NSW_Financial_Audit_Report_Part_2011-_Full_pdf.pdf), p 12-45.

<sup>33</sup> Public Accounts Committee, NSW Legislative Assembly, *Report of the Public Accounts Committee of the 55<sup>th</sup> Parliament* (2014), p 7.

including the Australian Parliament's Joint Committee of Public Accounts and Audit.<sup>34</sup> Public accounts committees in other bicameral Australian parliaments are discussed below.

### ***Australian Parliament***

- 2.17** The Australian Parliament has a joint public accounts committee consisting of members of the House of Representatives and the Senate, the Joint Committee on Public Accounts and Audit (JCPAA). The JCPAA is established under the *Public Accounts and Audit Committee Act 1951*. The Clerk of the House of Representatives, Mr David Elder, provided a submission to the inquiry, advising that:

...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.<sup>35</sup>

- 2.18** The Clerk of the House of Representatives advised that the JCPAA conducts a number of activities, including examining all reports of the Australian National Audit Office (ANAO) on behalf of the Parliament and reviewing ANAO annual budgets and proposed appointments to the role of Auditor-General. The JCPAA also reviews the annual work plans and budgets of the Parliamentary Budget Officer. The JCPAA reviews ANAO/Defence Major Project Reports, undertakes international engagement activities and has the capacity to determine its own work program and priorities which gives it 'a significant degree of independence from the Executive arm of government'.<sup>36</sup>
- 2.19** The JCPAA must also conduct inquiries referred to it by either House of Parliament, and inquiries cannot be referred to the committee by Ministers.

### ***Victoria***

- 2.20** The Victorian Public Accounts and Estimates Committee, established under the *Parliamentary Committees Act 2003*, is a joint committee consisting of members of both the Legislative Assembly and Legislative Council. The Public Accounts and Estimates Committee follows up reports of the Victorian Auditor-General, can inquire into issues concerning public administration or public sector finances, and oversees the Victorian Auditor-General's Office and the Victorian Parliamentary Budget Office.<sup>37</sup> Additionally, the Public Accounts and Estimates Committee conducts budget estimates and outcomes inquiries each year to scrutinise the expenditure and activities of all ministerial portfolios.

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<sup>34</sup> Submission 2, Office of the Clerk of the House of Representatives, p 1.

<sup>35</sup> Submission 2, Office of the Clerk of the House of Representatives, p 1.

<sup>36</sup> Submission 2, Office of the Clerk of the House of Representatives, p 3.

<sup>37</sup> Parliament of Victoria, Public Accounts and Estimates – Functions of the Committee, <https://www.parliament.vic.gov.au/paec/function>.

### *Tasmania*

- 2.21** The Tasmanian Public Accounts Committee, established under the *Public Accounts Committee Act 1970*, is a joint committee consisting of members from both the Legislative Council and the House of Assembly.<sup>38</sup> The Committee's functions under the Act are to inquire into any matter referred by either House regarding the management, administration or use of public sector finances. The Committee also has the power to inquire into and report on 'any matter arising in connection with public sector finances that the Committee considers appropriate' and any matter referred to the Committee by the Auditor-General.<sup>39</sup>

### *Western Australia*

- 2.22** In Western Australia, three committees have some oversight of the Auditor-General's operations: the Legislative Assembly Public Accounts Committee, the Legislative Council Estimates and Financial Operations Committee and the Joint Audit Committee.<sup>40</sup>
- 2.23** The Standing Committee on Estimates and Financial Operations is appointed by the Legislative Council and its functions include to consider and report on matters relating to the estimates of expenditure laid before the Council each year, and the financial administration of the state. The committee also has a function to 'consult regularly with the Auditor General'.<sup>41</sup>
- 2.24** The Public Accounts Committee is appointed by the Legislative Assembly to 'inquire into and report to the Assembly on any proposal, matter or thing it considers necessary, connected with the receipt and expenditure of public moneys, including moneys allocated under the annual Appropriation bills and Loan Fund'.<sup>42</sup> The committee can examine the financial affairs and accounts of government agencies and can self-refer inquiries.
- 2.25** The Joint Audit Committee consists of members of the Public Accounts Committee and the Estimates and Financial Operations Committee. The Legislative Council member who is the Chair of the Estimates and Financial Operations Committee is also the Chair of the Joint Audit Committee.<sup>43</sup> The committee has a number of specific statutory functions, including to review

<sup>38</sup> *Public Accounts Committee Act 1970* (Tas), s 2.

<sup>39</sup> *Public Accounts Committee Act 1970* (Tas), s 6.

<sup>40</sup> Office of the Auditor General (Western Australia), *Annual Report 2017-18*, <https://audit.wa.gov.au/wp-content/uploads/2018/09/OAG-AR-2017-18-1.pdf>, p 2.

<sup>41</sup> Parliament of Western Australia, Estimates and Financial Operations Committee - Legislative Council, [http://www.parliament.wa.gov.au/Parliament/commit.nsf/WCurrentNameNew/4bd7bb81ed2067b848257831003b03a4?OpenDocument&ExpandSection=3%2C6#\\_Section3](http://www.parliament.wa.gov.au/Parliament/commit.nsf/WCurrentNameNew/4bd7bb81ed2067b848257831003b03a4?OpenDocument&ExpandSection=3%2C6#_Section3).

<sup>42</sup> Parliament of Western Australia, Public Accounts Committee – Legislative Assembly, [http://www.parliament.wa.gov.au/Parliament/commit.nsf/WCurrentNameNew/b3806ebbf65b761d4825812a00276ab5?OpenDocument&ExpandSection=5%2C4#\\_Section5](http://www.parliament.wa.gov.au/Parliament/commit.nsf/WCurrentNameNew/b3806ebbf65b761d4825812a00276ab5?OpenDocument&ExpandSection=5%2C4#_Section5).

<sup>43</sup> Parliament of Western Australia, Joint Audit Committee – Joint Committee, [www.parliament.wa.gov.au/parliament/commit.nsf/all/37b2a8dc041b114a4825813f0030a798?OpenDocument&ExpandSection=4%2C6#\\_Section4](http://www.parliament.wa.gov.au/parliament/commit.nsf/all/37b2a8dc041b114a4825813f0030a798?OpenDocument&ExpandSection=4%2C6#_Section4).

the operation and effectiveness of the *Auditor General Act 2006* and to make recommendations to the Treasurer on the budget of the Office of the Auditor General.<sup>44</sup>

### ***South Australia***

- 2.26** In South Australia, the Economic and Finance Committee is established by the *Parliamentary Committees Act 1991*, and consists of seven members of the House of Assembly.<sup>45</sup> The committee is the 'Public Accounts Committee of the South Australian Parliament' and meets annually with the Auditor-General of South Australia to discuss issues arising from the Auditor-General's Annual Report.<sup>46</sup>
- 2.27** The committee can inquire into and report on matters relating to finance and economic development, including issues concerned with the structure, organisation and efficiency of any area of public sector operations. The committee can inquire into any matter concerned with the functions or operations of a particular public officer or publicly funded body (statutory authorities are excluded), and any matter concerned with the regulation of business or other economic or financial activity.<sup>47</sup>
- 2.28** The Statutory Authorities Review Committee is also established by the *Parliamentary Committees Act 1991*, and consists of five members of the Legislative Council.<sup>48</sup> The committee is able to inquire into statutory authorities, including by considering the functions of an authority and the need for the authority to continue to perform those functions, and the effect of the authority and its operations on the state's finances.<sup>49</sup>

### ***Committee Comment***

- 2.29** The committee notes that there are a variety of approaches to the composition and functions of public accounts committees in other Australian parliaments, and that several parliaments have public accounts committees with some form of joint membership.

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<sup>44</sup> Parliament of Western Australia, Joint Audit Committee – Joint Committee, [www.parliament.wa.gov.au/parliament/commit.nsf/all/37b2a8dc041b114a4825813f0030a798?OpenDocument&ExpandSection=4%2C6#\\_Section4](http://www.parliament.wa.gov.au/parliament/commit.nsf/all/37b2a8dc041b114a4825813f0030a798?OpenDocument&ExpandSection=4%2C6#_Section4).

<sup>45</sup> *Parliamentary Committees Act 1991* (SA), s 5.

<sup>46</sup> South Australian Economic and Finance Committee, *Annual Report 2017-18*, pp iv, 3.

<sup>47</sup> Parliament of South Australia, Economic and Finance Committee, <https://www.parliament.sa.gov.au/Committees/Pages/Committees.aspx?CTId=5&CIId=338>.

<sup>48</sup> *Parliamentary Committees Act 1991* (SA), s 15B.

<sup>49</sup> Parliament of South Australia, Statutory Authorities Review Committee, <https://www.parliament.sa.gov.au/Committees/Pages/Committees.aspx?CTId=5&CIId=351#>.

## Chapter 3 Public Accountability Committee inquiries

Since its establishment in March 2018, the Public Accountability Committee has conducted two inquiries regarding the public expenditure and delivery of major infrastructure projects. These are the inquiry into the WestConnex project and the inquiry into the impact of the CBD and South East Light Rail project. This chapter discusses the outcome of these inquiries, including their contribution to the enhancement of public accountability in New South Wales. The chapter concludes with a recommendation to re-establish the Public Accountability Committee in the 57th Parliament.

### Impact of the WestConnex project

- 3.1** With an estimated project cost of around \$16.8 billion, the WestConnex project is one of the largest and most complex infrastructure projects to be undertaken in Australia. It is also one of the most controversial and has been the subject of intense public and political debate since its endorsement by the government in 2012.
- 3.2** On 21 June 2018, the Public Accountability Committee adopted a self-referred inquiry into the impact of the WestConnex project. The terms of reference for the inquiry addressed a broad range of aspects relating to the project:
- (a) the adequacy of the business case for the WestConnex project, including the cost-benefits ratio
  - (b) the cost of WestConnex project, including the size and reasons for overruns
  - (c) consideration of the governance and structure of the WestConnex project including the relationship between Sydney Motorway Corporation, Roads and Maritime Services, the Treasury and its shareholding Ministers,
  - (d) the compulsory acquisition of property for the project,
  - (e) the recommendations of the Audit Office of New South Wales and the Australian National Audit Office in regards to WestConnex,
  - (f) the extent to which the project is meeting the original goals of the project as articulated in 2012,
  - (g) the relationship between WestConnex and other toll road projects including the Sydney Gateway, Western Harbour Tunnel, F6 and Beaches Link,
  - (h) the circumstances by which WestConnex and the Sydney Gateway were declared to be separate projects in 2017,
  - (i) the cost of the project against its current valuation as determined through the sale of the Sydney Motorway Corporation and whether it represents a good investment for NSW taxpayers.<sup>50</sup>

<sup>50</sup> Public Accountability Committee, NSW Legislative Council, *Inquiry into the impact of the WestConnex Project*, (2018), p vi.

- 3.3** The inquiry received over 550 submissions, a considerable portion of which were from members of the public and representatives of the communities directly impacted by the project.<sup>51</sup> The committee conducted four public hearings during the course of the inquiry, receiving testimony from over 60 witnesses.
- 3.4** The committee tabled its report in December 2018 and made 16 findings and 27 recommendations.<sup>52</sup> While the committee found that the WestConnex project was a long-overdue addition to the road infrastructure of New South Wales and supported the complete construction of the project, a number of the committee's findings were critical of the implementation processes adopted by the government.<sup>53</sup>
- 3.5** The committee found that the transparency arrangements pertaining to the WestConnex project had been unsatisfactory and that the government had failed to adequately consider alternative options at the commencement of the project. The committee also found that the delivery of the WestConnex project by the Sydney Motorway Corporation had weakened accountability and disclosure rules that would have otherwise applied had the project been delivered by a government agency. Many of the committee's recommendations were therefore targeted at enhancing the planning processes and transparency arrangements for future large scale infrastructure projects.<sup>54</sup>
- 3.6** The inquiry was also instrumental in examining and documenting the human impacts associated with the construction of the project. Community participants outlined their concerns about the health impacts of living adjacent to WestConnex construction sites, and proposed ventilation stacks. The committee therefore also recommended measures to address such concerns.

### **Impact of the CBD and South East Light Rail project**

- 3.7** The CBD and South East Light Rail Project is another major infrastructure project in New South Wales. Construction of the project commenced in October 2015, with an estimated cost of \$1.6 billion, and almost \$4 billion worth of benefits. The project is part of a larger redevelopment program for Sydney's transport network and aims to ease traffic congestion in the Sydney CBD. The project has been under intense public and media scrutiny due to construction delays and project cost increases, as well as an ongoing court case between a key contractor and Transport for NSW.
- 3.8** On 22 May 2018, the committee self-referred an inquiry into the impact of the CBD and South East Light Rail Project. The inquiry examined the impact of the construction of the project on businesses and residents within the vicinity of the light rail route, as well as:
- a) the adequacy of the government's response to the financial impact and diminution in social amenity caused by the project on residents and businesses including access to financial compensation and business support services,

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<sup>51</sup> The committee also received 985 pro-forma responses.

<sup>52</sup> Public Accountability Committee, *The impact of the WestConnex Project*, pp x-xiv.

<sup>53</sup> Public Accountability Committee, *The impact of the WestConnex Project*, pp x-xiv.

<sup>54</sup> Public Accountability Committee, *The impact of the WestConnex Project*, pp x-xiv.



b) the appropriateness and adequacy of the financial compensation process established by the assessment process and consistency of outcomes,

c) the effectiveness of the government's communication with residents and businesses concerning project delays and financial compensation.<sup>55</sup>

- 3.9** Five hearings were held during the inquiry, with the committee hearing from the contractors involved in delivering the project, affected residents and business owners, environmental action groups, concerned organisations and government agencies. The committee also received 195<sup>56</sup> submissions, many of which were from residents who lived along the light rail route or business owners who had been significantly impacted by construction of the project.
- 3.10** The committee's report was tabled in January 2019, with the committee making 20 recommendations.<sup>57</sup> The committee's recommendations addressed concerns raised by inquiry participants regarding the financial and mental health impacts on business owners, the removal of trees along the light rail route, mitigation measures for residents living alongside the Randwick Stabling Yard, the process for claiming property damage, concerns regarding journey times and the mishandling of human remains by the main contractor.<sup>58</sup>
- 3.11** The committee also made a number of recommendations in the aim of improving future infrastructure projects of this nature, including a review of the contractual structure, the role of the Independent Environmental Representative in monitoring construction noise, the communication strategy surrounding the project and the effectiveness of the support provided to affected businesses, including mental health support for owners and their families.<sup>59</sup>
- 3.12** This was a complex inquiry undertaken while there were ongoing court proceedings between Transport for NSW and key witnesses. There was also a significant amount of media attention about the project, with new issues emerging as the inquiry progressed. A number of procedural issues also arose during the inquiry, particularly in relation to the committee's powers to seek information that witnesses claimed was protected by commercial or Cabinet confidentiality.

### **Committee comment on the future role of the Public Accountability Committee**

- 3.13** Public accountability is fundamental to good government. Since its establishment in March 2018, the Public Accountability Committee has proven to be an important part of the state's public accountability structure, complementing the work of the long standing Legislative Assembly Public Accounts Committee and the Auditor-General. This committee therefore recommends that the Legislative Council re-establish the Public Accountability Committee in the 57th Parliament.

<sup>55</sup> Public Accountability Committee, NSW Legislative Council, *Impact of the CBD and South East Light Rail Project*, (2019), p vi.

<sup>56</sup> The committee received 195 submissions and 5 supplementary submissions, one of which includes survey responses from Surry Hills residents. The committee also received 62 pro-formas.

<sup>57</sup> Public Accountability Committee, *Impact of the CBD and South East Light Rail Project*, pp x-xii.

<sup>58</sup> Public Accountability Committee, *Impact of the CBD and South East Light Rail Project*, pp x-xii.

<sup>59</sup> Public Accountability Committee, *Impact of the CBD and South East Light Rail Project*, pp x-xii.

- 3.14** The committee's inquiries into the impact of the WestConnex project and the CBD and South East Light Rail project have delivered important outcomes. Both have facilitated extensive public engagement and enabled the robust investigation of the government's decision making and service delivery processes. The consideration of evidence uncovered through these inquiries has also enabled this committee to make valuable findings and recommendations, which not only hold the government to account, but may inform the delivery of future large scale infrastructure projects in New South Wales.
- 3.15** Both inquiries examined significant infrastructure projects, extensive in expenditure and public profile. The committee believes that the broad examination of these projects by a committee with the powers and membership found within the Public Accountability Committee was entirely appropriate and necessary to ensure the highest standards of oversight and scrutiny.
- 3.16** The committee has also considered historical calls by the Legislative Council and its members for the Public Accounts Committee to be re-established as a joint committee. The committee recognises that public accountability would be best served if a joint committee was established within the next Parliament. However, in the absence of Legislative Assembly agreement to this approach, we contend that the establishment of a Public Accountability Committee fills this undesirable gap in the state's public accountability framework. The committee also notes that several of the public accounts committees found within other bicameral parliaments in Australia incorporate members from both Houses. Others have Upper House committees with some traditional public accounts committee functions. The re-establishment of the Public Accountability Committee would therefore provide for a similar level of Upper House scrutiny to be applied in New South Wales.
- 3.17** The committee acknowledges the opposing argument that there is a direct overlap in responsibilities of the Public Accountability Committee and the Legislative Council's existing standing committees. However, on balance, the committee is not persuaded by this argument. We find that the Public Accountability Committee enhanced accountability arrangements due to the committee's membership composition (in that it had a non-government chair and non-government majority), as well as its ability to consider matters across portfolio areas and self-refer inquiries of interest.
- 3.18** The committee recognises the vital role that the Auditor-General of New South Wales plays in supporting the NSW Parliament to hold government to account through the completion of financial and performance audits. If re-established, this committee strongly encourages the Public Accountability Committee to continue to work closely with the Auditor-General.
- 3.19** The committee also acknowledges that the establishment of the Public Accountability Committee did have an impact on the Department of the Legislative Council's budget and resources. This committee therefore believes that should the Public Accountability Committee be re-established in the 57th Parliament, that appropriate representation be made to secure additional funding to ensure the committee has sufficient levels of resourcing available.

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**Recommendation 1**

That the Legislative Council re-establish the Public Accountability Committee in the 57th Parliament.

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# Appendix 1 Resolution establishing the Public Accountability Committee

## PUBLIC ACCOUNTABILITY COMMITTEE

Mr Brown moved, according to notice: That notwithstanding anything contained in the standing orders:

### Appointment

1. A Public Accountability Committee be appointed.

### Functions

2. The functions of the committee are to inquire into and examine the public accountability, financial management, regulatory impact and service delivery of New South Wales government departments, statutory bodies or corporations.
3. In performing its functions under paragraph 2, the committee may:
  - (a) Examine the consolidated financial statements and general government sector financial statements transmitted to the Legislative Council by the Treasurer,
  - (b) examine the financial reports of authorities of the State, being financial reports that have been:
    - (i) audited by the Auditor-General or an auditor appointed under section 47(1) of the *Public Finance and Audit Act 1983*, or
    - (ii) laid before the Legislative Council by a Minister of the Crown,
  - (c) examine the opinion or any report of the Auditor-General transmitted with the consolidated financial statements and general government sector financial statements or laid before the Legislative Council with the financial report of an authority of the State (including any documents annexed or appended to any such opinion or report),
  - (d) examine any report of the Auditor-General laid before the Legislative Council,
  - (e) report to the Legislative Council from time to time upon any item in, or any circumstances connected with, those financial reports, or reports or documents which the Committee considers ought to be brought to the notice of the Legislative Council,
  - (f) report to the Legislative Council from time to time any alteration which the Committee thinks desirable in the form of those financial reports or in the method of keeping them or in the method of receipt, expenditure or control of money relating to those financial reports, and

- (g) inquire into expenditure by a Minister of the Crown made without Parliamentary sanction or appropriation or otherwise than in accordance with the provisions of the *Public Finance and Audit Act 1983* or any other Act and report to the Legislative Council from time to time upon any matter connected with that expenditure which the Committee considers ought to be brought to the notice of the Legislative Council.
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.
  5. The functions of the committee do not extend to an examination of, inquiry into or report upon the estimates of any proposed expenditure by the State or by an authority of the State.

### **Referral of inquiries**

6. The committee is to inquire into and report on any matter referred to the committee by resolution of the House.
7. The committee may inquire into and report on the expenditure, performance or effectiveness of any government department, statutory body or corporation.
8. 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.
9. 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.
10. 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**

11. The committee is to consist of seven members comprising:
  - (a) three government members,
  - (b) two opposition members, and
  - (c) two crossbench members.

### **Chair and Deputy Chair**

12. That the Chair of the committee be Revd the Hon Fred Nile MLC and the Deputy Chair be the Hon Matthew Mason-Cox MLC.

### **Substitute members**

13. 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**

14. 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**

15. 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.<sup>60</sup>

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<sup>60</sup> *Minutes*, NSW Legislative Council, 15 March 2018, pp 2384-2387.



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

### Inquiry into the impact of the WestConnex Project

#### Terms of reference

1. That the Public Accountability Committee inquire into and report on the impact of the WestConnex project, including:
  - a) the adequacy of the business case for the WestConnex project, including the cost-benefits ratio
  - b) the cost of WestConnex project, including the size and reasons for overruns
  - c) consideration of the governance and structure of the WestConnex project including the relationship between Sydney Motorway Corporation, Roads and Maritime Services, the Treasury and its shareholding Ministers
  - d) the compulsory acquisition of property for the project
  - e) the recommendations of the Audit Office of New South Wales and the Australian National Audit Office in regards to WestConnex
  - f) the extent to which the project is meeting the original goals of the project as articulated in 2012
  - g) the relationship between WestConnex and other toll road projects including the Sydney Gateway, Western Harbour Tunnel, F6 and Beaches Link
  - h) the circumstances by which WestConnex and the Sydney Gateway were declared to be separate projects in 2017
  - i) the cost of the project against its current valuation as determined through the sale of the Sydney Motorway Corporation and whether it represents a good investment for NSW taxpayers
  - j) any other related matter.
2. That the committee report by 17 December 2018.<sup>61</sup>

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<sup>61</sup> The original reporting date was 1 December 2018 (*Minutes*, Legislative Council, 21 June 2018, p 2803). The reporting date was later extended to 17 December 2018 (*Minutes*, Legislative Council, 16 October 2018, p 3011).

## **Inquiry into the impact of the CBD and South East Light Rail Project**

### **Terms of reference**

1. That the Public Accountability Committee inquire into and report on the impact of the construction of the CBD and South East Light Rail Project (“the project”) on residents and businesses in the vicinity of the light rail route, including:
  - a) the adequacy of the government’s response to the financial impact and diminution in social amenity caused by the project on residents and businesses including access to financial compensation and business support services,
  - b) the appropriateness and adequacy of the financial compensation process established by the assessment process and consistency of outcomes,
  - c) the effectiveness of the government’s communication with residents and businesses concerning project delays and financial compensation, and
  - d) any other related matters.
2. That the committee report by 25 January 2019.<sup>62</sup>

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<sup>62</sup> The original reporting date was 1 December 2018 (*Minutes*, Legislative Council, 22 May 2018, p. 2557). The reporting date was later extended to 25 January 2018 (*Minutes*, Legislative Council, 13 November 2018, p. 3162).

## Appendix 3 Submissions

<b>No.</b>	<b>Author</b>
1	Auditor-General of New South Wales
2	Office of the Clerk of the House of Representatives

## Appendix 4 Minutes

### Minutes no. 1

Tuesday 8 May 2018

Public Accountability Committee

Room 1136, Parliament House, Sydney, at 10.01 am

#### 1. Members present

Revd Nile, *Chairman*

Mr Mason-Cox, *Deputy Chair*

Mr Donnelly

Mrs Houssos

Mr Khan

Ms Ward

#### 2. Apologies

Mr Field

#### 3. Briefing by the Audit Office of New South Wales

The committee received a briefing from the Auditor-General and Deputy Auditor-General on the role and work of the NSW Audit Office.

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

The Chairman tabled the resolution of the House establishing 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 – Scrutiny of public accountability in New South Wales

The Chairman tabled a letter to the Committee Clerk signed by Mr Mason-Cox, Mrs Houssos and Mr Donnelly requesting a meeting of the committee to consider the following self-reference:

##### **Inquiry into the scrutiny of public accountability in New South Wales**

That, in accordance with paragraph 4 of the resolution establishing the Public Accountability 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 Mr Donnelly: That the committee adopt the terms of reference.

#### 7. Conduct of the inquiry into the scrutiny of public accountability in New South Wales

##### 7.1 Discussion paper

Resolved, on the motion of Mrs Houssos: That a discussion paper be prepared by the secretariat and, once approved by the Committee, provided to stakeholders with their invitation to make a submission.

**7.2 Closing date for submissions**

Resolved, on the motion of Mr Mason-Cox: That the closing date for submissions be 26 June 2018.

**7.3 Stakeholder list**

Resolved, on the motion of Mr Mason-Cox: That the proposed list of stakeholders be agreed to, and that members have until 10 am, Thursday 10 May 2018 to suggest any further additions to the list.

**7.4 Advertising**

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

**7.5 Inquiry timeline**

The committee noted that hearing and reporting dates would be circulated by the secretariat, following consultation with the Chair.

**8. Other business**

The committee discussed inviting the Auditor-General to give the committee a regular briefing on the Audit Office's work, noting that the Legislative Assembly Public Accounts Committee is currently briefed by the Auditor-General every session of Parliament.

Resolved, on the motion of Mr Mason-Cox: That a letter be sent to the Auditor-General inviting her to brief the committee once every session of Parliament.

**9. Adjournment**

The committee adjourned at 10.58 am *sine die*.

Teresa McMichael  
Committee Clerk

**Draft minutes no. 18**

Tuesday 22 January 2019

Public Accountability Committee

McKell Room, Parliament House, Sydney at 10.03 am

**1. Members present**

Revd Nile, *Chairman*

Mr Mason-Cox, *Deputy Chair*

Mr Donnelly

Ms Faehrmann (substituting for Mr Field from 12.44 pm)

Mr Field (until 12.44 pm)

Mr Khan

Mrs Houssos

Mr Mallard (substituting for Mrs Ward)

**2. Previous minutes**

Resolved, on the motion of Mr Donnelly: That draft minutes no. 17 be confirmed.

**3. Correspondence**

The committee noted the following items of correspondence:

***Received***

- 16 May 2018 – Email from Mr John and Mrs Jan Macdonald, to committee, regarding the scrutiny of NSW Police in relation to a private matter

- 30 May 2018 – Letter from Dr Maxine Cooper, ACT Auditor-General, to Chairman, declining to make a submission to the scrutiny of public accountability inquiry
- 1 June 2018 – Letter from Ms Margaret Crawford, Auditor-General, NSW Audit Office, to Chairman, accepting the committee's invitation to provide a regular briefing to the committee together with the Deputy Auditor-General and Assistant Auditor-General Performance Audit
- 1 June 2018 – Email from Mr John Bladen, to committee, requesting that the committee investigate the effectiveness of the NSW Firearms Registry
- 6 June 2018 – Email from Mr Paul Cooper, to committee, regarding the validity and effectiveness of the Rock Fishing Safety Act
- 11 June 2018 – Letter from Mr Andrew Greaves, Auditor-General for Victoria, to Chairman, advising that the Audit Office will not be providing a submission to the Scrutiny of public accountability inquiry
- \*\*\*
- 17 January 2019 – Letter from the Hon Natasha Maclaren-Jones MLC, to secretariat, advising that the Hon Shayne Mallard MLC will be substituting for the Hon Natalie Ward MLC at the report deliberative on 22 January 2019
- 21 January 2019 – Email from Mr Justin Field MLC, to secretariat, advising that Ms Cate Faehrmann MLC will be substituting for him for part of the report deliberative on 22 January 2019.

**Sent:**

- 25 May 2018 – Letter from Chairman, to Ms Margaret Crawford, Auditor-General of New South Wales, inviting the Auditor-General to regularly brief the Public Accountability Committee on the work of the NSW Audit Office
- \*\*\*

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

- email from Mr John and Mrs Jan Macdonald, to committee, regarding the scrutiny of NSW Police in relation to a private matter
- email from Mr Paul Cooper to the committee, regarding the validity and effectiveness of the Rock Fishing Safety Act, dated 6 June 2018.

#### **4. Inquiry into the scrutiny of public accountability in New South Wales**

##### **4.1 Public submissions**

The committee noted that the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 1 and 2.

##### **4.2 Consideration of Chairman's draft report**

The Chairman submitted his draft report entitled *Inquiry into the scrutiny of public accountability in New South Wales* which, having been previously circulated, was taken as being read.

Mr Field moved: That paragraph 3.13 be amended by inserting 'The committee recognises that public accountability would be best served if a joint committee was established within the next Parliament. However,' after 'to be re-established as a joint committee.'

Question put.

The committee divided.

Ayes: Mr Donnelly, Mr Field, Mrs Houssos, Mr Mason-Cox.

Noes: Mr Khan, Mr Mallard, Revd Nile.

Question resolved in the affirmative.

Consideration of the remainder of the Chairman's draft report was deferred until the conclusion of the meeting.

5. \*\*\*

6. **Inquiry into the scrutiny of public accountability in New South Wales**

**6.1 Consideration of Chairman's draft report**

Resolved, on the motion of Mr Donnelly: That paragraphs 3.7, 3.8 and 3.9 be omitted and amendments, as circulated, be included in the section entitled 'Impact of the CBD and South East Light Rail project'.

Resolved, on the motion of Mr Donnelly: That:

- a) The draft report [as amended] be the report of the committee and that the committee present the report to the House;
- b) The submissions and correspondence relating to the inquiry be tabled in the House with the report;
- c) Upon tabling, all unpublished attachments to submissions be kept confidential by the committee;
- d) Upon tabling, all submissions, 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 30 January 2019.

7. **Adjournment**

The committee adjourned at 3.07 pm, *sine die*.

Tina Higgins  
**Committee Clerk**

