

**'COMMITTEE REVIEW OF EXECUTIVE DECISIONS:  
RUBBER STAMP OR GAME CHANGER?'**

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**Abstract**

In 2012 the New South Wales Legislative Council established a Select Committee with terms of reference to review a Ministerial decision to close a State asset: namely, a fisheries research centre in Cronulla, in southern Sydney. Three months later, a second Select Committee was established, prompted by a similar decision to significantly downsize a State asset, namely a gaol in the regional town of Grafton. These inquiries called into question the basis for the decisions and the advice underpinning them. Both decisions had already been made, and were in the process of being implemented.

The decisions to close the fisheries research centre and downsize the gaol generated serious concerns for the people affected. Small communities faced relatively significant job losses and hopes were lifted that the decisions might be reversed. However, despite the Cronulla Inquiry recommending that the decision to close the Research Centre be reversed, the facility remains closed; the Grafton Correctional Centre was significantly downsized, after the Prisons Inquiry accepted the Government's rationale for the decision.

Thus, the question is begged: were these Inquiries a waste of time?

This paper will use these recent case studies to critically analyse the role of parliamentary committees in scrutinising Executive decisions. I will argue that even where a decision is unlikely to be overturned, the Inquiry process and Committee recommendations can nevertheless lead to valuable reforms to the way such decisions are made and implemented in the future.

## **'COMMITTEE REVIEW OF EXECUTIVE DECISIONS: RUBBER STAMP OR GAME CHANGER?'**

*... the rationale of the system of responsible government is that the Executive is answerable to the Parliament for the way in which government administration is undertaken. Parliament is therefore conceived as an accountability forum, a role which is exercised vigorously, particularly through the committee system...<sup>1</sup>*

Traditionally, a fundamental purpose of parliamentary scrutiny has been to hold ministers, and through them public servants, accountable for their actions.<sup>2</sup> Committee inquiries are an important means to facilitate scrutiny of the Executive government, and thus are one of the key ways in which Upper Houses can fulfil their role as a House of Review.

### **Scrutiny role of Legislative Council committees**

2013 marks the 25<sup>th</sup> anniversary of the modern committee system in the NSW Legislative Council. In the debates preceding the establishment of the standing committees, it was argued that a formal system of standing committees would play a critical role in parliamentary oversight of the Executive, by '... restor[ing] some meaningful degree of parliamentary check on executive government of whatever persuasion'.<sup>3</sup> As recalled by a former member who played a key role in the establishment of the committee system:

[The Government] must have the right to legislate. I do not think there is any doubt about that. Of equal or even more importance is the House's right to review, provided the mechanisms are in place to do that ... It is essential that the Parliament be able to examine the public finances of behalf of the community, otherwise it is pointless having the second House. I think it is imperative that scrutiny be full and complete. If the Government has something it wants to hide, it should be made public.<sup>4</sup>

Over a decade later, in 1997, when there were moves to expand the committee system (through the establishment of the Legislative Council general purpose standing committees, which are modelled on the Senate system of portfolio committees), the role of the new committees was envisaged as follows:

The general purpose standing committees will be oversight committees – they will oversight the management, structure and business of government; they will not address issues of policy or hear evidence from the vast majority of the community on policy changes. It is not the role of these committees to use their power to investigate the policy of government ...

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<sup>1</sup> John McMillan, 'Parliament and Administrative Law', *Research Paper 13 2000-01*, (2001), [http://www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/pubs/rp/rp0001/01RP13](http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp0001/01RP13).

<sup>2</sup> Paul G Thomas, 'Parliament Scrutiny of Government Performance in Australia' (2009) *Australian Journal of Public Administration* 68(4) pp 373 & 379.

<sup>3</sup> *Hansard*, Legislative Council, 11 October 1984, p 1763 (Lloyd Lange).

<sup>4</sup> Lloyd Lange quoted in David Clune, *Keeping the Executive Honest: The Modern Legislative Council Committee System* (2013), p 35.

However, as a result of their scrutinising and evaluating the performance of government, matters of policy may be brought into question.<sup>5</sup>

A key strength of parliamentary committee inquiries in delivering oversight of Executive government is that they provide a very public means to demonstrate the accountability of the Executive to parliament, through the direct questioning of ministers and public servants by members of parliament. The importance of this aspect in relation to the Budget Estimates process was expressed as follows by a former Senate Estimates Committee chair:

... we are sensitising officers. You do not know whether you are going to be caught out, if you are an officer coming before a committee. Sometimes you notice the sigh as an officer is relieved of the responsibility of appearing, but all officers have had to think about what they are doing. I think that is a subtle thing, but I certainly believe it is a very significant point.<sup>6</sup>

Reflecting on how the establishment of the modern committee system has strengthened the Council's role as a House of Review, one former member of the Legislative Council said:

The role of the Upper House expanded considerably with the establishment and ongoing development of the committee system and enhanced the Chamber's function as a House of review. It gave the community far greater input into many aspects of the legislative process through the committee's investigations, consultations and public hearings.<sup>7</sup>

### **Recent inquiries reviewing Executive decisions**

The Legislative Council committee system of today is a vibrant and active mechanism that continues to perform the scrutiny function critical to the exercise of the Council's role as a House of Review. This is demonstrated by two recent inquiries: the Select Committee on the Closure of the Cronulla Fisheries Research Centre of Excellence, and the Select Committee on the Closure or Downsizing of Corrective Services NSW Facilities. These two inquiries were established within months of each other in the second half of 2012, and each called into question the basis of decisions to close or downsize State assets and the advice underpinning these decisions.

#### **Select Committee on the Closure of the Cronulla Fisheries Research Centre of Excellence**

In June 2012, a Select Committee was established to inquire into the decision to close the Cronulla Fisheries Research Centre of Excellence and transfer its functions to other locations, a decision which had been announced by the Minister for Primary Industries nine months earlier in September 2011. The purpose-built fisheries research facility was located at a heritage-listed waterfront site in the southern Sydney suburb of Cronulla and its work was well-regarded by marine scientists in Australia and overseas. The sudden announcement of the Centre's closure was a surprise to the local community and the Centre's 138 employees, many of whom were leading experts in their fields of marine science. Thereafter followed a concerted campaign to stop the closure, led by the Centre's employees and with strong backing from the local community.

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<sup>5</sup> *Hansard*, Legislative Council, 7 May 1997, pp 8128-8130 (John Hannaford).

<sup>6</sup> Bruce Childs, 'Senate Estimates Committees – Do These Watchdogs Bark or Only Bite?' (Paper presented at the Conference to mark the 20<sup>th</sup> anniversary of Senate Legislative and General Purpose Standing Committees and Senate Estimates Committees, Canberra, 3 October 1990), p3  
<http://www.aph.gov.au/binaries/senate/pubs/pops/pop12/s03.pdf>.

<sup>7</sup> *Hansard*, Legislative Council, 29 June 1998, p 6771 (Marlene Goldsmith).

The establishment of the Select Committee was triggered by concerns that the announcement of the closure was preceded by inadequate planning and consultation. It became apparent over the course of the Inquiry that no cost-benefit analysis or economic appraisal had been carried out before the closure decision was made. Furthermore, it emerged that stakeholders, including the State's former Chief Scientist and then head of the Research Centre, had not been consulted before the decision was made and had not been consulted about the implementation process.

At the time the Inquiry was established, the decision had already been taken and the closure was in the process of being implemented. The closure decision being review by the Committee was of serious concern for the people affected. A small community faced relatively significant job losses and hopes were lifted that the decision might be reversed.

At the end of the Inquiry, the Cronulla Committee reached a clear conclusion about the decision to close the Research Centre: that the decision should be reversed, and the Centre re-opened. In tabling the Committee's report in the House, the Committee Chair summarised the findings as follows:

The Committee has concluded that the decision to close the Cronulla Fisheries Research Centre of Excellence was imprudent and devoid of the transparency and accountability required of major government decisions. Therefore, this decision should be reversed in the public interest ...<sup>8</sup>

In contravention of the Committee's findings, the closure proceeded, to the chagrin of the Chair and some other members of the Council:

There is no happy outcome from this decision. The committee made a number of recommendations, the first one of which was that the Government should reverse its decision to close the Cronulla Fisheries Research Centre of Excellence and not proceed with the closure. What happened? The Government sat on its hands and gave its response to this report at the last possible minute. It then said it was all too late and nothing could be done to reverse it.<sup>9</sup>

Aside from recommending that the decision be reversed, the Committee found that the decision had not been made in accordance with a proper approach to government decision-making, namely that 'such decisions should adhere to the principles of transparency and accountability'.<sup>10</sup> The Committee also found that the decision did not follow the Government's own procedures and guidelines for major decisions.

### **Select Committee on the Closure or Downsizing of Corrective Services NSW Facilities**

Another inquiry with strikingly similar terms of reference was established in September 2012 following the closure or downsizing of a number of correctional facilities in NSW. The key impetus for the Inquiry was the significant community unrest in response to the June 2012 announcement that Grafton Correctional Centre would be downsized and the majority of its inmates relocated. As

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<sup>8</sup> *Hansard*, Legislative Council, 23 October 2012, p 1604-5 (Fred Nile).

<sup>9</sup> *Hansard*, Legislative Council, 19 February 2013, p 17542 (Amanda Fazio).

<sup>10</sup> Select Committee on the Cronulla Fisheries Research Centre of Excellence, NSW Legislative Council, *Closure of the Cronulla Fisheries Research Centre of Excellence* (2012), p 79.

was the case with the Cronulla Inquiry, the Committee was established *after* the decision to downsize the facility had been taken and the decision was in the process of being implemented. In another parallel with the closure of the Cronulla Fisheries Research Centre, the decision being reviewed was of great concern to the group of people most affected; that is, the staff and local community.

The Committee was told that there was no community consultation prior to the decision being made. The announcement, and the speed with which the decision was implemented, took correctional officers and local residents by surprise. There was strong opposition from the 76 staff who lost their jobs, some of whom had only recently transferred to Grafton when their previous jobs were lost following the closure of other gaols in NSW. There were concerns that the sudden closure of the Grafton facility, without adequate planning, would jeopardise jobs and businesses that relied on the prison's contribution to the local economy. The depth of these concerns was demonstrated by the resolute local protests, including pickets and blockades, which preceded the establishment of the Inquiry.

Like the Cronulla Committee, the Prisons Committee was critical of the way in which the decision to close Grafton Correctional Centre was made and identified a number of 'failures' in the decision-making process. As with Cronulla, one such deficiency was the lack of stakeholder consultation. The Committee also found that Corrective Services NSW should have been aware of the economic impact that the downsizing would have on the town of Grafton, and should have developed a proactive jobs growth strategy before implementing the decision to downsize the gaol.

Despite these criticisms, however, the Committee ultimately accepted the Government's rationale for the downsizing decision, which was that it made sense to close older gaols with antiquated facilities such as Grafton in light of falling inmate numbers. The Chair encapsulated the Committee's findings as follows: 'The Committee found that, notwithstanding the failures in the process, the reasons upon which Corrective Services NSW based its decisions to downsize or close facilities are justified'.<sup>11</sup>

It is noteworthy that in both Inquiries site visits played an important role in influencing the Committee's conclusions. For the Prisons Inquiry, in particular, the site visit to inspect the Grafton Correctional Facility was influential in convincing the Committee of the merits of the rationale for closing the gaol, namely that as an older facility designed and built in the mid-1800s, it did not meet modern standards of accommodation for inmates, and was also more costly to maintain. The Cronulla Committee conducted a site visit to the Research Centre that was being closed, as well as two of the locations earmarked as destinations for the scientific research carried out at the Centre. These visits assisted the Committee to view the Cronulla Centre first-hand and to hear the views of staff on the unique characteristics of the site, as well as understanding the standard of facilities available at the alternative sites.

### **What's the point: Rubber stamp or game changer?**

Given that both decisions proceeded, despite the significant concerns raised by both Committees about the decision-making process, the question is begged: were these inquiries a waste of time?

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<sup>11</sup> Media Release, Hon Paul Green MLC, Chair, Select Committee on the Closure or Downsizing of Corrective Services NSW Facilities, 'Upper House Committee Reports on Prison Closures', 14 June 2013.

To begin, I will consider this question from the perspective of the people directly affected by the decisions. In both inquiries, a small group of employees were passionately opposed to the closures and saw the establishment of the Select Committees as their last chance to have the closures overturned. These employees, and their supporters in the local community, launched well-organised protest campaigns which garnered significant media attention. While some staff had resigned or been terminated as a result of the impending closures, many were still government employees, and held significant concerns about speaking out against their employers. However, the employees were willing to speak out in the hope that parliamentary scrutiny could lead to the reversal of what they saw as fundamentally flawed decisions. While the Inquiries were underway, these employees and their families experienced significant stress due to the uncertainty of their futures; many placed their lives in limbo as they awaited the outcomes of the Inquiries, in the belief that support from a parliamentary committee could change the Government's mind.

If asked whether parliamentary committees are an effective means to scrutinise government decisions, these people may well answer: 'no, committees are toothless tigers; even when they expose bad decisions, or call for decisions to be overturned, the Government doesn't have to listen'.

I argue, however, that even where a decision is unlikely to be reversed, the Inquiry process and Committee recommendations can nevertheless have a positive impact. Such impacts are threefold. First, committee inquiries shine light into dark corners by uncovering how Ministers and public servants have made and implemented major decisions. Second, such inquiries may improve the way in which government decisions are made and implemented in future. Third, scrutiny-focused inquiries reinforce the accountability of the Executive to the Parliament; Ministers and Departmental officials are reminded of the importance of making good decisions based on sound evidence, as they may be called to explain themselves before a parliamentary committee.

These benefits are discussed below.

### **Shining a light on Executive decisions**

One of the key issues the Cronulla Committee sought to uncover was whether there was a sound basis for making the decision to close the Research Centre. Those opposed to the closure had been attempting for some time to find out whether a cost-benefit analysis had been undertaken prior to the decision being made. In evidence to the Committee it emerged that no such analysis existed; Departmental officials asserted that it was appropriate to proceed without a cost-benefit analysis as the benefits to regional communities were difficult to quantify and would accrue over a prolonged period of time. A cost-benefit analysis was eventually tabled by the Minister when she appeared before the Committee, but under questioning, the Minister acknowledged that the document had been completed on the morning of her appearance. On this point, the Committee's report found that: 'Overall, the Committee finds that the cost-benefit analysis produced by the Department was unprofessional, rushed and created only for the purpose of forestalling the anticipated line of questioning at the Committee's hearing'.<sup>12</sup> Describing the planning documentation provided by the Minister and Departmental officials, one Committee member said:

We received no analysis of the planning that went into the decision. The decision seemed to have been made overnight. The Department attempted to put the decision in place and

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<sup>12</sup> Select Committee on the Cronulla Fisheries Research Centre of Excellence, above n 9, p 81.

justify what was happening. We had the bizarre experience of Departmental officials turning up to hearings with a one-page economic assessment of the move, which they later admitted had been completed that morning ...<sup>13</sup>

It is clear that the Cronulla Inquiry was vital to ensuring that this evidence came to light. Without the Inquiry, the serious deficiencies identified by the Committee around the lack of appropriate documentation and analysis preceding the decision may never have been revealed.

Another key issue considered by the Cronulla Inquiry was whether the Government's commitment to relocate government jobs from metropolitan areas and thus stimulate regional development, known as the 'Decade of Decentralisation', provided a sound basis for the decision to close the Research Centre. The Minister and Departmental officers had repeatedly cited the 'Decade of Decentralisation' in response to questions about the rationale for closing the Centre. What the Inquiry uncovered, however, was that there was no policy document underpinning the Government's 'Decade of Decentralisation' commitment; therefore, there were no guidelines on the factors to be considered when making a decision to decentralise a government agency, or indeed, any process to guide the implementation of a decision to relocate government services. Speaking on this issue, a Committee member said:

If the decision was supposed to be part of the Decade of Decentralisation and a process is meant to be developed on how these decisions are made, this decision about Cronulla Fisheries is a perfect example of how not to conduct decentralisation in this State ...<sup>14</sup>

While the Cronulla Committee supported the objective of decentralising government jobs to regional centres, it questioned its application in the case of Cronulla. In the words of the Chair: 'Although decentralisation is a worthy policy, each instance of decentralisation must be thoroughly considered on its individual merits'.<sup>15</sup>

As well as revealing that a cost-benefit analysis had not been conducted, the Committee was instrumental in discovering that the 'Decade of Decentralisation' was not supported by a detailed policy, and thus provided deficient grounds for the decision.

Similar to the Cronulla Inquiry, the Prisons Committee sought to bring to light how the decision to downsize the Grafton Correctional Centre was made, and whether the potential impacts were adequately considered. In particular, the Committee found that the economic impact on the Grafton community was not given sufficient consideration before the decision to close the Centre was made. The Committee found that a rural impact statement was not prepared, and nor was planning undertaken on how to compensate for the loss of this key contributor to the regional economy.

The Prisons Inquiry was therefore important in highlighting the heightened economic impact that the downsizing of a significant state asset could have in a regional area, and the need to soften this impact through robust planning.

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<sup>13</sup> *Hansard*, Legislative Council, 19 February 2013, p 17542 (Steve Whan).

<sup>14</sup> *Hansard*, Legislative Council, 26 February 2013, p 17928 (Mick Veitch).

<sup>15</sup> *Hansard*, Legislative Council, 23 October 2013, pp 16104-5 (Fred Nile).

In addition, both the Cronulla and Prisons Inquiries identified a lack of consultation as a significant flaw in the decision-making processes. Many stakeholders in the Prisons Inquiry cited inadequate consultation with community representatives including local government, industry, prisoner welfare groups and staff at the Correctional Centre before the decision to downsize Grafton gaol was made. The Committee found that the lack of stakeholder engagement prevented proper consideration of the potential impacts of the decision, particularly the economic impact on the town of Grafton. The Committee discovered that the lack of stakeholder consultation extended to the Government's own Department of Trade and Investment, with the Committee finding that the failure to include the Department in the consultation process 'may be another reason why the potential impact on the community was overlooked...'.<sup>16</sup> The Committee also expressed concern that inadequate consultation pre-decision was compounded by inadequate consultation after the decision was announced on how to alleviate the impacts of the Centre's downsizing.

In relation to Cronulla, the Committee likewise discovered that there had been inadequate consultation prior to the decision being made, followed by inadequate consultation regarding the decision's implementation. The Committee was told that there was no consultation with marine science experts about the potential impact of the closure, with the Committee Chair noting that:

Stakeholders' views on the closure were not sought and experts within the Department were excluded from providing advice on the decision or management of its implementation. As a result, the decision will have serious adverse consequences for marine science and the management of the State's fisheries.<sup>17</sup>

On this issue, the Committee concluded that 'as a matter of prudence the Committee would expect that a recently appointed Minister with a new portfolio would make major decisions cautiously and seek a range of advice in doing so', especially when the decision concerned 'such specialist subject matter as marine science'.<sup>18</sup>

Both inquiries played an important role in drawing out the lack of stakeholder engagement, by seeking evidence from staff and prominent figures in the local community, and by clearly reflecting what they were told by these stakeholders; namely, that they had not been engaged in the decision-making process, nor consulted on the potential impacts of the decisions.

### **Potential improvements to future decision-making**

Committee inquiries can also drive potential improvements to government decision-making in future. For example, the Cronulla Inquiry highlighted the need for significant government decisions to be made in accordance with relevant policies and procedures, with the Committee finding that the way in which the closure decision was made conflicted with the Government's own policies including the *NSW Government Guidelines for Economic Appraisal*. The Committee's report concluded that:

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<sup>16</sup> Select Committee on the Closure or Downsizing of Corrective Services NSW Facilities, *Closure or Downsizing of Corrective Services NSW Facilities* (2013), p 28.

<sup>17</sup> *Hansard*, Legislative Council, 23 October 2013, p 16104 (Fred Nile).

<sup>18</sup> Select Committee on the Cronulla Fisheries Research Centre of Excellence, above n 9, p 82.



In the Committee's view, the failure to undertake a cost benefit analysis prior to closing the [Cronulla Fisheries Research Centre] is a fundamental flaw in the decision making process. It contradicts sound policies to ensure that government decision making is accountable and transparent.<sup>19</sup>

The Cronulla Committee also commented on the need to ensure that the Government's 'Decade of Decentralisation' commitment was further developed and properly applied in future. Accordingly, the report's final recommendation was for the NSW Government to 'develop a comprehensive policy document defining its 'Decade of Decentralisation' policy, setting out its principles, objectives and measures of success ...'.<sup>20</sup>

In the words of a Committee member who otherwise disagreed with the recommendations in the report, this recommendation was the most significant:

The Inquiry had an opportunity to make recommendations as to how the process for decentralisation could be improved and how lessons learnt from this process could be passed on to other departments ... The Committee had the opportunity to look at whether the process could be refined so that when departments are identified for decentralisation in future any concerns, whether real or based on fear of change, can be adequately addressed.<sup>21</sup>

The Cronulla Inquiry is the only one of these two inquiries where a Government Response has been received as yet (in the NSW Legislative Council, there is a requirement that the Government respond within six months to any recommendations made in a committee report). This was one of the Committee's only recommendations to be endorsed by the NSW Government, which said: 'The NSW Government is committed to the Decade of Decentralisation policy and will further articulate the policy in coming months'.<sup>22</sup> Indeed, in November 2012 the Government announced that it had appointed a Decentralisation Taskforce to review its decentralisation strategy and to advise on the way forward, involving consultation with regional councils, other stakeholders and industry bodies.<sup>23</sup> No link was made to the Cronulla Inquiry, but the timing suggests that the Inquiry may have prompted the Government to address some of the concerns uncovered by the Committee.

As with the Cronulla Inquiry, the Prisons Committee identified a number of reforms that could improve the process to close or downsize a corrections facility in future. The Chair summarised the Committee's findings as follows:

The Committee considers that the process to close or downsize a corrections facility could be significantly improved, and has made a number of recommendations to this effect. Rural impact statements should be done and presented to Cabinet prior to a decision to close or downsize a rural or regional Corrective Services facility. The Committee recommends that

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<sup>19</sup> Ibid p 81.

<sup>20</sup> Ibid p 88.

<sup>21</sup> *Hansard*, Legislative Council, 26 February 2013, p 17927 (Niall Blair).

<sup>22</sup> Katrina Hodgkinson MP to the Clerk of the Parliaments, providing government response to the Inquiry into the Closure of the Cronulla Fisheries Research Centre of Excellence, 14 December 2012, p 10.

<sup>23</sup> *NSW Government: Decade of Decentralisation Review* (24 April 2013), <http://engage.haveyoursay.nsw.gov.au/decentralisation>.

the NSW Government coordinate and facilitate the development of economic growth strategies in regional areas where a correctional centre is to be closed or downsized.<sup>24</sup>

In addition, the deficiencies in the decision-making process identified by the Committee led it to conclude that Corrective Services NSW did not have an adequate policy or procedure to guide them in the process of downsizing or closing correctional facilities. The Committee therefore recommended that Corrective Services NSW 'develop a policy document and supporting procedures to be followed when downsizing or closing correctional facilities'.<sup>25</sup> Indeed, in evidence to the Committee the Corrective Services Commissioner acknowledged that there were lessons to be learned from the Grafton experience, which would improve the process of decision making and implementation of decisions to close or downsize correctional centres in future.<sup>26</sup>

Both Inquiries also have the potential to drive improvements to future stakeholder engagement. As noted previously, both Inquiries highlighted the need for effective consultation to ensure that the people impacted by key government decisions are not alienated in the process. With better planning, and more engagement with those most affected by the decisions, many of the decisions' impacts could have been ameliorated, and potentially, opposition to the decisions could have been lessened. Both inquiries have the potential to improve government decision-making in future by highlighting the importance of involving stakeholders throughout the decision-making process, both before a significant decision is made, and in planning for the implementation of such a decision.

#### **Demonstrated Executive accountability to Parliament**

This paper began by noting that the public questioning of ministers and public servants by parliamentary committees provides a clear demonstration of the accountability of the Executive to the Parliament. This was evident in the case of Cronulla, where part of the impetus behind the establishment of the Select Committee was to uncover the Minister's rationale for closing the Research Centre. In the case of the Prisons Inquiry, however, the Committee was concerned with uncovering the reasons behind a decision that originated with Corrective Services NSW, and therefore the Corrective Services Commissioner (and not the Minister) was invited to appear as a witness.

Given that the Cronulla Inquiry sought to uncover the reasons for closing the facility, the Minister's participation was crucial to the Committee examining their terms of reference. Stakeholders affected by the closure decision had been attempting to require the Minister, and her Department, to clearly articulate the reasons for the closure decision and to release the documents they relied upon in making the decision. The Minister and Departmental officials had, however, been reluctant to do so. When invited to attend a Committee hearing, the Minister initially declined. The Minister later contacted the Committee to advise that she would make herself available to give evidence. There was speculation that the Minister was prompted to appear by a radio interview given by the

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<sup>24</sup> Select Committee on the Closure or Downsizing of Corrective Services NSW Facilities, above n 16, p viii.

<sup>25</sup> Ibid p 51.

<sup>26</sup> Ibid p 34.

NSW Premier, Hon Barry O'Farrell MP, who when questioned on the Minister's reluctance to appear responded: 'When I am invited by upper house inquiries I go. I expect my ministers to go.'<sup>27</sup>

The Minister's appearance before the Committee, and the Premier's very public statement in support of ministerial attendance, continued a trend in which Ministers in NSW are increasingly likely to appear before Legislative Council committees. In the current Parliament, six Ministers have appeared before a Council committee, and no Minister has refused an invitation to attend.<sup>28</sup> Even the Premier appeared before the Select Committee into the Provisions of the Electoral Funding, Disclosure and Amendment Bill 2011, and said during evidence that he is 'always happy to come to parliamentary committees because it is the heart of democracy'.<sup>29</sup>

The Minister's evidence to the Committee was a turning-point in the Inquiry, because, as noted earlier, this led the Committee to discover that a cost-benefit analysis had only been completed on the morning of her appearance. The Minister's evidence to the Committee, and her approach to the Inquiry in general, led the Committee to comment in its report that the Minister was 'evasive' in her answers to questions, and noted that it was 'disappointed with the spirit in which the Minister has approached this Inquiry'.<sup>30</sup>

The experience of this Minister in interacting with the Committee may provide a salutary lesson for other members of the Executive who similarly face calls for greater openness and transparency around key decisions of Government, and provides an important means to reinforce Executive accountability to the Parliament.

## Conclusion

The achievements of parliamentary committees are not always clear-cut. Those most affected by government decisions, such as the closure or downsizing of a major state asset, may be disappointed when a parliamentary committee fails to succeed in reversing the decision. However, these inquiries make an important contribution to upholding the integrity of government decision-making, by their ability to inquire into and bring into focus deficiencies in how these decisions have been made.

Both the Select Committees examined in this paper, I argue, are in fact examples of committees doing precisely what they were set up to do: hold the Government to account. As noted earlier, 'if the Government has something it wants to hide, it should be made public', and both of these Inquiries made an important contribution to the transparency and accountability of government decision-making in NSW. The achievements of the Cronulla Committee were described as follows by one Council member and active participant in many similar inquiries:

Clearly this Committee did what committees do best: it tried to get to the bottom of a dirty deed, a bad policy outcome, a stupid and dangerous decision and along the way exposed a

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<sup>27</sup> Josephine Tovey, 'Minister to face inquiry into Cronulla Fisheries closure', *Sydney Morning Herald*, 4 September 2012

<http://www.smh.com.au/environment/conservation/minister-to-face-inquiry-into-cronulla-fisheries-closure-20120904-25c7c.html>.

<sup>28</sup> Hon Don Harwin MLC, 'NSW Legislative Council Committees: Current trends' (Paper presented at the 43<sup>rd</sup> Presiding Officers and Clerks Conference, Honiara, July 2012), p 3.

<sup>29</sup> *Ibid* p 4.

<sup>30</sup> Select Committee on the Cronulla Fisheries Research Centre of Excellence, above n 9, p 85.

number of reasons, each of which was completely persuasive for not closing down the Cronulla Fisheries Research Centre of Excellence. Clearly from the outset this was a political decision and not one that was best for fisheries, science, the public sector or for the welfare of the people of New South Wales.<sup>31</sup>

We now return to the quote with which this paper started:

... the rationale of the system of responsible government is that the Executive is answerable to the Parliament for the way in which government administration is undertaken. Parliament is therefore conceived as an accountability forum, a role which is exercised vigorously, particularly through the committee system...<sup>32</sup>

In this light, inquiries established to scrutinise questionable government decisions provide an essential 'accountability forum' that enables the Legislative Council to hold the Executive to account; regardless of whether they succeed in the short-term, such scrutiny inquiries can affect the quality of decision-making processes into the future, to the benefit of the citizens of NSW.

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<sup>31</sup> *Hansard*, Legislative Council, 26 February 2013, p 17928 (John Kaye).

<sup>32</sup> McMillan, above n 1.