QUESTIONS
AND
ANSWERS

No. 70

TUESDAY 9 FEBRUARY 1999

(House prorogued 3 February 1999)

[The Questions and Answers Paper is published for each sitting day and will contain, by number and title, all unanswered questions, together with questions to which answers have been received on the previous sitting and any new questions. Consequently the full text of any question will be printed only twice: when notice is given; and, when answered.]
## QUESTIONS AND ANSWERS
### Tuesday 9 February 1999

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10 NOVEMBER 1998

(Paper No. 64)

*1033 HOME EDUCATION REGISTRATION CERTIFICATES—Mr Blackmore asked the Minister for Education and Training and Minister Assisting the Premier on Youth Affairs—

(1) Did he receive a request from Ms Robyn Larkin of Lochinvar, dated 21 October 1998, to immediately issue certificates to her children in respect to the administration of their home education registration?

(2) In light of the recent disallowance of the Home Education Regulation, when will these certificates be issued?

Answer—

(1) Yes.

(2) The recent disallowance of the Education Amendment (Home Schooling) Regulation 1998 does not alter the need for applicants to show that they will provide an education of the highest quality for their children.

Mrs Larkin has applied for Exemption from Registration as a conscientious objector on religious grounds. Her applications have not been granted due to her failure to provide evidence of meeting the requirements for home schooling. The Schools Appeals Tribunal has heard her appeal and has recommended that exemption from registration not be granted.

Certificates will be issued to Mrs Larkin when she makes application and successfully demonstrates that she satisfies the requirements for home schooling registration.

*1034 QUESTIONS ON NOTICE—SYDNEY CASINO—Ms Ficarra asked the Premier, Minister for the Arts and Minister for Ethnic Affairs—

(1) Given I have asked questions in writing on two occasions, Question 557 on 7 May 1998 and Question 917 on 23 September 1998, of both the Minister for Racing and Gaming and the Minister for Police regarding incidents of drug abuse and trafficking, physical and sexual assaults, theft and robberies which have occurred at Sydney Casino since commencement of operations, why have I been given the “bureaucratic run-around” from both of these ministers who have yet to give the information I require?

(2) When might I have the information to answer my constituents’ concerns on the above serious crime incidents?

Answer—

(1) and (2) Answers were provided by the Minister for Police and the Minister for Gaming and Racing within the required time.

*1035 STATE OF THE ENVIRONMENT REPORTING—Ms Ficarra asked the Minister for the Environment—

(1) What progress has been made on the development of a computerised information system to support the “State of the Environment” reporting?

(2) How will the information be disseminated, in particular, to our schools as part of the environmental education initiatives?
(3) What progress has been made towards the development of composite indices based on environmental indicators to give the public some sense of the overall health of our environment?
(4) How will these indices and information be used in a practical sense?

Answer—

(2) The Protection of the Environment Administration (Environmental Education) Amendment Bill 1998 will establish the NSW Council on Environmental Education to co-ordinate the preparation of statewide, 3-year plans for environmental education. The environmental education plans will describe the proposed contributions of various public authorities, local government sector, community organisations and industry. The council will also prepare statements on the performance of environmental education for inclusion in the State of the Environment Report.
(3) The 1997 State of the Environment Report used more than 24 environmental indicators. The establishment of composite indices remains a longer term goal, but the primary focus of recent effort has been on establishing more robust and scientifically valid “core” environmental indicators. New South Wales in particular has been contributing its knowledge, expertise and experience in the development of nationally consistent and nationally applicable environmental indicators. This is being done co-operatively with the other States and Territories and the Commonwealth by way of the Australian and New Zealand Environment and Conservation Council (ANZECC). ANZECC is also co-operating with local governments in this matter.
(4) It is intended that State of the Environment information is used to:
   • communicate useful information to decision makers to improve management of the environment;
   • provide benchmark environmental data for the assessment of the cumulative impacts of environmental policies, programs and actions over time;
   • identify issues that need to be addressed, important information gaps and emerging environmental issues; and
   • raise public awareness of environmental issues by providing accessible and readily understandable information.

*1036 CANTERBURY HURSTVILLE RESIDENT ACTION GROUP-M5—Ms Ficarra asked the Minister for Transport and Minister for Roads—

(1) Given that the local community liaison groups for the M5 East were proposed to have between six and eight community representatives, with that for the western section covering King Georges Road to Bexley Road, why was the nomination of Mr Bernie Moore from CHRAG-M5 (Canterbury Hurstville Resident Action Group-M5) rejected?
(2) Given that CHRAG-M5 nominated Mr Don Green representing King Georges Road to Kingsgrove Road and Mr Bernie Moore representing Kingsgrove Road to Bexley Road, as well as the group being seven in membership, why couldn’t Mr Moore be accommodated in the consultation process?
(3) Given CHRAG-M5 meets all the RTA’s M5 East motorway selection criteria, why was Mr Moore rejected and yet the Riverwood Resident Action Group included?
(4) Does the latter organisation meet the RTA’s criteria, in particular, criteria Nos 1 and 2?
Answer—

(1) Canterbury Hurstville Residents Action Group-M5 (CHRAG-M5) is one of several subgroups within the larger Community Liaison Group (West) representing the area from Penshurst Road, Narwee, to Bexley Road, Bexley North. CHRAG-M5 nominated Messrs D. Green and B. Moore to the Community Liaison Group (West). However, it was necessary to limit the number of representatives on community liaison groups to a manageable size and CHRAG-M5 was asked to choose on person. CHRAG-M5 then chose Mr D. Green as its representative.

(2) See (1) above.

(3) The Riverwood Residents Action Group has one representative on the CLG (West) representing the local residents living north and south of the M5 East Motorway between Penshurst Road and King Georges Road.

(4) The Riverwood Residents Action Group meets the RTA’s criteria for membership on the CLG (West).

*1037 EPA PROSECUTION—BHP—Dr Kernohan asked the Minister for the Environment—

Is the EPA going to prosecute BHP for damage to the Cataract River and its environs at Douglas Park caused by mining?

Answer—

I am advised that the main issues of the case centre on reduction of flow in the river and therefore the EPA is not the appropriate agency to deal with this matter. The EPA will however continue to assist other agencies and lend its technical support to any agency considering this matter.

*1038 DEPARTMENT OF LAND AND WATER CONSERVATION PROSECUTION—BHP—Dr Kernohan asked the Minister for Agriculture and Minister for Land and Water Conservation—

Is the Department of Land and Water Conservation going to prosecute BHP for damage to the Cataract River and its environs at Douglas Park caused by mining?

Answer—

The Department of Land and Water Conservation is currently involved in a series of investigations and ongoing discussions with BHP and other relevant agencies concerning the degree of impact on the Cataract River attributable to mining. These investigations will also consider the need for additional environmental management provisions for mitigating any environmental impacts. The decision as to whether the Department of Land and Water Conservation will instigate prosecution proceedings against BHP for any damage caused to the Cataract River as a result of mining is dependent on the outcome of these investigations and discussions.

*1039 RESTORATION OF CATARACT RIVER—BHP—Dr Kernohan asked the Minister for Mineral Resources and Minister for Fisheries—

When will the natural environment of privately-owned properties adjoining the Cataract River at Douglas Park be rehabilitated and restored by BHP to its pre-mining condition?
Answer—

Impacts of mining requiring rehabilitation are mainly confined to the Cataract River Gorge. In this area, properties extend to the centre line of the river and include these impacted areas. The report prepared by the Cataract River Taskforce, a subcommittee of the Upper Nepean Catchment Management Committee, identified that various factors such as drought, water harvesting by Sydney Water, neighbouring rural/residential developments and subsidence caused by mining, have all impacted upon the lower section of the Cataract River below Broughton’s Pass Weir. The committee identified the provision of an environmental flow for the river as an essential prerequisite to rehabilitating the river and adjacent land.

I wish to advise also that a number of Douglas Park residents who own properties adjoining the Cataract River have received financial compensation for loss of amenity caused by mining. This was a result of a decision handed down by the Mining Warden on 27 August 1998.

RENT INCREASES—OLYMPIC GAMES—Ms Moore asked the Minister for Community Services, Minister for Ageing, Minister for Disability Services and Minister for Women representing the Attorney General, Minister for Industrial Relations and Minister for Fair Trading—

(1) What action is he taking to ensure that tenants in boarding houses and low cost hotels have rights similar to renters in the private market, particularly in the areas of appeal against eviction or rent increase, and adequate notice of eviction?
(2) How will he ensure that tenants in the private rental market will not be displaced by landlords seeking to increase rents or evict tenants?
(3) What amendments to the Residential Tenancies Act will be introduced to protect tenants from rent increases in the lead-up to and during the Olympic Games?
(4) What amendments to the Residential Tenancies Act will be introduced to protect tenants from being evicted without grounds by landlords who want to re-let properties for a higher price?
(5) What amendments to the Residential Tenancies Act will be introduced to increase the period of notice given to tenants evicted without grounds?
(6) What action has he taken to implement the recommendations of the 2000 Olympics and the Residential Tenancy Market report prepared for the Department of Fair Trading and when will these recommendations be implemented?
(7) Given that the Government has sponsored a Deed of Agreement with the Australian Hotels Association (NSW) and the Motor Inns and Motel Accommodation Association to index hotel room charges and protect Olympic tourists from excessive accommodation charges, what consideration has he given to developing similar mechanisms, such as a Deed of Agreement or Code of Practice, to protect tenants in the private rental market from excessive rent increases?

Answer—

(1) The Department of Fair Trading is currently conducting a National Competition Policy-style review to explore the desirability and feasibility of introducing legislation to provide basic protections for persons who enter into boarders and lodgers residency arrangements. This review will entail the release of an issues paper and consultation with stakeholders. The issues that the Member for Bligh has specifically referred to are being considered as part of the review. A Working Party has been formed with representatives from the Property Owners Association, Tenants Union, NCOSS, the Cabinet Office and the Departments of Urban Affairs and Planning, Health, Ageing and Disability and Fair Trading.
(2) to (5) The Residential Tenancies Act provides that landlords cannot increase rents during the fixed term of a lease and, in other situations, 60 days written notice must be given before a rent increase. In addition, tenants can apply to the Residential Tenancies Tribunal (RTT) for an order that a rent increase is excessive. In relation to termination of tenancy agreements without specifying any ground for that termination, landlords must give tenants 60 days notice. To enforce a notice of termination, the landlord must obtain orders from the RTT who may suspend or refuse to make an order for possession in cases of hardship, retaliation or remedy of a breach.

In 1997, the Department of Fair Trading commissioned research into the possible impact of the Olympics on the residential tenancy market. The report of this research, 2000 Olympics and the Residential Tenancy Market, found that there is unlikely to be a significant adverse impact on the Sydney rental market. Accordingly, the Government will not, at this stage, be amending the Residential Tenancies Act.

The Department of Fair Trading is currently reviewing the Residential Tenancies Act under National Competition Policy. Various amendments to the legislation are being considered as part of this review.

(6) As recommended in the report, the Government is taking action to detect and address any problems which may arise in the lead-up to the Olympics. This will include continuing to monitor the rental market and undertaking a landlord education campaign to dampen speculative activity and a tenant education campaign to ensure tenants are aware of their rights.

The Department of Fair Trading is currently implementing each of these initiatives and will be consulting with stakeholder groups as part of the process. With regard to rental market monitoring, stakeholder meetings have been held to discuss the methodology to be used for monitoring. The establishment of an effective monitoring system will enable the Government to respond appropriately if the need arises.

(7) The residential tenancy market is very different to the hotel and motel industry. Australia has a large number of landlords with only one property and a significant number who do not utilise the services of real estate agents in managing their properties. These characteristics, amongst others, make the use of a Deed of Agreement or Code of Practice inappropriate for this sector.

STATE ENVIRONMENTAL PLANNING POLICY NUMBER 10—Ms Moore asked the Minister for Urban Affairs and Planning and Minister for Housing—

(1) At a time when low cost boarding house accommodation is being lost due to redevelopment, what measures are being implemented to strengthen State Environmental Planning Policy Number 10 (SEPP 10)?

(2) How will he ensure that SEPP 10 will protect residents in boarding houses, given the predicted level of demand for redevelopment or conversion of boarding houses in the lead-up to the Sydney 2000 Olympics?

(3) When the Department of Housing approves developments under SEPP 10 which lead to the loss of low cost accommodation, what assistance is given to assist the displaced tenants to find alternative, affordable accommodation in the local area?

Answer—

(1) A package of amendments will come into effect shortly to make SEPP 10 more effective, consistent and responsive. This will implement the initiative included in the Government Strategy on Affordable Housing I announced in June for the Government to maintain its strong commitment to protecting existing stocks of low-cost rental accommodation.

(2) The amendments to SEPP 10 will clarify and enhance the effectiveness of the provisions it contains relating to the assessment by councils of development applications to demolish; alter or add
to the structure, fabric or finish of; or change the use of; a boarding house. These provisions require that the implications for residents are considered.

(3) The role of the Director-General of Housing in relation to SEPP 10 boarding house applications is to grant or deny concurrence. Under SEPP 10, local councils are responsible for finally approving or refusing those development applications. Councils cannot approve an application when concurrence has been denied. They can refuse any application irrespective of whether concurrence has been granted or not. The Director-General can also impose conditions of concurrence which must be reflected in any development consent issued by the council.

First and foremost, it is the responsibility of any applicant seeking approval for development to identify the impacts of their development and to propose measures to mitigate any adverse impacts. SEPP 10 requires applicants to provide written information on a number of potential impacts, including whether adequate arrangements have been made to assist the residents (if any) of the building likely to be displaced to find satisfactory alternative accommodation in the locality.

After assessing this information (and in the event that concurrence is to be granted), the Director-General may impose condition/s of concurrence requiring specific measures to protect existing residents. Depending on the circumstances of the case, these could include one or more of the following requirements:

- That a deferred commencement consent be issued requiring existing residents to be satisfactorily rehoused before the consent can be acted upon.
- Arrangements to be made with local real estate agents giving potentially displaced residents first option on any suitable rental accommodation listed by that agent.
- Payment of relocation costs, including removalist, bond and utility service reconnection fees.
- Part or full subsidisation of the rent of alternative permanent accommodation for a specified period.
- Donation to the resident of furniture in their unit belonging to the owner and payment for its relocation to the alternative accommodation.
- Providing residents with extended period of Notice to Vacate.
- Setting aside a number of units in the new development for low-rental housing for a specified period and giving existing residents first priority in allocation of such units.
- Subsidisation of part or full rent of alternative temporary accommodation during construction of the rent-capped units.
- Upgrading of rent-capped units after a specified period.
- Payment of residents’ relocation costs upon their vacation of rent-capped units.

In addition to the above requirements, the Department of Housing can help residents apply for Immediate Housing Assistance from the Department.

*1042 TAXI FLAG FALL AND ASSOCIATED FEES—Ms Moore asked the Minister for Transport and Minister for Roads—

Given that the flag fall on taxis was increased by $1 between 14 July 1996 and 1 August 1998, despite the Taxi Driver Safety report (prepared by Keatsdale Pty Ltd for the NSW Department of Transport) that concluded “introduction of these measures is unlikely to increase the flag fall on taxis by more than one cent”—

(1) What formula was used to determine the increased flag fall on taxis?
(2) What was the projected revenue from the increase?
(3) What has been the actual revenue from the increase?
(4) How much money has been spent on safety equipment to date, itemised by type of expenditure?
(5) What future expenditure on safety equipment is planned, itemised by type of expenditure?
(6) What procedures were followed prior to determination of the increased flag fall and how were these procedures designed to be free from conflict of interest?
(7) What was the relationship between the $1 flag fall rise and other increases introduced simultaneously, such as the taxi driver pay-in rise of $40 per day, the taxi network radio fee rise and the taxi green slip price rise?

(8) Since the $1 flag fall has been removed as of 1 August 1998, why have these other charges not also been adjusted?

Answer—

(1) The first stage of the Government’s reform of the taxi industry announced in 1996 was funded through a $1 increase in the taxi flagfall, which began on 1 July 1996. This extra $1 went directly to the taxi industry to assist the capital-intensive hurdle involved with the reforms, in terms of installing driver protection screens, Global Positioning Systems, driver uniforms and new roadworthiness assurance arrangements. The achievements brought about through the success of the taxi reform package included:

• smoke-free taxis since August 1996;
• higher standards for roadworthiness, vehicle maintenance, and cleanliness since August 1996;
• taxi drivers in uniform since January 1997;
• Global Positioning Systems fitted to taxis since July 1997 to improve driver safety;
• driver protection screens as of 31 July 1998, for taxis where a screen has been developed;
• a taxi users’ charter of rights since July 1998; and
• air-conditioning as of 1 July 1998 which must be turned on at a passenger’s request.

This year will also see all taxis having to be presented in distinctive network livery by 1 July 1999. This will make it easier for taxi customers to clearly identify which network a particular taxi belongs to and therefore make complaints easier to resolve. As part of the Department’s commitment to improving total service for taxi customers, the Department of Transport has extended the hours of the taxi complaints hotline, to make it easier for taxi customers to report incidences of poor service or driver misbehaviour.

Driver training has also been improved through the introduction of the new comprehensive taxi driver curriculum in February this year. The curriculum is accredited as a nationally recognised course and can only be delivered by training organisations that are registered through the nationally agreed process. More training schools will soon be added to the list of approved training providers to ensure that new trainee taxi drivers have a wide choice of schools. Importantly, the stronger customer focus and comprehensiveness of the new curriculum is such that taxi drivers must now have a level of English competency appropriate to workers in the hospitality industry.

To improve service availability for people with disabilities, the Government commenced the release of 400 wheelchair accessible taxi licences—20 per month for 20 months—in August 1998. The new licences are being issued for a term of 6 years and are subject to strict performance-based conditions. The taxis are required to be “in-service” for 20 hours a day, 7 days a week, and drivers are not permitted to change shifts between 12 noon to 5 p.m. They are obliged to give priority bookings by people in wheelchairs, and are not permitted to decline electronic bookings for people in wheelchairs. In addition to this 100 peak availability licences are being issued to further address the shortage of taxis available for hire in peak periods. Like the 400 new accessible taxis these new licences are also subject to strict operating criteria.

The public are benefiting from the new charter of rights that is on display in all taxis, and taxi drivers have been given pocket guide informing them of their rights and responsibilities towards customers. The Government is working steadily to reform the provision of taxi services to the community and significant benefits are already in place. Taxi drivers, operators and networks, and their respective representative bodies have made worthwhile contributions to assist the Government in bringing about the reforms, and these contributions are appreciated. Effective reform takes time, effort and commitment and can only be achieved through a planned, strategic series of policy initiatives that have the public interest as their overriding focus.
(2) Please refer to answer to question (1).
(3) Please refer to answer to question (1).
(4) Please refer to answer to question (1).
(5) Please refer to answer to question (1).
(6) Please refer to answer to question (1).
(7) Please refer to answer to question (1).
(8) Please refer to answer to question (1).

*1043 POLICE CONTACT—MEMBER OF THE LEGISLATIVE COUNCIL—Mr O’Farrell asked the Minister for Police—

(1) Did Detective Superintendent John Woodhouse contact a Member of the Legislative Council (other than the Attorney General) and advise that Judge Philip Ronald Bell was to be:
   (a) interviewed and/or
   (b) charged by police
before either event actually occurred?
(2) If so, why?
(3) Which member?

Answer—

(1) to (3) I refer the honourable member to the conventions of the Parliament concerning sub judice.

*1044 NORMAL POLICE PRACTICE—DPP ADVICE—Mr O’Farrell asked the Minister for Police representing the Attorney General, Minister for Industrial Relations and Minister for Fair Trading—

(1) Is it normal practice for police investigating child sexual assault cases which may be termed “stale” to seek Director of Public Prosecutions advice before charges are laid?
(2) Did this occur in the case of Judge Philip Ronald Bell?
(3) If not, why not?

Answer—

(1) to (3) I refer the honourable member to the conventions of the Parliament concerning sub judice.

*1045 MEDIA ALERTED—JUDGE BELL—Mr O’Farrell asked the Minister for Police representing the Attorney General, Minister for Industrial Relations and Minister for Fair Trading—

(1) (a) Has he ordered an investigation into how media were “tipped off” about Judge Philip Ronald Bell’s visit to NSW Police on Friday 30 October 1998?
   (b) If so, who is undertaking the investigation?
   (c) When is the investigation expected to be completed?
(2) If not, why not?
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Answer—

(1) and (2) I refer the honourable member to the conventions of the Parliament concerning sub judice.

11 NOVEMBER 1998

(Paper No. 65)

*1046 PUBLIC HOUSING—RESIDENTIAL TENANCIES TRIBUNAL—Mr Debnam asked the Minister for Urban Affairs and Planning and Minister for Housing—

By region, how many cases of illegal or anti-social behaviour were taken to the Residential Tenancies Tribunal by the Department of Housing for each of the following time periods:

(a) 1 July 1995 to 30 June 1996?
(b) 1 July 1996 to 30 June 1997?
(c) 1 July 1997 to 11 November 1998?

Answer—

The diversion of public resources necessary to answer this question is not justifiable.

*1047 PUBLIC HOUSING—MAINTENANCE—Mr Debnam asked the Minister for Urban Affairs and Planning and Minister for Housing—

By region, what percentage of maintenance jobs were completed within the Department’s target timescales for each request priority—

(i) urgent (immediately or within 24 hours);
(ii) priority (within 7 days of receipt of works order); and
(iii) normal (within 21 days of receipt of works order),

for each of the following time periods:

(a) 1 July 1995 to 30 June 1996?
(b) 1 July 1996 to 30 June 1997?
(c) 1 July 1997 to 11 November 1998?

Answer—

The diversion of public resources necessary to answer this question is not justifiable.

*1048 DRUG AND ALCOHOL SERVICES—Ms Ficarra asked the Deputy Premier, Minister for Health and Minister for Aboriginal Affairs—

(1) Given the Intoxicated Person Act and current under-resourcing for drug and alcohol services within metropolitan Sydney, why has treatment of persons suffering from long-term alcohol abuse been unsuccessful at the Albion Street Lodge and other such centres?
(2) Why are there no facilities for detoxification for periods of up to 3 months?
(3) How can the community provide assistance for a homeless male, based in Riverwood, suffering from alcohol dependence?
Answer—

(1) I am advised by the South Eastern Sydney Area Health Service that the Albion Street Lodge and similar establishments are designated Proclaimed Places under the Intoxicated Persons Act. As it is no longer an offence to be intoxicated in public, the use of Proclaimed Places is a welfare initiative to ensure that intoxicated people are removed from the streets and protected from harm. These facilities provide a place of safety for intoxicated persons for a period of up to 8 hours. Because the duration of stay at Proclaimed Places is very short, no formal treatment is provided on site, but referrals are made to both detoxification services and other drug and alcohol treatment facilities.

(2) Within New South Wales, there is a range of services offering inpatient, outpatient and home detoxification. The length of treatment at these facilities depends on such factors as the type of drug used by the patient, the length of use and individual physical characteristics. Generally speaking, treatment lasts from between 5 days and 2 weeks. Almost without exception, the physiological process of detoxification is complete within this time. Because detoxification is merely the first step in ceasing drug use, patients have access to a range of follow-up services, including group therapy and individual counselling.

(3) Referral of this person can be made to the alcohol and other drugs counsellor at the Peakhurst Community Health Centre. A person in need of medical treatment can be transported by police or community workers to the Emergency Department of the St George Hospital. The patient will be assessed and treated appropriately by attending doctors and, if required, admitted for ongoing treatment of his physical condition. If the patient wished assistance in obtaining accommodation, the hospital’s allied health staff would contact the Department of Housing and the Department of Community Services on his behalf. In cases where there is a concurrent mental health issue, the alcohol and other drug services work collaboratively with the district’s acute care mental health services. Where treatment can be arranged by involuntary admission, staff of both services work together to produce the best outcome for the individual. Where there is no mental illness present, treatment for the substance use must be voluntary. Should a homeless person who misuses alcohol wish to voluntarily enter a treatment facility, counselling staff are able to refer the person directly to a number of facilities. If transport is required, arrangements can be made to escort the person to the facility.

*1049 COUNSELLORS—DRUG AND ALCOHOL SERVICES—Ms Ficarra asked the Deputy Premier, Minister for Health and Minister for Aboriginal Affairs—

(1) Why are there no counsellors or facilitators for males under Drug and Alcohol Services at Peakhurst Health Centre, Stanley Street, Peakhurst?

(2) How can local police or local community workers provide medical attention for a well-known Riverwood-based homeless person who has for many years suffered from alcohol abuse?

(3) What avenues of treatment exist for such a person?

Answer—

(1) I am advised by the South Eastern Sydney Area Health Service that there has been an alcohol and other drug counselling service at Peakhurst Community Health Centre for more than 10 years. The staff member based at Peakhurst has been in that position since 1993. The Area has advised that during that time no client has requested a gender-specific counsellor while attending the Peakhurst Community Health Centre.
The St George Hospital and Community Health Services has in place a referral system so that persons requesting a gender-specific counsellor can be referred to an alcohol and other drugs counsellor within the district services.

(2) A person in need of medical treatment can be transported by police or community workers to the Emergency Department of the St George Hospital. The patient will be assessed and treated appropriately by attending doctors and, if required, admitted for ongoing treatment of his physical condition.

If the patient wished assistance in obtaining accommodation, the hospital’s allied health staff would contact the Department of Housing and the Department of Community Services on his behalf.

(3) In cases where there is a concurrent mental health issue, the alcohol and other drug services work collaboratively with the district’s acute care mental health services. Where treatment can be arranged by involuntary admission, staff of both services work together to produce the best outcome for the individual. Where there is no mental illness present, treatment for the substance use must be voluntary.

Should a homeless person who misuses alcohol wish to voluntarily enter a treatment facility, counselling staff are able to refer the person directly to a number of facilities. If transport is required, arrangements can be made to escort the person to the facility.

*1050 POLICE ASSISTANCE—INTOXICATED PERSON ACT—Ms Ficarra asked the Minister for Police—

(1) How successful is the Intoxicated Person Act in enabling police officers to provide assistance to persons suffering from alcohol dependence, that is, long-term alcoholics?

(2) Problems have been encountered with a well-known Riverwood homeless male who has been suffering for many years and yet is unable to be adequately rehabilitated; what avenues are available to Hurstville Local Area Command police officers to handle such a situation?

Answer—

(1) and (2) The Intoxicated Persons Act 1979 empowers police to detain an intoxicated person if the person’s behaviour is disorderly, if the person is likely to cause injury or damage, or if the person is in need of physical protection because of incapacity due to intoxication.

Questions concerning rehabilitation for persons suffering from alcohol dependence are more appropriately directed to the Ministers responsible for health and welfare services respectively.

*1051 TANGARA DERAILEMENT—CONCORD WEST—Dr Kernohan asked the Minister for Transport and Minister for Roads—

Why hasn’t the result of the multi-departmental enquiry into the Tangara derailment at Concord West on 9 June 1998 been made public as the public has the right to know what caused the loss of a $16 million train?

Answer—

The inquiry panel has only recently submitted its draft report to the Department of Transport for review and consultation with the railways concerned.
PERMANENT POLICE STATION—LENNOX HEAD—Mr D. L. Page asked the Minister for Police—

(1) How many cars are normally available for police on duty in the Ballina, Lennox Head, Alstonville, and Wardell areas between the hours of 6 p.m. and 6 a.m. on each day of the week?
(2) Is he of the view this level of car availability is sufficient to provide an appropriate policing service in these areas at these particular times?
(3) Given the population growth of Lennox Head of 7.4 per cent from 1991 to 1996 to a figure of 3,874 in 1996, does he agree that this population justifies a permanent police station at Lennox Head?
(4) Will he begin planning immediately to build a permanent police station for Lennox Head?

Answer—

(1) to (4) Rostering is a matter for the Local Area Commander and varies according to need. I am advised by the Assistant Deputy Commissioner that current police resources are sufficient to provide appropriate policing services.

12 NOVEMBER 1998

(Paper No. 66)

HURSTVILLE CITY COUNCIL—TRANSPORT STUDY—Ms Ficarra asked the Minister for Transport and Minister for Roads—

What awareness and co-operation exists between the RTA, State Rail and Hurstville City Council during the process of the council’s Parking, Traffic and Public Transport Study of the Hurstville CBD by Jacana Consulting?

Answer—

The former State Rail Authority did have some input into earlier studies by Jacana Consulting.
The RTA has been kept informed of the progress of the study through its representative on the local Traffic Committee.

ROAD WORK PRIORITY—KINGSGROVE ROAD—Ms Ficarra asked the Minister for Transport and Minister for Roads—

(1) What timeframe, costing and type of work is planned for widening of the Kingsgrove Road, Kingsgrove, overbridge at Kingsgrove Rail Station?
(2) Given the volume of traffic using the site, what priority is given by the RTA and CityRail/State Rail to these road works?

Answer—

(1) and (2) Rail Access Corporation (RAC) advises that the proposed work on the Kingsgrove overbridge is part of the East Hills line amplification project. This project will see the current two tracks between Turrella and Kingsgrove amplified to four tracks. The Kingsgrove bridge will be lengthened at a cost of approximately $2.5 million to accommodate four tracks. RAC is currently doing design analysis and geotechnical investigations and it is anticipated that work on the Kingsgrove bridge will be completed by the end of 2001.
ROAD WORKS—KING GEORGES ROAD—Ms Ficarra asked the Minister for Transport and Minister for Roads—

(1) When will the road works at King Georges Road and Stoney Creek Road, Beverly Hills, be completed?
(2) When will road widening to King Georges Road through Beverly Hills and Penshurst be completed?
(3) What are the timeframes and details of further road works to King Georges Road?

Answer—

(1) The intersection upgrading work is scheduled to be opened to traffic on 11 December 1998.
(2) The desirability of upgrading King Georges Road to provide a six-lane divided carriageway between Beverly Hills and South Hurstville is recognised. Proposals for the work include the grade separation of the King Georges Road/Hillcrest Avenue intersection. The timing for the work will be dependent upon the future availability of funds and at this stage it is not possible to indicate a completion date for the project.
(3) There are no additional major upgrading works currently programmed for King Georges Road.

WASTE CATEGORIES—Ms Ficarra asked the Minister for the Environment—

(1) What is the official definition of “quarantine waste”? 
(2) What categories of waste are in force currently and do they allow adequate flexibility in terms of regulatory and legal follow-up, in particular by local government authorities?

Answer—

(1) Generally, the EPA regards any imported materials requiring disposal which are subject to the Quarantine Act 1908 and Regulation as quarantine waste. The working definition of Quarantine Waste is contained in the Environmental Guidelines: Assessment, Classification and Management of Non-Liquid Wastes (Waste Guidelines) for the purposes of the Waste Minimisation and Management Regulation 1996 and is reproduced as follows:

“Quarantine Waste: Examples include: waste generated during an aircraft or ship journey outside Australia, and also materials that originate from Australia and are brought back into the country on the return journey. Quarantine waste also includes unwanted material that is attached to imported goods (for example soil), as well as contaminated articles of clothing or other materials produced during the removal of the unwanted goods.”

(2) The Waste Minimisation and Management Regulation 1996 (Waste Regulation) recognises four types of waste: “inert waste”, “solid waste”, “industrial waste” and “hazardous waste”. Schedule 1 to the Waste Regulation identifies how specific types of waste fit into these categories and also specifies that any waste types not identified in the Schedule must be assessed and classified in accordance with the provision of the Environmental Guidelines: Assessment, Classification and Management of Non-Liquid Wastes (EPA 1997). The Waste Regulation also prescribes the manner in which waste must be managed and whether generators, transporters, processors and disposers of waste are required to be licensed.
QUESTIONS AND ANSWERS
Tuesday 9 February 1999

*1057 STAFF CUTS—OATLEY RAILWAY STATION—Ms Ficarra asked the Minister for Transport and
Minister for Roads—

(1) Why has Oatley Railway Station been unmanned in the afternoons during both weekdays and
weekends?
(2) Why these staff cuts?
(3) What do commuters do if they need assistance or emergency aid?

Answer—

(1) Oatley Station is staffed from 6.30 a.m. until 6 p.m. on weekdays and from 7 a.m. until 11 a.m.
on weekends.
(2) CityRail has recently reviewed its station staffing levels across the rail network with the view of
ensuring that a high level of customer service is provided in the most efficient manner.
(3) Closed-circuit television cameras (CCTV) provide security monitoring 24 hours a day on
Oatley Station and security guards are posted on every CityRail train from 7 p.m. until the last service
every night.

*1058 HURSTVILLE-BURWOOD-STRATHFIELD RAIL LINK—Ms Ficarra asked the Minister for
Transport and Minister for Roads—

What priority does he place on the Hurstville-Burwood-Strathfield rail link with the daily JTW public
transport loading of over 60,000 and the potential of enhancing services for the inner western suburbs
of Sydney?

Answer—

Action for Transport 2010 sets out a comprehensive transport plan for Sydney for the next 10 years.
It features, among many other things, two major commitments to public transport: firstly, a
commitment to spending an average of $300 million per year to 2010 on new rail lines and, secondly,
the development of a comprehensive rapid bus-only transitway network in western Sydney.
The Hurstville rail line is included in this plan. As with all new projects, feasibility and detailed
design studies will be required. It is anticipated that construction on the link will commence in the
year 2010 with the anticipated completion date 2014.
The comprehensive package of new public transport initiatives and the funding approach will ensure
that the public transport needs of Sydney’s residents are addressed.

*1059 CORRESPONDENCE—BELROSE OPEN SPACE CORRIDOR ASSOCIATION—Mr
Humpherson asked the Minister for Urban Affairs and Planning and Minister for Housing—

(1) Could he please advise when he will provide a response to a letter dated 24 September 1998 to
him from the Belrose Open Space Corridor Association regarding a DUAP proposal to rezone the
former road corridor?
(2) Could he please advise when a response will be provided to a letter dated 7 September 1998 to
the Manager, Sydney North Planning Branch, DUAP, from the Belrose Open Space Corridor
Association regarding the DUAP proposal to rezone the former road corridor?

Answer—

(1) A letter was issued by the Executive Officer of the Department of Urban Affairs and Planning
on behalf of the Minister on 3 December 1998.
(2) A letter was issued by the Regional Director, Sydney Region East Office, on 24 November 1998.

*1060 UNANSWERED CORRESPONDENCE—Mr Humpherson asked the Minister for Sport and Recreation—

(1) Is she aware that I wrote to her on behalf of Ku-ring-gai Council on 5 January 1998?
(2) Is she aware that following an acknowledgment (RML:13577) I have not received a substantive reply to my representations?
(3) Is she aware that I have sent follow-up reminder notices on 10 February, 11 March, 31 March, 13 May, 29 May, 18 June, 13 July and 3 August 1998 to no avail?
(4) Will she please advise if I am to receive a reply to these representations?

Answer—

(1) Yes.
(2) Yes, department officers have brought it to my attention that due to an administrative oversight a reply had not been forwarded. However, I would point out that the same representations on behalf of Ku-ring-gai Council were received through Mr Stephen O’Doherty, M.P., Member for Ku-ring-gai. In a response provided to Mr O’Doherty on 6 February the concerns of council were addressed.
(3) I have been advised that there is no record of receiving reminder notices from you in relation to this matter in either my office or my Department.
(4) A reply has now been sent to your representations.

*1061 RAIL SECURITY—HORNSBY STATION—Mr O’Doherty asked the Minister for Transport and Minister for Roads—

(1) Did rail security guards decline to directly assist a rail passenger, who was attacked at Hornsby Station, on the rationale that as the attack occurred outside the ticket barrier it was not their jurisdiction?
(2) Will he conduct a full and open inquiry into all aspects of this incident and report the results to my electorate?
(3) What action will he take to protect all citizens in the vicinity of Hornsby Station?

Answer—

(1) No. On-train security guards separated the parties and reported the incident to police.
(2) The matter has been referred to police. Security guards arranged for police to be contacted when made aware of the incident and a second team of guards chased the alleged attackers, but could not catch them. No further investigation is warranted.
(3) Hornsby Station is a designated Safe Station and is manned 24 hours, has closed-circuit television and security patrols.

*1062 KISSING POINT ROAD/PACIFIC HIGHWAY CONSTRUCTION—Mr O’Farrell asked the Minister for Transport and Minister for Roads—

(1) When does the RTA propose to reconstruct the intersection at Kissing Point Road/Pacific Highway, Turramurra, to provide for two right-turn lanes and one left-turn lane from Kissing Point Road onto the highway?
(2) What is the estimated cost of the project?
Answer—

(1) The allocation of funds for upgrading works is determined on a statewide objective priority basis. At this stage, a number of other works have higher priorities and it has not been possible to include this particular work in a current works program.
(2) The estimated cost is $160,000.

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*1063 ADDITIONAL TEACHER AIDE RESOURCES—Ms Ficarra asked the Minister for Education and Training and Minister Assisting the Premier on Youth Affairs—

What is his response to the requests by many school council bodies for additional teacher aide resources as well as resources for children with special needs?

Answer—

Significant resources have been provided to special education since 1994/95. An unprecedented additional $71 million has been allocated to special education increasing the annual budget from $328 million to $399 million.

All schools for specific purposes and special classes in regular schools have been allocated teachers and school administrative and support staff for 1999 in accordance with the existing formula. Where a special case is demonstrated, the Department of Education and Training allocates supplementary resources.

*1064 KINGSGROVE STATION AND M5 EAST PROJECTS—Ms Ficarra asked the Minister for Transport and Minister for Roads—

What consideration has he given to the amplification of the East Hills railway line at Kingsgrove Station and the M5 East project at the same location being under construction simultaneously in order to minimise disruption to the local area?

Answer—

The Rail Access Corporation (RAC) and the RTA will prepare a co-ordinated management strategy prior to commencing the amplification works. The draft consent on the amplification work is currently being finalised by the Department of Urban Affairs and Planning and includes a requirement that such a strategy be developed to minimise the cumulative impacts of the two projects.

*1065 M5 AND M5 EAST—LOCAL COUNCIL CONCERNS—Ms Ficarra asked the Minister for Transport and Minister for Roads—

What is his response to the following concerns regarding the M5 and M5 East by Hurstville, Rockdale and Canterbury Councils:

(a) The final design and safety aspects of the pedestrian and cycleway underpasses?
(b) Final design and selection of materials for the soundwalls, mounding and treeplanting?
(c) The landscaping “gateway” treatment at King Georges Road given Interlink’s capacity expansion works?
(d) The effects of the widening of the existing M5 prior to the opening of the M5 East?
(e) The need to monitor ongoing traffic impacts on the surrounding residential areas to the M5 East?
(f) The height of the motorway over Kingsgrove Road?
(g) Noise generated by the tunnel ventilation stack?
(h) Details of the filtration system from the stack?
(i) Baseline and ongoing air quality monitoring in relation to the stack?
(j) Pollution at tunnel entry/exit portals?
(k) The need to identify safe dangerous goods routes?

Answer—

(a) Principles and guidelines to be adopted in the detailed design of the pedestrian/cycleway underpasses were included in the M5 East contractor’s Urban Design and Landscaping and Master Plan for the project. These principles and guidelines addressed issues raised by the three councils and at community liaison meetings which included the safety of pedestrians and cyclists.

The master plan has been submitted to the Department of Urban Affairs and Planning (DUAP) for approval. On receipt of approval, the contractor will commence detailed design of the underpasses. Councils and the community will continue to be consulted as the design is developed.

(b) As in (a) above, principles and guidelines for design and materials selection for noise walls, noise mounds and landscaping have been developed in consultation with the councils and community liaison groups and are included in the Urban Design and Landscaping Master Plan.

The detailed design process relating to noise barriers/landscaping will commence following the approval of the Urban Design and Landscaping Master Plan. Councils and the community will continue to be consulted as the design is developed.

(c) The principles and guidelines for gateway treatment at the King Georges Road Interchange are also included in the Urban Design and Landscaping Master Plan. Initial discussions have been held with the operators of the existing M5, Interlink Roads, to co-ordinate the landscape treatment between the existing M5 Motorway and the M5 East.

(d) The current number of lanes available at the M5/King Georges Road intersection will not change when the widened section of the motorway between Fairford Road and King Georges Road is opened to traffic. Therefore, it is unlikely that traffic volumes will be significantly altered during peak periods. Nevertheless, the RTA will monitor traffic patterns in the area following the opening of the widened section intended in late 1999.

(e) Traffic volumes will be monitored in surrounding local streets following the opening of the M5 East.

(f) The motorway bridge over Kingsgrove Road will be approximately 6.5 metres above the existing road.

(g) The ventilation stack will be designed to comply with requirements regarding noise restrictions as stipulated in the Conditions of Approval for the project laid down by the Minister of Urban Affairs and Planning as well as in the Environment Protection Authority’s (EPA) licence. In addition, noise levels will be monitored following the opening of the M5 East to ensure the requirements are met.

(h) The Conditions of Approval require that the ventilation design provides for future installation of treatment systems if so required by DUAP.
(i) A comprehensive air quality monitoring network will be installed, including dedicated stations in the Turrella and Undercliffe areas. The location of monitoring stations will be developed in consultation with the EPA and the Air Quality Consultative Committee. “Baseline” air quality monitoring will commence 6 months prior to the opening of the M5 East and will continue thereafter.

(j) The ventilation system will be designed to minimise air emissions through the tunnel portals.

(k) Vehicles transporting dangerous goods will generally continue to use existing routes. The RTA will review these routes prior to the opening of the M5 East. The transport of dangerous goods through the M5 East tunnel will not be permitted.

*1066 RETIREMENT VILLAGE INDUSTRY—CODE OF PRACTICE REGULATION—Ms Moore asked the Minister for Community Services, Minister for Ageing, Minister for Disability Services and Minister for Women representing the Attorney General, Minister for Industrial Relations and Minister for Fair Trading—

Given the recent legal proceedings in which the Department of Fair Trading supported the residents of The Heritage Retirement Village, Padstow Heights—

(1) How will he ensure that the mandatory Retirement Village Industry Code of Practice Regulation achieves the aim of providing full managerial and financial accountability to residents of retirement villages?

(2) What action will he take to ensure that the mandatory Retirement Village Industry Code of Practice Regulation is legally binding?

(3) What is the current status of the Department of Fair Trading’s review of the retirement village industry and what are its findings in relation to the mandatory Retirement Village Industry Code of Practice Regulation?

Answer—

(1) The Retirement Village Industry Code of Practice Regulation 1992 provides for resident input into the management of retirement villages and for residents to be consulted with and their agreement obtained to the annual operating budget for the village.

These provisions have been reinforced by recent amendments to the code, the Retirement Villages Act 1989 and the Fair Trading Act 1987 which commenced in September 1998. Disputes between residents and management over budgets are now able to be referred to the Residential Tenancies Tribunal for resolution. The tribunal will be able to limit fee increases for up to 12 months and approve what it considers to be fair and reasonable budgets. The tribunal can also make recommendations to parties involved in disputes and give procedural directions to facilitate agreements. This should ensure that lengthy and costly disputes over budgets will no longer occur. The future resolution of budget disputes, where they arise, will be less expensive and less distressing especially for elderly people. In addition, a resident (or any other person), with the approval of the Director-General of the Department of Fair Trading, is now able to apply directly to the Commercial Tribunal for an order in respect of any contravention of the Code of Practice.

(2) The NSW Court of Appeal concluded, in the Heritage case, that the effect of the Code of Practice is to provide a basis for the imposition of restrictions and to give effect to residents’ rights by way of an undertaking or order, as provided by the Fair Trading Act 1987. The court found that until an undertaking or order is obtained, the village operator is entitled to enforce residence contracts according to the terms of those contracts.
Advice obtained by the Department of Fair Trading has indicated that while findings of the Court of Appeal may place an increased burden on the Department in seeking undertakings and orders under the Fair Trading Act, the findings do not invalidate the code. Nevertheless, the decision of the Court of Appeal does again raise the general issue of the effectiveness of Codes of Practice as a method of regulation.

The recently completed “Review of Regulation of the NSW Retirement Village Industry” examined in some detail a range of possible future regulatory options for the industry. The Government intends to act upon the report’s recommendations with the aim of strengthening the rights of residents and maintaining the long-term viability of the industry.

(3) It is expected that the report on the “Review of Regulation of the NSW Retirement Village Industry” will be released shortly. As indicated above, the report does address the issue of future regulation of the industry including the appropriateness (or otherwise) of continuing the present system of regulation which utilises the mandatory Retirement Village Industry Codes of Practice Regulation 1995 under the Fair Trading Act 1987.

The findings in relation to the Code of Practice will be announced on release of the report.

*1067 DEPARTMENT OF FAIR TRADING SUMMONSES—Mr Turner asked the Minister for Community Services, Minister for Ageing, Minister for Disability Services and Minister for Women representing the Attorney General, Minister for Industrial Relations and Minister for Fair Trading—

(1) Does section 38D (2) (a) of the Property, Stock and Business Agents Act 1941 require a licensee to cause the books, papers and accounts and other documents relating to any monies held during the year in a trust account kept by the licensee to be audited by a person qualified under section 38E to act as an auditor?

(2) (a) How many summonses has the Department of Fair Trading issued alleging a breach of section 38D (2) (a) of the Property, Stock and Business Agents Act 1941 for the financial year ended 30 June 1997?

(b) Who approved the swearing and service for such summonses?

(3) In how many of those prosecutions did officers of the Department of Fair Trading, before such summonses were issued, first carry out inspections under section 38B of the said Act of any trust account books and records which may have been kept by the defendant licensees so as to ascertain whether or not any breaches of section 38D (2) (a) of the said Act may or may not have occurred?

(4) How many summonses issued by the Department of Fair Trading alleging a breach of section 38D (2) (a) of the Property, Stock and Business Agents Act 1941 for the financial year ended 30 June 1997 have either been withdrawn, discontinued or no evidence offered by the informant to the court?

(5) If any, why were such summonses either withdrawn, discontinued or no evidence offered by the informant to the court?

(6) Does the Department of Fair Trading maintain records of the previous history of a licensee’s lodgement of either an audit return or a statutory declaration?

(7) Was such history of licensees previously lodging either audit returns or statutory declarations reviewed prior to the issue of any summons against licensees for the year ended 30 June 1997 under section 38D (2) (a) of the Property, Stock and Business Agents Act 1941?

(8) If not, why not?

(9) (a) Were any licensees issued with a summons under section 38D (2) (a) of the said Act who had a history of previously lodging a statutory declaration and not an audit return?

(b) If so, how many such licensees were summoned?

(10) Did the Director-General of the Department of Fair Trading or his delegate swear the information contained in the summonses to be correct?

(11) Who is the person or persons responsible for ensuring that all information contained in such summonses is correct?
(12) Is it inappropriate to swear information contained in the summonses to be correct when there is either no evidence of any such offence or where there has been no proper investigation conducted to determine whether or not any offence has been committed?
(13) If so, what action is he taking to reprimand the person or persons who issued the summons and to ensure that licensees are not prosecuted in future where no offence was ever committed?
(14) What has been the total cost to the Department of Fair Trading and New South Wales taxpayers in the issuing of summonses under section 38D (2) (a) of the said Act which were subsequently withdrawn?
(15) What has been the cost to all of the licensees who were served with summonses under section 38D (2) (a) which summonses were subsequently either withdrawn, discontinued or no evidence offered by the informant to the court?
(16) Have such prosecuted licensees been financially compensated by the Department of Fair Trading?
(17) If not, why not?
(18) Are there any more summonses sworn by the Director-General of the Department of Fair Trading or his delegate presently pending before the local court at 323 Castlereagh Street, Sydney, alleging breaches of section 38D (2) (a) of the Property, Stock and Business Agents Act 1941 by defendant licensees for the financial year ended 30 June 1997?
(19) Are there any more outstanding summonses presently pending before the local court alleging breaches of section 38D (2) (a) of the Property, Stock and Business Agents Act 1941?
(20) Is it now proposed that all such outstanding summonses be withdrawn or should not proceed?
(21) As he informed the House on 22 October 1998, “… the Department does not issue summonses for the non-lodgement of statutory declarations by agents as it is not an offence to fail to do so”, how many of the defendants against whom summonses were issued and subsequently withdrawn, and who were prosecuted under section 38D (2) (a) of the Property, Stock and Business Agents Act 1941 for the financial year ended 30 June 1997, had not lodged statutory declarations with the Department at the time that the summonses were filed in court?
(22) If, as he correctly stated to the House, “… it is not an offence to fail to lodge a statutory declaration with the Department of Fair Trading”, why and on what evidence were those licensees ever prosecuted at all, bearing in mind the standard of proof required in all such prosecutions?

Answer—

(1) Yes.
(2) (a) The Department issued 254 summonses.
(b) There is no requirement under the Property Stock and Business Agents Act 1941 for the swearing and service of summonses to be approved. The summonses were sworn by the manager of the Real Estate Investigations Branch of the Department.
(3) None. The procedure followed prior to 1995 was that agents who had previously submitted an audit return, but who had failed to submit a return for the relevant year and had not lodged a statutory declaration, were contacted by telephone to establish whether they had traded during the relevant period and had held trust moneys. From 1995 the procedure was to send a letter which reminded agents of their obligations and warned that prosecution proceedings would be instituted if no information was provided by the agent.
(4) The Department withdrew 120 summonses. However, due to the fact that the Department prosecutes sole agencies, corporations and directors for breaches, this number represents the withdrawal of prosecution against 73 agency businesses.
(5) 79 summonses were withdrawn due to the receipt of statutory declarations from licensees affirming that they had not held trust moneys in the financial year. 41 summonses were withdrawn following representations by licensees to the Department regarding the circumstances of their non-compliance with the legislation, for example, illness, age, sale of the business, or error by the licensee which was later corrected.

(6) Yes.

(7) Yes.

(8) Not applicable.

(9) (a) No.

(b) Not applicable.

(10) No. There is no requirement in the Property Stock and Business Agents Act 1941 for a specific person to authorise the issue of a summons.

(11) The Department’s external solicitors, Leitch, Hasson & Dent who conducted the outsourced prosecutions for the Department. They prepared the information and summonses based on the information provided to them by the Department thereby confirming it was appropriate to proceed with the matters.

(12) Refer to (11) above.

(13) Staff disciplinary matters, if appropriate are the responsibility of the Director-General of the Department. However, it should be noted that departmental officers have performed the duties required of them in enforcing the Act and protecting consumers’ trust money.

(14) The legal costs of the Department relating to the withdrawal of the summonses by the outsourced solicitor amounted to approximately $73,450.

(15) Not able to be determined. No agent has ever claimed or been awarded compensation by the court.

(16) No.

(17) No agent has claimed for compensation or costs in any prosecution. This situation has been assisted by the Department’s external solicitor offering defendants assistance to present representations to the court; to seek adjournments where necessary, and deal promptly with all matters, thus reducing or eliminating costs to persons summoned.

(18) No summonses were sworn by the Director-General or his delegate. Any outstanding matters have been “stood out of the list” pending review.

(19) Yes. 45 summonses have been stood out of the court list.

(20) No. Each of these matters is being examined and licensees contacted to clarify the position of their trust accounts and reasons for non submission of the audit report if it was required. If appropriate, the matter can be again placed before the court.

(21) At the time summonses were filed in court, all of the prosecuted agents had omitted to lodge statutory declarations with the Department to indicate they had not operated a trust account.

(22) In all of the cases, the agents had not availed themselves of the provisions of section 38D (6) of the Act to indicate to the Department that they had not received trust moneys during the financial year ended 30 June 1997. All agents were prosecuted for a breach of section 38D (2) (a) of the Act. The provisions of section 38D (6) provided a mechanism to satisfy the requirements of section 38D (2). Prior to the consideration of prosecution of agents, agents who, because of their lodgement of an audit return or statutory declaration the year before, had been written to by the Department asking them to comply with the requirements of section 38D (2) of the Act. The subsequent non-respondents were prosecuted after having been given approximately 9 months since 30 June 1997 to comply with the requirements of the legislation. The Department uses the provisions of section 38D to determine trust account defalcation and ensure public trust in the operation of the real estate industry. All agents are aware of their responsibilities under the legislation but chose for some reason not to comply. The Government has now amended the Property Stock and Business Agents Act 1941 to require every licensee to lodge either audited reports or a statutory declaration depending in their circumstances.

25 NOVEMBER 1998
ST GEORGE HOSPITAL EMERGENCY DEPARTMENT—Ms Ficarra asked the Deputy Premier, Minister for Health and Minister for Aboriginal Affairs—

(1) On what specifics was the recently announced $985,000 “enhancement” funding for St George Hospital’s Emergency Department allocated?
(2) Were any additional Emergency Department beds opened as part of this enhancement?
(3) Were any additional in-patient beds opened or did the money open beds that had previously been closed due to budgetary constraints?
(4) Were only 11 medical beds reopened out of the 20 medical beds that had previously been closed?
(5) How many beds were opened for the Winter Bed Strategy?
(6) How long were they opened?
(7) When did this strategy end?
(8) Is it a strategy that occurs yearly?
(9) Is this strategy funded from the hospital’s budget?

Answer—

(1) Enhancement money was used to provide extra beds, staffing, and goods and services.
(2) Yes.
(3) Six Division of Medicine beds were funded from the Emergency Department enhancement.
(4) No.
(5) 41.
(7) 30 September 1998.
(8) Yes.
(9) Yes.

EDUCATION DEPARTMENT—WORKS PROGRAM—Ms Ficarra asked the Minister for Education and Training and Minister Assisting the Premier on Youth Affairs—

When will funds be allocated for the following:
  (a) Sealing of gravel/dirt carpark at Peakhurst High School?
  (b) Construction of hall for Kingsgrove High School?

Answer—

(a) Peakhurst High School has a sealed car park in accordance with the provision of the Department of Education and Training’s Secondary School Facilities Standard. The unsealed area referred to is used for overflow parking. This area was created by the school. At this stage the Department has no plans to seal this section of the school site used for overflow parking.
(b) Kingsgrove High School already has a Multi Purpose Centre which incorporates a large stage, hall area, toilet and storage facilities. On this basis, there are no plans to provide another hall facility for the school.
**QUESTIONS AND ANSWERS**

Tuesday 9 February 1999

*1070 OATLEY CAMPUS—NSW UNIVERSITY—Ms Ficarra asked the Minister for Urban Affairs and Planning and Minister for Housing—

(1) When will his Department approve Kogarah Council’s request for rezoning of the “Oatley Campus—NSW University” site for tertiary educational uses?
(2) What was the outcome of his recent meeting with the Mayor of Kogarah Council?

Answer—

(1) Kogarah Council has requested that I rezone the Oatley Campus of the University of NSW for tertiary uses only. The LEP is currently being considered by the Department of Urban Affairs and Planning. I am yet to receive a recommendation from the Department on this issue.
(2) I advised the delegation, including the mayor, that I would expedite consideration of the council’s request due to the regional significance of the issue.

*1071 CONSUMER CLAIMS RECORD—Mr Turner asked the Minister for Community Services, Minister for Ageing, Minister for Disability Services and Minister for Women representing the Attorney General, Minister for Industrial Relations and Minister for Fair Trading—

(1) Did Mr and Mrs D. Round attend the Gosford office of the Department of Fair Trading seeking to inspect and obtain a copy of the official record of the Consumer Claims hearing concerning them?
(2) If so, what was the result of such a request?
(3) If denied, why was such a request denied?

Answer—

(1) to (3) Refer to my answer to Question on Notice No. 1020 regarding this issue.

*1072 INLAND COMMERCIAL FISHERS ASSOCIATION—SUBMISSION—Mr Turner asked the Minister for Mineral Resources and Minister for Fisheries—

(1) Did he and/or the Department of Fisheries receive a submission from the NSW Inland Commercial Fishers Association dated 25 September 1998?
(2) If so, who considered that submission?
(3) If so, when was that submission considered?
(4) When was the letter dated 1 October 1998 to inland fishers, concerning three options for inland fishers to consider about inland fishing rights, prepared by the Department?
(5) When was the letter signed?
(6) When was the letter sent?
(7) Did the person or persons who prepared the letter and signed the letter have access to the submission referred to in question (1) hereof?
(8) If not, why not?
(9) If so, was any part of any draft letter prepared to inland fishers referred to in question (4) amended as a result of consideration of the abovementioned submission?
(10) If so, what changes occurred?

Answer—

(1) Yes.
(2) I am advised that the submission was considered by senior officers of my Department, NSW Fisheries, including the Director of Fisheries, the Director Fisheries Management, the Principal Manager (Recreation), and the Senior Fisheries Manager (Inland).
(3) 1 October 1998.
(4) The final draft was prepared on 1 October 1998.
(5) 1 October 1998.
(6) 1 October 1998.
(7) I am advised that the submission was reviewed by the relevant officers prior to the final drafting of the abovementioned letter.
(8) Not applicable.
(9) The submission did not result in any changes to the letter.
(10) Not applicable.