



MINISTER FOR FAIR TRADING  
MINISTER FOR THE ARTS

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**QUESTIONS ON NOTICE**

**GENERAL PURPOSE STANDING COMMITTEE No 4**

**BUDGET ESTIMATES 2010-2011**

**The Hon Dr John Kaye MLC asked:**

1. Does the Government intend to proceed with legislation that would allow the compulsory acquisition of one or more strata units to enable developers to demolish a block of home units and build a larger block on the site?

**ANSWER:**

1. This matter does not fall within the Fair Trading portfolio. The process for terminating strata schemes is set out in the *Strata Schemes (Freehold Development) Act 1973*, which is administered by the Minister for Lands, the Hon Tony Kelly MLC.

**The Hon Trevor Khan MLC asked:**

**Employee-Related Expenses**

2. During the budget periods of 2009/10 and 2010/11 were any redundancy payments made to staff in the Office of Fair Trading?
3. If so, can you detail the individual payments made, by year and the reason why the redundancy was offered?

**ANSWER**

2. During the budget period 2009/10 there were a total of 25 staff who accepted an offer of voluntary redundancy. For the budget period 2010/11 there have been a total of eight staff who have accepted an offer of voluntary redundancy.
3. The reason for the redundancies in both years relates principally to the impact of National Reform between the States and the Commonwealth (COAG) on NSW Fair Trading's operations, and as an outcome of some staff being displaced through internal structural re-alignment.

Individual redundancy payments are made to staff based on their employment classification. This entitlement conforms with the government policy of three weeks for every year of service up to a maximum of 13 years (i.e. 39 weeks), and one additional week if the staff member is over 45 years of age. There is also an agreed Job Search Leave component of up to 12 weeks; however, most staff received six weeks as part of their redundancy payment.

**The Hon Trevor Khan MLC asked:**

**Service Measures**

- 4 It is noted that Service Measures Reported in the Budget Papers show a significant drop in unit percentages from highs of 93%, 99% and 96% down to 90% across the board which coincide with a reduction in staff in 2009-2010. Can you explain this reduction in performance?
- 5 Is the measure of 90% now reflected across all measures an arbitrary figure?

**ANSWER**

4. The forecast of the service measures are the minimum levels NSW Fair Trading aims to achieve. The actual results are higher than the minimum levels.
  - a. The 2009-10 actual result for the service measure *Complaints finalised within 30 days* is 92%, which is higher than the forecast (90%) and slightly lower than 2008-09 result (93%).
  - b. The 2009-10 actual result for the service measure *Telephone enquiries answered within the guarantee of service* is 98%, which is higher than the forecast (90%) and slightly lower than 2008-09 result (99%).
  - c. The 2009-10 actual result for the service measure *Proportion of prosecutions successful* is 90%, which equals the forecast (90%) and is lower than 2008-09 result (96%). Fluctuations in results should always be anticipated, as success depends not just on the cases prepared by Fair Trading, but on Court discretion in relation to individual defendants' circumstances.
5. The minimum level of 90% for service measures is not an arbitrary figure. It is a measure that was established based on historical trends, and a forecast that Fair Trading attempts to reach.

**The Hon Trevor Khan MLC asked:**

**Rental Bond Board**

6. Can you explain and detail the administrative fees associated with Bond monies under management for the Rental Bond Board which are estimated at \$25.710 million for 2010-11?
7. Are consultants or non-government organisations employed to manage the Bond moneys on behalf of the Rental Bond Board?

8. Are public servants the major administrators of Bond monies management, and if so, is this reflected in the administrative fees and at what percentage of overall costs?

## **ANSWER**

6. The administrative fees associated with bond monies under the management of the Rental Bond Board relate to those costs (e.g. staff salaries, computer equipment and related IT systems, leased accommodation, stores and stationery, corporate services support, etc) incurred by the Department of Services, Technology and Administration for staff performing the functions associated with the operations of the Rental Bond Board in compliance with the *Landlord and Tenant (Rental Bonds) Act 1977*.
7. No. The NSW Treasury Corporation manages the Rental Bond Board's funds through a Memorandum of Understanding investing both bondholder funds and monies held in the interest account in the various Hour-Glass investment facilities.
8. The Rental Bond Board is a statutory corporation established under the *Landlord and Tenant (Rental Bonds) Act 1977* and is the custodian of rental bonds taken on private residential tenancies in New South Wales. The Board is made of five members - the Chairperson (the Director General, Department of Services, Technology and Administration), representatives of NSW Treasury and Housing NSW, and two private sector industry representatives appointed by the Minister for Fair Trading from the real estate industry and tenancy services.

The three public servants on the Board are not entitled to remuneration as they are employees of the NSW Government. The two private sector industry representatives are each entitled to an annual fee of \$3,605 and are eligible for travel expenses in accordance with the Department of Premier and Cabinet Guidelines for NSW Boards and Committee Members on appointments and remuneration.

Costs in relation to the above information are not included in the administrative fees.

## **The Hon Trevor Khan MLC asked:**

Home Warranty Insurance – Managed builder program:

9. How much money, to date, have the managed builders (ie the supervisors) been paid under the managed builder program?
10. Does this money come from the OFT budget, from the SICorp budget or from the homeowner?
11. How many builders have been referred to the managed builder program by SICorp or by a broker/retailer of the insurance product?
12. How many builders have signed up under the program?

13. What is the OFT budget for the program?
14. What is the OFT budget for managing its proportion of home warranty insurance?
15. What is the SICorp and Treasury budget for managing its proportion of home warranty insurance?
16. How many staff at OFT work on home warranty insurance?
17. How many staff at OFT work on the managed builder program?
18. How many staff work on HWI at SICorp?
19. What is the budget for staff working on HWI at the OFT?
20. How much money has been allocated within the OFT/SICorp budget to provide for potential additional liability under the HWI scheme as a result of the exercise of any discretion for builders to gain HWI although they do not meet the SICorp eligibility criteria?
21. How many claims have been lodged by homeowners relying on the fourth trigger (ie default on money order awarded against the builder by the CTTT) introduced from 1 April 2009?
22. What is the total value of these claims?
23. How many claims have been paid by HWI insurers under this trigger?
24. Has this trigger resulted in additional costs to OFT or the CTTT? If so, please provide amounts.

## **ANSWER**

9. The NSW Self Insurance Corporation is part of NSW Treasury and, as such, this question should be directed to my colleague, the Hon E M Roozendaal MLC, Treasurer.
10. See answer to question 9.
11. See answer to question 9.
12. See answer to question 9.
13. See answer to question 14.
14. The NSW Fair Trading has a budget of \$180,643 for staff working on home warranty insurance and member fees for the Home Warranty Insurance Scheme Board.
15. See answer to question 9.

16. Two full time staff at NSW Fair Trading work on home warranty insurance.
17. No staff at NSW Fair Trading work on the managed builder program.
18. See answer to question 9.
19. See answer to question 14.
20. See answer to question 9.
21. There have been no claims lodged by homeowners relying on the fourth trigger to date.
22. See answer to question 21.
23. See answer to question 21.
24. There have been no additional costs for NSW Fair Trading or the Consumer, Trader and Tenancy Tribunal.

**The Hon Trevor Khan MLC asked:**

**OFT Staff Issues:**

25. Can you confirm that an investigation was recently concluded regarding approximately 55 complaints against an officer in the OFT that involved past and present staff, with some complainants travelling from other states to be interviewed?
26. What cost, if any, for this investigation was borne by the OFT?

**ANSWER**

25. A preliminary investigation following a protected disclosure has been recently completed concerning approximately 55 allegations. I am advised that no complainants travelled from interstate.
26. The cost of \$25,519.35 for preparing the preliminary investigation report was borne by Fair Trading.

**The Hon Trevor Khan MLC asked:**

Home Insulation Program

27. As a consequence of the Federal Government Home Insulation Program, how many property fires have been attributed to faulty insulation practices in NSW?
28. As the leading consumer advocate for NSW, what action did you take to protect NSW consumers from this disastrous and dangerous program?

**ANSWER**

27. The cause of house fires in NSW is investigated by the Fire Brigades and, as such, this question should be directed to my colleague the Hon S Whan, Minister for Emergency Services.
28. While the insulation program was a Commonwealth initiative, the NSW Government took an active role in supporting both consumers and tradespeople involved with the scheme. The work undertaken by the insulation installers does not fall into the definition of residential building work as defined by the *Home Building Act 1989*. Therefore, there is no requirement for these people to hold a contractor licence issued by NSW Fair Trading. However, where a trader is found to be in breach of fair trading laws, Fair Trading does take compliance action.

In August 2009, Fair Trading began negotiating a Memorandum of Understanding to share information and complaints with the Commonwealth Government's Department of the Environment, Water, Heritage and the Arts to support the delivery of its program.

In September 2009, I issued a state-wide public warning following reports of a number of fires linked to new insulation and the potential dangers of installing around downlights and transformers. Further information was produced by WorkCover NSW and Fair Trading to raise awareness of these issues and the relevant Australian standards.

Fair Trading has also directly intervened in a large number of cases on behalf of consumers to resolve complaints about installers. Additionally, Fair Trading has actively investigated rogue installers and, following one house fire, successfully prosecuted a company under section 44(b) of the *Fair Trading Act 1987* for falsely representing its services. That resulted in a \$10,000 fine against the company and a further \$2,000 fine against its Director.

Fair Trading will continue to investigate companies and individuals who perform shoddy work that put both themselves and consumers at risk.

**The Hon Trevor Khan MLC asked:**

Ministerial Announcements

29. In a Media Release titled "Keneally Govt Boosts Financial Counselling Services" dated 2 August 2010 a reference was made to the No Interest Loans Scheme (NILS) advising that funding had increased from \$840,000 to \$1.78 million

annually. Can you explain why the Budget Estimates Papers 2010-11 – Service, Technology and Administration, Service Group Statement for the Rental Bond Board, Budget Initiatives (at Page 12-26) clearly identify the scheme funding at \$1.6 million and not \$1.78 million?

30. The Media Release also claimed the preservation of \$10 million in trust to provide ongoing free financial counselling – where has the \$10 million come from?

## **ANSWER**

29. Fair Trading has advised me that the reference to the financial contribution of \$1.6 million in the Budget Estimates Papers 2010-11 in relation to the Rental Bond Board (Page 12-26) reflects the fact that the Board provides 90% of the funding towards the total annual cost of administering the No Interest Loans Scheme. The balance of \$0.18 million is met from Fair Trading's operating budget.

30. Fair Trading has advised me that the reference to the preservation of \$10 million in trust reflects the fact that under the Financial Counselling Trust Fund deed there is a requirement for a minimum of \$10 million to be preserved unless it can be demonstrated to the Minister that these funds must be allocated as part of the financial counselling services grant program.

## **The Hon Trevor Khan MLC asked:**

### **Advisory Councils**

31. Can you provide the names of the members of the five Advisory Councils for the OFT including:

- a) Date of appointment,
- b) Term of tenure,
- c) Any remuneration received,
- d) Total period of tenure on the council,
- e) Other State Government positions or roles held?

32. Can you provide the names of the members of the Rental Bond Board, including:

- a) Date of appointment,
- b) Term of tenure,
- c) Any remuneration received,
- d) Total period of tenure on the Board,
- e) Other State Government positions or roles held?

## **ANSWER**

31. A list of members of the five Ministerial Advisory Councils is attached (**Tab A**).

32. A list of members of the Rental Bond Board is attached (**Tab A**).

### 31. ADVISORY COUNCILS

Council	Name	Date of appointment	Term of tenure (Current)	Remuneration (see note 1)	Total period of tenure	Other roles or positions held
Fair Trading Advisory Council	Elizabeth Crouch (Chairperson)	19/07/2000	01/09/2010 – 30/06/2011	\$171 per meeting	19/7/2000 – 30/06/2011	Chairperson, Public Transport Ticketing Corporation Member, Ku-ring-gai Planning Panel
	Vicki Geraghty	13/11/2006	01/09/2010 – 30/06/2011	\$104 per meeting	13/11/2006 – 30/06/2011	
	Margaret Hole	19/07/2000	01/09/2010 – 30/06/2011	\$104 per meeting	19/07/2000 – 30/06/2011	
	Penny Le Couteur	13/11/2006	01/09/2010 – 30/06/2011	See note 2	13/11/2006 – 30/06/2011	Member, Home Warranty Insurance Scheme Board Member of the Home Building Advisory Council Member, Motor Accidents Authority Board
	Marisa Mastroianni	13/11/2006	01/09/2010 – 30/06/2011	\$104 per meeting	13/11/2006 – 30/06/2011	Chairperson, Retirement Villages Advisory Council
	Pamela Morgan	22/09/1997	01/09/2010 – 30/06/2011	\$104 per meeting	22/09/1997 – 30/06/2011	Chairperson, Property Services Advisory Council
	Abdul Nahi	13/11/2006	01/09/2010 – 30/06/2011	\$104 per meeting	13/11/2006 – 30/06/2011	
	Gail Pearson	19/07/2000	01/09/2010 – 30/06/2011	\$104 per meeting	19/07/2000 – 30/06/2011	
	Gae Pincus	14/08/2000	01/09/2010 – 30/06/2011	\$104 per meeting	14/08/2000 – 30/06/2011	Chairperson, Motor Vehicle Industry Advisory Council
	John Pospisil	13/11/2006	01/09/2010 – 30/06/2011	\$104 per meeting	13/11/2006 – 30/06/2011	
	Nermeen Sedra	13/11/2006	01/09/2010 – 30/06/2011	\$104 per meeting	13/11/2006 – 30/06/2011	
Motor Vehicle Industry Advisory Council	Gae Pincus (Chairperson)	30/07/2004	01/09/2010 – 30/06/2011	\$171 per meeting	30/07/2004 – 30/06/2011	Member, Fair Trading Advisory Council
	Peter Blanshard	07/09/2009	01/09/2010 – 30/06/2011	\$104 per meeting	07/09/2009 – 30/06/2011	
	Ronald Bowden	31/03/2003	01/09/2010 – 30/06/2011	\$104 per meeting	31/03/2003 – 30/06/2011	
	Jack Haley	07/09/2009	01/09/2010 – 30/06/2011	\$104 per meeting	07/09/2009 – 30/06/2011	
	James McCall	31/01/2003	01/09/2010 – 30/06/2011	\$104 per meeting	31/01/2003 – 30/06/2011	



	Grahame McCraw	13/11/2006	01/09/2010 – 30/06/2011	\$104 per meeting	13/11/2006 – 30/06/2011	
	Robert McDonald	22/09/1997	01/09/2010 – 30/06/2011	\$104 per meeting	22/09/1997 – 30/06/2011	
<b>Property Services Advisory Council</b>	Pamela Morgan (Chairperson)	22/09/1997	01/09/2010 – 30/06/2011	\$171 per meeting	22/09/1997 – 30/06/2011	Member, Fair Trading Advisory Council
	Susanne Gervay	13/11/2006	01/09/2010 – 30/06/2011	\$104 per meeting	13/11/2006 – 30/06/2011	
	Damien Hennessy	13/11/2006	01/09/2010 – 30/06/2011	Pro-bono	13/11/2006 – 30/06/2011	Solicitor, Housing Law Group, Legal Aid Commission of NSW
	Maria Linders	31/01/2003	01/09/2010 – 30/06/2011	\$104 per meeting	31/01/2003 – 30/06/2011	
	Phillip Lyons	13/11/2006	01/09/2010 – 30/06/2011	\$104 per meeting	13/11/2006 – 30/06/2011	
	Judith Maher	31/01/2003	01/09/2010 – 30/06/2011	\$104 per meeting	31/01/2003 – 30/06/2011	
	Chris Martin	13/11/2006	01/09/2010 – 30/06/2011	\$104 per meeting	13/11/2006 – 30/06/2011	
	Donald Wright	31/01/2003	01/09/2010 – 30/06/2011	\$104 per meeting	31/01/2003 – 30/06/2011	
<b>Retirement Villages Advisory Council</b>	Marisa Mastroianni (Chairperson)	13/11/2006	01/09/2010 – 30/06/2011	\$171 per meeting	13/11/2006 – 30/06/2011	Member, Fair Trading Advisory Council
	Lawrence Bower	11/03/2008	01/09/2010 – 30/06/2011	\$104 per meeting	11/03/2008 – 30/06/2011	
	Tom Galletta	13/11/2006	01/09/2010 – 30/06/2011	\$104 per meeting	13/11/2006 – 30/06/2011	
	Malcolm Gledhill	19/07/2000	01/09/2010 – 30/06/2011	\$104 per meeting	19/07/2000 – 30/06/2011	
	Raymond Harris	13/11/2006	01/09/2010 – 30/06/2011	\$104 per meeting	13/11/2006 – 30/06/2011	
	Malcolm McKenzie	24/11/2009	01/09/2010 – 30/06/2011	\$104 per meeting	24/11/2009 – 30/06/2011	
	Leonard Rooney	13/11/2006	01/09/2010 – 30/06/2011	\$104 per meeting	13/11/2006 – 30/06/2011	
	Paul Sadler	31/01/2003	01/09/2010 – 30/06/2011	\$104 per meeting	31/01/2003 – 30/06/2011	
	Lynne Wilkins	13/11/2006	01/09/2010 – 30/06/2011	Pro-bono	13/11/2006 – 30/06/2011	Solicitor, Legal Aid Commission of NSW
<b>Home Building Advisory Council</b>	Greg McCarthy (Chairperson)	11/02/2004	01/09/2010 – 30/06/2011	See note below	11/02/2004 – 30/06/2011	Chairperson, Home Warranty Insurance Scheme Board Chairperson, Workers Compensation and Workplace Occupational

						Health and Safety Council of NSW
	Penny Le Couteur	11/02/2004	01/09/2010 – 30/06/2011	See note below	11/02/2004 – 30/06/2011	Member, Home Warranty Insurance Scheme Board Member, Fair Trading Advisory Council Member, Motor Accidents Authority Board
	David Bare	01/09/2010	01/09/2010 – 30/06/2011	Pro-bono	01/09/2010 – 30/06/2011	
	Ronald Bracken	01/09/2010	01/09/2010 – 30/06/2011	\$104 per meeting	01/09/2010 – 30/06/2011	
	John Garbutt	13/11/2006	01/09/2010 – 30/06/2011	\$104 per meeting	13/11/2006 – 30/06/2011	
	Peter Haack	01/09/2010	01/09/2010 – 30/06/2011	\$104 per meeting	01/09/2010 – 30/06/2011	
	Colin Harris	01/09/2010	01/09/2010 – 30/06/2011	\$104 per meeting	01/09/2010 – 30/06/2011	Member, NSW Local Trades Committee Member, Fair Trading Electrical Advisory Committee
	Robert Leach	01/09/2010	01/09/2010 – 30/06/2011	\$104 per meeting	01/09/2010 – 30/06/2011	
	Jacob Mamutil	13/11/2006	01/09/2010 – 30/06/2011	Pro-bono	13/11/2006 – 30/06/2011	
	Guy McGrath	13/11/2006	01/09/2010 – 30/06/2011	\$104 per meeting	13/11/2006 – 30/06/2011	
	William (Peter) Meredith	19/07/2000	01/09/2010 – 30/06/2011	Pro-bono	19/07/2000 – 30/06/2011	Building Regulation Advisory Committee, Department of Planning Implementation Advisory Committee, Department of Planning Building Co-ordination Committee, NSW Fair Trading
	Mark Morey	01/09/2010	01/09/2010 – 30/06/2011	\$104 per meeting	01/09/2010 – 30/06/2011	Deputy Assistant Secretary, Unions NSW Member, Industrial Relations Society of NSW
	Corey Nugent	01/09/2010	01/09/2010 – 30/06/2011	\$104 per meeting	01/09/2010 – 30/06/2011	
	Elizabeth Olsson	13/11/2006	01/09/2010 – 30/06/2011	\$104 per meeting	13/11/2006 – 30/06/2011	Part-time Member, Mental Health Review Tribunal Part-time Deputy President,

						Administrative Decisions Tribunal
	John Sutton	13/11/2006	01/09/2010 – 30/06/2011	Pro-bono	13/11/2006 – 30/06/2011	
	John Worthington	19/07/2000	01/09/2010 – 30/06/2011	\$104 per meeting	19/07/2000 – 30/06/2011	

Note 1: Members are only paid for meetings actually attended.

Note 2: Greg McCarthy and Penny Le Couteur are the Chairperson and a member, respectively, of the Home Warranty Insurance Scheme Board. These roles also include the roles of Chairperson of the Home Building Advisory Council and Member of the Fair Trading Advisory Council. Mr McCarthy is paid \$12,699.75 per quarter and Ms Le Couteur is paid \$7,500 per quarter.

### 32. RENTAL BOND BOARD

Name	Date of appointment	Term of tenure (Current)	Remuneration	Total period of tenure	Other roles or positions held
Peter Duncan (Chairperson)			NIL		Director General, Department of Services, Technology and Administration
Ranit Ram			NIL		Nominee of the Secretary to the Treasury
Helen O'Loughlin			NIL		Nominee of the Department of Housing
Sandra McGee	09/09/2004	10/09/2009 – 30/06/2011	3,605 per year	09/09/2004 – 30/06/2011	
Ruth De Costa Simon	10/09/2009	10/09/2009 – 30/06/2011	3,605 per year	10/09/2009 – 30/06/2011	

**Legislative Council**

**General Purpose Standing Committee No 4**

**Questions:**

In relation to overseas travel you undertook from 7 to 19 July 2009 to Lebanon:

33. Was there any cost incurred by the NSW Taxpayer?
34. Who paid for your accommodation, hospitality and food?
35. Who paid for your airfare?
36. What class was your airfare paid for (e.g. Economy, Business or First)?
37. Who did you receive your flight upgrade from?
38. Why did you receive a flight upgrade?
39. How much were the value of the flight upgrades?
40. On what date were you made aware of a flight upgrade?

**Answers 33-40:**

Flights and related expenses have been taken, recorded and declared in accordance with parliamentary disclosure requirements. For additional details refer to the Legislative Assembly Clerk.