



LEGISLATIVE COUNCIL

GENERAL PURPOSE STANDING COMMITTEE NO. 4

BUDGET ESTIMATES 2008-2009

QUESTIONS ON NOTICE

General Purpose Standing Committee No. 4

Fair Trading, Citizenship

Thursday 16 October 2008

Answers to be lodged by: Tuesday 11 November 2008

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Questions relating to the portfolios of Fair Trading and Citizenship

16 OCTOBER 2008, 9.15 am – 1.00 pm

Questions from Ms Hale

Vero

1. Since becoming Minister for Fair Trading, have you met with anyone from Vero? When? What was the purpose of the meeting?

Review of Retirement Villages Bill

2. Will the Retirement Villages Bill be amended, prior to any further debate on it in NSW Parliament?
3. Given residents do not have a stake in any capital appreciation on resale of a retirement village (which goes to the owner), why should residents pay up to 50% of the cost of capital replacement, rather than the owner?

Guttering

4. Is it the case that the new guttering provided by Lysaught, if installed according to manufacturing instructions, the guttering is not in fact complying with the Building Code of Australia?

Review of Residential Tenancies Act

5. How far off is a draft Bill following the review process?
6. Will an exposure Bill be circulated before it goes before parliament?
7. Will there be anything in the Bill to regulate private rental rent increases, or to limit them, for example, to once a year?

Interest on tenants' rental bonds

8. How was it determined that returns to tenants on bonds be fixed at only 0.01 per cent?

Home Warranty Insurance

9. In her evidence to the Upper House Inquiry into the Home Building Service the Commissioner for Fair Trading stated that the NSW taxpayer should not bear the risk associated with Home Warranty Insurance in NSW. Given that statement, who bore the risk of Home Warranty Insurance due to the collapse of HIH?
10. If any of the present insurers became insolvent, who would carry the risk?
11. Beechwood and other recent builder collapses in NSW clearly demonstrate the need for the Queensland model of consumer protection to be introduced in NSW immediately. Will your government do so?

Home Building - Beechwood Collapse

12. When Beechwood Homes collapsed, how many home building contracts with Beechwood Homes existed?
13. Now four and one half months after the collapse of Beechwood Homes, how many of the houses to which those contracts related have been completed?
14. When Real Property Constructions in Queensland collapsed, how many people had contracts with Real Property Constructions?
15. Four and one half months after the collapse of Real Property Constructions how many houses to which those contracts related had been completed?
16. When comparing the consumer protection provided to homeowners in NSW and QLD is it still the opinion of the NSW Government that the NSW system provides the better consumer protection?

Home building - Mc Faddens

17. Is it reasonable for the McFaddens, whose case was reported in the SMH on 22 September 2008, to be indemnified for the losses they have incurred, such as legal costs, cost of rectification and costs of works over that are over above the original contract price, due to the actions of a builder?
 - a. If they are entitled to be indemnified who will provide that indemnity?
 - b. What form will that indemnity take?
18. What steps are being taken by the Office of Fair Trading to ensure such situations do not reoccur?

Home Building - Conduct of Cavalier Homes (Gold Coast)

19. How many complaints about Cavalier Homes (Gold Coast) have been lodged at the Office of Fair Trading?
20. How many applications against Cavalier Homes (Gold Coast) have been lodged at the CTTT?
21. Was Mr Tony Younan the nominated supervisor and owner of Cavalier Homes (Gold Coast) who was the builder that caused Mr Siebert to incur losses of approximately \$300,000 as reported in the Sydney Morning Herald and Northern Star newspapers?
22. Was it the same Mr Younan who was investigated by OFT and was considered by the OFT to have misled the CTTT?
23. Was it Cavalier Homes (Gold Coast), owned by the same Mr Younan and a parent company T&T Building also owned by Mr Younan that failed to comply with agreements made with the OFT?

24. Was it Cavalier Homes (Gold Coast), owned by the same Mr Younan and a parent company T&T Building also owned by Mr Younan that failed to comply with orders from the CTIT?
25. Was it the same Mr Younan who established T&T Building (Prestige), which was given a contractors licence during the period of litigation with Mr Siebert, effectively creating a phoenix company?
26. Is it the same Mr Younan to whom the Office of Fair Trading continues to provide builders licence No 46949C?
27. Is T&T Building Prestige a company, licence no 166286C owned by the same Mr Younan's relative who continues to use Mr Younan as a Nominated Supervisor?
28. Does the Director General consider Mr Younan a fit and proper person to hold a contractors licence?

Residential Parks - Rent Increases

29. What is the justification for park owners to automatically be able to increase rent up to CPI, when there may be no improvement in facilities or amenity of a residential park, and without having to demonstrate an increase in costs?
30. Is the current s 58 of the Residential Parks Act anti-competitive, as it allows the industry a rental increase for doing nothing in return?
31. Is s58 adding to the inflationary pressures on park residents (pensioners) who are feeling the brunt of a high CPI?
32. Should the onus of proof be placed on the park owner, (rather than the park resident) to justify that the rent increase is not excessive?

Residential Parks - Access to Government funded rebate and relief schemes for water or electricity

33. The majority of permanent residents on residential parks cannot access the Energy Accounts Payment Assistance (EAPA) program or receive Water Accounts Payments Assistance (WAPA) that are available to the general community. These programs offer assistance to people who fall into arrears with their electricity and water payments. This is because the majority of park residents are not customers of the local electricity or water supply authority. They have no option but to purchase their electricity and water from the park owner. Will the Minister speak to the state Water and Energy Ministers (and any relevant Federal Ministers), about this anomaly?
34. Will you implement changes to the Residential Parks Regulation 2006, that were promised by the Minister for Fair Trading in the second reading speech of the Residential Parks Amendment (Statutory Review) Bill, to overcome this problem?

35. Will you implement changes to the Residential Park Regulations 2006 to prohibit additional terms being included in the agreement that would allow park owners to allocate rent payments by residents to any other charges they see fit?

Residential Parks - Commonwealth Rental Assistance Payments

36. In regards to Centrelink Commonwealth Rent Assistance payments - the Single pension threshold for site fees is \$119.00, but for married couples it is \$145.00, however they each pay the same site fees. Will you take this up with the Federal Minister?

Residential Parks - Training for park owners and managers

37. Real estate agents are required to be licensed and must undergo training. Should Residential Park owners and managers have to undertake a six-week course (e.g. at TAFE) on how to run a residential park in order to gain a licence?

Residential Parks - Funding for resident organisations

38. Should funding for volunteer residential organisations such as residential park residents associations receive some funding from Fair Trading?

Residential Parks - Pitfalls of buying a new manufactured home

39. Will the Office of Fair Trading to conduct an investigation into the sale of manufactured homes to residents which sometimes have a huge mark-up compared to the manufacturer's price?
40. Will the Office of Fair Trading put together a campaign to warn prospective buyers about the financial implications of this lifestyle and the significant losses that can be incurred?

Fleet Cars

41. What is the percentage of hybrids in the car fleet associated with the Office of Fair Trading?
42. Is there a mechanism within the agency to reward staff who choose not to exercise an entitlement to a fleet vehicle as a part of their package but use public transport instead?
43. What car does the Commissioner drive?

Compliance with the Building Code of Australia for the installation of "High front" uttering systems.

On 27 September 2007, Darrel McIntyre, Principal Building Investigator, Building Investigation Branch, Home Building Service, wrote to Jason Higgins Plumbing Pty Limited, wrote to Jason Higgins Plumbing Pty Limited. In his letter (**copy attached**), Mr McIntyre said:

'Re: Compliance with the Building Code of Australia for the installation of "High front" uttering systems.

'Further to our meeting on 14 September 2007 I confirm the Fair Trading position is that the installation of any guttering system by qualified plumber and roof plumber is to be in accordance with the requirements of the Building code of Australia and the Australian Standard AS500.3.2003.

'The installation of all roof drainage systems must be designed so that any overflow during heavy rain periods is prevented from flowing into the building.

'Failure to comply with the code and standards may be deemed defective work and could cause significant structural damage to the building as a result of water penetration. This may result in significant financial loss to the consumers.

'None [sic] compliance with the BCA by plumbers and roof plumbers is seen as defective work and would result in disciplinary action being taken against the licence holder.'

44. At the meeting on 14 September 2007 and in telephone calls did Mr Higgins point out that the method of installation of high front gutters stipulated by manufacturers and involving the use of spring clips made it impossible to comply with the relevant provisions of the BCA?
45. Did Mr Higgins indicate that it was only as a result of his experience in dealing with complaints about leaking rooves in the aftermath of very heavy rainfall in the Hunter area that he realised that the method of attaching high front gutters required by gutter manufacturers if the work was to be covered by manufacturer's warranty made compliance with the BCA impossible.
46. Did Mr Higgins indicate that other plumbers, council inspectors and TAFE teachers to whom he had spoken were unaware that the method of gutter installation using the manufacturer's recommended method and spring clips made compliance with the BCA impossible?
47. Prior to Mr McIntyre's discussions with Mr Higgins, was Mr McIntyre aware of the compliance problem?
48. Did Mr McIntyre send his letter stating that non-compliance by plumbers with the BCA would be viewed as defective work "and would result in disciplinary action being taken against the licence holder" or letter along similar lines to :
 - a. any other plumber or plumbers association
 - b. any local government inspectors or local government organisation
 - c. any private certifiers or certifying body
 - d. any builders or building association
 - e. architect or architects association
49. If not, why not?
50. If not, was the intent of writing solely to Mr Higgins an effort to silence his concerns about the installation of high-front gutters.
51. Did Mr McIntyre either prior to or after the sending of the letter to Mr Higgins on 27 September 2007 meet Mr Higgins in Cessnock?

52. If so, did Mr Higgins point out to Mr McIntyre that in his view the 40mm holes drilled at frequent intervals in the gutters of the Centrelink building in Cessnock were unable to prevent water overflowing into the building in heavy rain events?
53. Is it correct that, despite the presence of these holes, water continued to backflow into the interior of the building?
54. Did Mr McIntyre ever inform Mr Higgins that he had spoken to the manufacturers of gutters and they had assured him that the provision of slots in gutters was sufficient to prevent any backflow into wall cavities?
55. Does the Department still persist in the view that slots in gutters are sufficient to handle any overflow from high-front gutters?

Builders Warranty Insurance Premium

56. Does the revenue from the Builders Warranty Insurance Premium go to consolidated revenue?
57. What are the catastrophe re-insurance arrangements referred to by the then Minister on 16 May when she said in respect to claims on an insurer over \$10M: Any additional amount required will be covered by the NSW Government s catastrophe reinsurance arrangements which are funded through the premiums on written policies. Any suggestion that taxpayers will be slugged is just nonsense?
58. Where would the money come from if the claims for a single event exceeded \$10M?
59. Would taxpayers of NSW be exposed to any risk if the claims for a single event exceeded \$10M?

Questions from Ms Cusack

60. What is the procedure consumers should follow to make application to the minister for Fair Trading for legal assistance?
61. What assistance are you giving to consumers with longstanding home warranty disputes with the insurer who will not be assisted by the new legislative amendments; are unable to complete building works; and lack resources to achieve a fair outcome in their dealings with their insurer?
62. Do you record complaints received from Tradesmen and subcontractors concerning overdue payment for work by builders? If yes, how many complaints have been received in 2006-2007 and 2007-2008? Was Beechwood one of the companies complained about?
63. When will the reforms to the Associations Act be introduced to Parliament?
64. What progress has been made handing over to the commonwealth your responsibility for mortgage and finance services? When will this handover be complete?
65. When will legislative amendments dealing with fringe lenders be introduced to parliament?

66. What is the status of the review of landlord and tenancy act? When will this long awaited revamp of our laws be introduced to parliament? Is the minister considering bringing forward some of the reforms considered more urgent, and if so which reforms and when will we see them?
67. When were the new regulations for the retirement village act drafted and which stakeholders have been consulted? When will these regulations be released by the Minister for public comment?

NSW Rental Bond Board

68. What is the criteria or formula for determining the amount of rental bond board funds to be expended on the CITT?
69. What funding is available for advocacy services for retirement village residents?
70. What funding was allocated in 2007-08 to the NSW Department of Housing and for what purpose?
71. What funding was allocated to NSW public housing tenants services?

Financial Counselling:

72. Please give details of funding for service by agency for 2007/08; 2007/09; and 2009/10 (budget)
73. Please give details of funding for training by agency for 2007/08 and 2008/09 and 2009/10 (budget)
74. What is the increase for indexation for 2008/09?
75. Is this grants programme guaranteed or subject to review in future years?

Questions from Miss Gardiner

Citizenship

76. Following reports of increased gang violence, other than the Government introducing the Middle Eastern Organised Crime Squad and Operation Viking, are there any initiatives which are directed to providing proactive education and assistance to new citizens to try and address this major problem? If so, please provide details of such initiatives.
77. Has the Government allocated any funding to assist new citizens with their education, in particular the teaching of the English language? What is the amount allocated? How have these funds been allocated?
78. Has the Government implemented any strategies to promote in ethnic communities immunisation programmes including the human papilloma vaccine? If so, what is the exact amount of funds allocated for this purpose? How successful has the uptake of vaccination programmes been to date?

79. Following incidents of drowning and other mishaps at New South Wales beaches and pools amongst members of the ethnic community, has the Government allocated any funding to teaching swimming and water safety measures and to multilingual safety signs at beaches, public pools and other waterways? If so, what is the amount?
80. Is the Minister aware that Canterbury Rotary has introduced Aussie Pride Badges? Will the Government support the purchase of these badges to present them to new citizens at citizenship ceremonies?
81. What initiatives is the Minister or Community Relations Commission undertaking to educate new citizens as to our democratic election process and their rights and responsibilities? If so, please provide details of these initiatives.
82. What is the Government doing to monitor demographic change and assess the need for further resources to address such changes? What role does the Government play in advising other Government Agencies and Departments on demographic changes due to new citizens?
83. Has the Government allocated any funding for the support of bilingual schools and for teaching other languages in schools? If so, what are the amounts?
84. What is the Government's attitude to community language schools? Will you be increasing funding to community language schools? If not, why not?
85. What initiatives, have been introduced by the Government to encourage new citizens into community activities, volunteerism, sport etc? What amount of funds has been allocated to support such initiatives?
86. Have any funding or support initiatives been introduced to assist with education about planning, funding and awareness in ethnic communities to cater for the needs of their aging demographic? Does the Government actively support such initiatives like the Scalabrini Villages and Chinese Aged Hostel Association? If so, how does it do this?
87. Have you assisted with any strategies or funding to ensure the recruitment of people of Pacific Islander, Asian and middle eastern origin into New South Wales frontline services such as youth workers, social workers, teachers, nurse and police officers? If so, please detail such initiatives.
88. Does the Minister support the Government's ongoing position of using ethnic descriptors in relation to the Middle Eastern and Asian communities and Policing issues?
89. Why has the NSW Government overseen a cut in direct funding to the Ethnic Communities Council (ECC) over the past decade in real terms?
90. Does the Minister consider it appropriate that the ECC must rely on funding through specific projects rather than have the choice to prioritise its activities on a needs basis? Is there any plan to change this arrangement?
91. Are you comfortable that your Government has chosen to remove the word "multicultural" from the portfolio?

92. Do you think it appropriate that your Government has reduced the number of overseas trade offices in China – especially given that states like Queensland have increased their presence? Are there any plans to change the level of such presence? If so, detail the plans for change.
93. What work has your Government done to provide information to parents of NESB students to encourage greater take up of apprenticeships, TAFE courses and University studies. Please provide details.
94. What do you regard as your key performance indicators in the Citizenship portfolio (KPI's)?
 - a. How will these KPI's be measured?
95. What specific discussions have you had with your colleagues about ensuring a “whole of Government” approach to the portfolio eg in areas such as Education, Health and State Development? What were the result of these discussions?
96. What does the Minister believe are the three biggest challenges facing her in the Citizenship portfolio? Please list.
97. Will there be any cuts to the Citizenship portfolio as a result of the November mini-budget?
98. What advice/input has your Government had with the Federal Government in relation to the Citizenship test? What is the State Government’s position in relation to the Citizenship test?
99. What does the State Government believe is an appropriate level of Australian immigration?
100. How many more migrants do you think Sydney should take?
101. What are the estimated migrant arrival numbers for Sydney in each of the years 2008-09 until 2018-19?