

QUESTIONS FROM THE HON. A. SEARLE, MLC

Home Building Act Reform

1. Given the *Home Building Amendment Act 2011* was assented in October 2011 why is the Government again reviewing the *Home Building Act 1989*?

The purpose of the *Home Building Amendment Act 2011* was to make a number of urgent amendments to the *Home Building Act 1989* to improve its operation in the short term by addressing unexpected court decisions, cutting red tape and helping to stimulate home building and construction work in NSW. However, at the same time as making these immediate changes, the Government acknowledged that a broader, more comprehensive examination of the legislation needed to take place, and that further reform was necessary in order to properly address the full range of issues raised by industry, homeowners and other stakeholders.

This broader review will consolidate the various amendments to the *Home Building Act 1989* that have occurred over the years and to make it simpler and easier to understand for consumers and industry. The current review is considering the legislation as a whole.

2. What advice, if any, has the Minister received from NSW Fair Trading regarding the submission of Mr David Masterton to the Review of Home Building Legislation?

Over 130 full submissions were made to the Issues Paper on the Reform of the *Home Building Act 1989* with a further 502 responses to the on-line survey. NSW Fair Trading has reviewed and analysed each and every submission made. No advice has been provided to the Minister that makes specific reference to the submission to the Issues Paper made by Mr David Masterton.

3.
a. Were any sections of the *Home Building Act 1989* presently under review previously amended by the *Home Building Amendment Act 2011*?

See the answer to question 1.

b. If so, why are further amendments being considered so soon after the *Home Building Amendment Act 2011*?

The purpose of the *Home Building Amendment Act 2011* was to address immediately urgent issues in the short term. The broader review of the *Home Building Act 1989* is intended to address all issues in the legislation for the longer term.

4.
a. Has the Minister discussed any aspect of Home Building Legislation with Mr David Masterton, CEO of Masterton Homes, during any of their meetings (including lunches) this year?

b. Will the Minister outline the content of any discussions with Mr Masterton regarding Home Building Legislation?

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5.

a. Has the Minister discussed any aspect of Home Building Legislation with Mr Vic Cavasinni of CEO of Cavasinni Constructions and Beechwood Homes, during any of their meetings (including lunches) this year?

b. Will the Minister outline the content of any discussions with Mr Cavasinni regarding Home Building Legislation?

6.

a. Has the Minister discussed any aspect of Home Building Legislation with Mr Peter Fowler of Fowler Homes, during any of their meetings (including lunches) this year?

b. Will the Minister outline the content of any discussions with Mr Fowler regarding Home Building Legislation?

4.-6.

a. Yes. It is critical to the survival of the NSW home building industry that consultation occurs with relevant stakeholders on a regular basis. This ensures that NSW Home Building legislation is equal to world's best practice, and supports a thriving and sustainable home building industry.

b. Discussions with stakeholders range from issues such as the current state of the home building industry to recent developments in legislation that protect consumers and strengthen confidence in the industry, including the Government's successful handling of the collapse of Westminster Homes and Cosmopolitan Homes.

7.

a. What is the rationale for the proposed repeal s92B of the *Home Building Act 1989*?

There is currently no proposal to repeal s92B of the *Home Building Act 1989*.

The Issues Paper raised the question of s92B and the exemption from its operation provided by clause 73 of the Home Building Regulation 2004. In particular, the Issues Paper explained the background and policy intent of s92B and why an exemption from its operation has been in place since 2004.

The Issues Paper sought comment on s92B and the current exemption from its operation. In this regard, the Issues Paper asked for feedback on "whether section 92B is actually necessary and (*whether*) ... the concerns it was meant to address could be overcome by a more rigorous certificate evidence regime." The Paper then asked "Do you think that s92B should be repealed? Why?"

The responses to this question contained in the 131 submissions and 502 responses to the on-line survey will inform any reform proposals in this area.

b. When did the Government decide to review the possible repeal of s92B of the *Home Building Act 1989*?

The question of s92B and the exemption from its operation provided by clause 73 of the Home Building Regulation 2004 was included in the review of the *Home Building Act 1989* as it remains an unresolved issue with the legislation. Accordingly, in order to garner

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informed and helpful feedback on this issue, background information about the section, its operation, the policy intent and the exemption was included in the Issues Paper. Many stakeholders made comment on this matter and those comments have now been analysed and summarised and will be taken into consideration as proposals for reform of the key regulatory area of home warranty insurance are formulated.

8. What guidelines or protocols govern meetings between stakeholder groups and the Minister for Fair Trading?

Information relating to guidelines or protocols governing meetings between stakeholder groups and NSW Government Ministers can be found on the Department of Premier and Cabinet website. Refer to Memorandum 2011-09: Code of Conduct for Ministers of the Crown.

9.

a. What are the benefits of changing the broad definition of ‘structural defect’ under Clause 71 of the Home Building Regulation to an ‘exhaustive list of potential structural defects’ as proposed in the document *Reform of the Home Building Act 1989 Issue Paper* (p. 20)?

The role of the Issues Paper in the review of the *Home Building Act 1989* is to raise issues or concerns with the regulation of residential building in NSW as a means of eliciting comment on those matters and any other areas of concern to stakeholders and interested parties.

The Issues Paper does not make proposals for reform.

The section in the Issues Paper on structural defects clearly states why certain stakeholders have been concerned about this regulatory area and carefully balances options for reform by outlining what those options could be and the potential risks and advantages of those options.

For example the Paper states: *“Some stakeholder groups have proposed that the definition of structural defect should be made less general and particularised through the insertion of an exhaustive list of potential structural defects. One concern with this approach is it could result in important defects being potentially omitted or, on the other hand, the inclusion of defects which, in a particular scenario, may not have structural repercussions on the building. The current high level approach is intended to allow for a degree of flexibility to take into account the circumstances of a particular case.”*

Therefore, the benefits of this option for reform is more certainty for all parties about what constitutes a structural defect, however, as the Paper suggests there could also be disadvantages to this approach. Accordingly, in the development of any possible future proposed reform in this area, these factors would need to be taken into consideration.

b. Does the Government propose to outline the ‘exhaustive list of potential structural defects’ in any proposed legislation or by regulation? If not, why not?

See the answer to question 9a.

c. How will Fair Trading determine which structural faults will be included in an ‘exhaustive list of potential structural defects’?

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See the answer to question 9a.

10. I refer to last year's amendment to the limitations set for home warranty insurance for structural and non-structural defects within the *Home Building Amendment Act 2011* to six years and two years respectively.

a) Has the Government placed the time limitations set for home warranty insurance for structural and non structural defects under s18E (1) of the *Home Building Act 1989* under review again?

Home warranty insurance allows insured homeowners to make a claim for a breach of the statutory warranties when their builder is no longer around because they have died, disappeared, become insolvent or had their licence suspended because of non-compliance with a money order from a Court or the Consumer, Trader and Tenancy Tribunal.

Since 2002, homeowners have been able to lodge a home warranty insurance claim for major structural defects up to six years after the completion of the work and up to two years for all other defects, with a further six months for both periods if the defect becomes apparent in the last six months of the insured period.

The *Home Building Amendment Act 2011* amended the *statutory* limitation on when homeowners could pursue their builder for a breach of the statutory warranties so that it aligned with the existing time periods for the lodgement of a *home warranty* insurance claim. These new statutory time limitations on pursuing a breach of the statutory warranties apply only to contracts that were entered into after 1 February 2012.

The amendment contained in the Home Building Amendment Act was to the statutory time limitations on pursuing a breach of the statutory warranties, not to the insured time periods for home warranty insurance.

The amendment is not currently under review as the changed limitations only commenced for new contracts entered into after 1 February 2012. Accordingly, it is not possible to review the impact of a change that has not yet been experienced by the marketplace.

b) If so why?

Not applicable.

Strata Laws

11. What legal recourse, if any, will be available to unit strata owners forced to sell their properties to developers as a result of proposed changes to amend the current requirement of a unanimous resolution for the termination of a strata scheme?

The Government does not have any firm policy proposals in this area. The strata and community scheme discussion paper is intended to stimulate discussion and invite feedback on the identified issues and options. No policy decisions have been taken on any of the matters covered by the discussion paper. The outcome of the review will depend on the information received during the consultation process. The Government will determine its position following the completion of consultation.

12. Should the current requirement of a unanimous resolution prior to the termination of a strata scheme be replaced by a threshold floor of at least 75%:

a. What, if any, measures will the Department put in place to ensure that all strata unit owners receive a fair price?

See the answer to question 11.

b. Will these measures take into consideration the price that owners are willing to pay?

See the answer to question 11.

c. Will these measures ensure that at a minimum the price paid for a strata property is at least the market price? If so, how?

See the answer to question 11.

d. Will strata unit owners unhappy with the price paid for their homes be entitled to compensation?

See the answer to question 11.

e. Will the Government establish an independent tribunal to resolve disputes between strata unit owners and property developers where there is a discrepancy between the price a developer is willing to pay and the price the owner is prepared to sell? If not, why not?

See the answer to question 11.

f. How will the Government ensure a level playing field during the sale negotiation process between unit strata owners and developers?

See the answer to question 11.

g. Will the Government commit to provide legal representation to unit strata owners affected by this amendment, in particular pensioners, who are unable to afford it?

See the answer to question 11.

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13. The Strata & Community Title Law Reform Discussion Paper, *Making NSW No 1 Again: Shaping Future Communities*, suggests that ‘one of the factors stifling urban renewal is the complex and difficult process associated with terminating the strata scheme’ (p 22).

What are the factors in current strata legislation regulating the termination of strata schemes that make the process ‘complex and difficult’?

Currently in NSW, the law provides two methods of terminating a strata scheme:

- by order of the Supreme Court on an application made by the owners corporation, by a lot owner or by a mortgagee of a lot; or
- by application to the Registrar General signed by each owner of a lot, registered lessee and registered mortgagee and supported by a unanimous resolution of the owners corporation.

A unanimous resolution can be difficult to achieve, particularly as there is no clear process for owners to follow when terminating a scheme. Some owners may not agree to the termination because of uncertainties about how to go about redeveloping/terminating the scheme, the costs involved, the amount they will receive and how long it will take. These complexities increase with the size of the scheme, as demonstrated by the graph on page 23 of the discussion paper showing that most terminations have been made in schemes with less than five lots. The same complexities and uncertainties apply to the Supreme Court option, with the additional deterrent of higher legal costs and a potentially adversarial process.

14. Who will be charged with the responsibility of determining when a building is at a ‘tired’ or ‘run down’ condition to warrant forced acquisition?

See the answer to question 11.

15. In the circumstances where a building is in good condition will legislation that requires the unanimous agreement of all unit owners continue to underpin those strata scheme or will the Government introduce a blanket rule that the agreement of 75% or 90% of all unit owners is enough to force remaining strata owners to sell despite the condition of the complex?

See the answer to question 11.

16. Given that the Strata & Community Title Law Reform Discussion Paper, *Making NSW No 1 Again: Shaping Future Communities* proposes to increase the responsibilities of the Consumer, Trader and Tenancy Tribunal (CTTT) to include reviewing the compliance of procedures that regulate the termination process of strata schemes.

How much extra funding will be needed to ensure the CTTT will be able to facilitate the compliance of the proposed reform of the termination process of strata schemes?

See the answer to question 11.

Safety devices on windows

17. Will the Government legislate for the retrospective installation of safety devices on all windows located two metres and higher by the Owners' Corporation of strata unit complexes? If not, why not?

The Government is currently considering its response to the Westmead Children's Hospital report; *'Working Party for the Prevention of Children Falling from Residential Buildings.'* A whole of Government response will be announced upon completion of that process.

18. Why did the Government fail to include the mandatory installation of window limiting locks or reinforced screens on windows above two metres in its comprehensive review of Strata laws currently being undertaken?

The Government did, in fact, include window safety in its comprehensive review of the strata and community title laws. The review discussion paper, released on 15 September 2012, invites the community's views on how window safety in strata buildings can be improved.

19. What strategies, if any, have been devised by the Government to address the concerns raised by the Children's Hospital at Westmead Working Party for the Prevention of Children Falling from Buildings report?

The NSW Government has already implemented a range of strategies to address the risk of children falling from balconies and windows in multi-storey buildings.

In addition, the Government is currently developing a comprehensive, whole of Government response to the Westmead Hospital report. The Government will continue to develop its strategic, targeted campaign that includes partnerships with relevant stakeholders, including the building industry and non government organisations involved in child safety, and delivering campaign materials through a targeted communication strategy to those with a higher risk of child falls. Regulatory responses will also be considered where appropriate.

Other strategies implemented to date include:

- an extensive child safety campaign to educate parents and carers about the dangers of windows and balconies for children and simple actions they can take to reduce these risks;
- distribution of posters and flyers to real estate agents, strata managing agents and community housing providers, as well as newsletters and fact sheets; and
- working with the Australian Building Codes Board, which administers the Building Code of Australia (BCA), to include amended and enhanced provisions for barriers to windows (effective from 1 May 2013) and for balustrades (to be considered in 2014).

Fair Trading has assessed that the key time for tenants to be made aware of the need to consider window safety issues is at the start of the tenancy. Proposed actions to draw these matters to the attention of tenants and landlords have been developed and an enhanced education program will commence in the coming weeks.

A comprehensive review of the strata and community title laws is being carried out. The review discussion paper, released on 15 September 2012, invites the community's views on how window safety in strata buildings can be improved.

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20. Has the Government instigated its own review on the safety issues relating to children and windows above two metres in residential strata complexes?

The NSW Government is currently developing a comprehensive, whole of Government response to the Westmead Hospital report on this issue.

21. What advice has the Minister received regarding the projected cost to households of mandatory retrospective installation or window limiting locks and reinforced screens on windows above two metres?

I have been advised that a range of low-cost, simple window safety devices can be used, dependent on the desires of the homeowner as well as the different requirements for different types of windows. As such, costs can vary.

Response to Australian National Car Parks PL complaints:

22. What is the Government's position on the practice of issuing 'fines' by companies such as Australian National Car Parks Pty Ltd?

The 'payment notices' issued by Australian National Car Parks Pty Ltd are subject to the provisions of the Australian Consumer Law. Car park operators which breach those provisions are liable for the commencement of compliance action by NSW Fair Trading.

23.

a. What action, if any, has Fair Trading taken to address the practise of Australian National Car Parks Pty Ltd of issuing 'fines'?

NSW Fair Trading is concerned to ensure that car park operators (including Australian National Car Parks Pty Ltd) clearly communicate parking fees and conditions at the point of entry to car parks.

NSW Fair Trading was concerned that the manner in which Australian National Car Parks was operating a number of shopping centre car parks could mislead consumers. In 2007, following discussions with Fair Trading, the company altered its payment notices and increased the number of signs displayed throughout a number of its car parks. In 2010, the company further improved its signage and customer complaints handling system after involvement with Fair Trading.

During 2010-11, Fair Trading officers inspected more than 90 car parks around Sydney and in regional locations, checking on signage at entry and exit points, hourly and daily rates, and terms and conditions on display. Operators were advised that signage displaying terms and conditions needed to be improved so that it was visible to consumers prior to entering the car park. As a result of these discussions and inspections, complaints to Fair Trading about a number of car park operators decreased significantly.

Following recent court decisions, Australian National Car Parks and other NSW car park operators have been able to ascertain the details of vehicle owners who are alleged to have parked in breach of their contracted terms. Australian National Car Parks has commenced issuing payment notices to a proportion of those car owners. The majority of these notices relate to incidents occurring in 2010 and 2011. When placed in this situation, some motorists may be at a disadvantage, as the incidents occurred quite some time ago.

Paid car parking operators across the nation are presently under active surveillance by Australian Consumer Law regulators. As part of this project, NSW Fair Trading is engaging with a number of NSW-based businesses to ensure that they are fully aware of their ongoing obligations under the Australian Consumer Law.

To assist consumers about private car park operators, Fair Trading developed a fact sheet covering frequently asked questions, which is available on the Fair Trading website and through Facebook.

On 25 October 2012, the Government introduced the Road Transport (General) Amendment (Private Car Parks) Bill into Parliament to provide legislation that will prevent the release of Roads and Maritime Services data to private car parks.

b. Has Fair Trading sought to clarify with private companies the difference between 'collecting claims' and 'issuing fines'?

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See the answer to question 23a.

24.

a. Can the Minister confirm whether or not Fair Trading has undertaken an investigation into Australian National Car Parks issuing 'fines'?

See the answer to question 23a.

b. If so, when did this investigation commence?

See the answer to question 23a.

c. What advice has the Minister received regarding this issue?

See the answer to question 23a.

25. Will the Government consider a judicial challenge such as that of Consumer Affairs Victoria who succeeded in demonstrating that the practise of a private car park operator issuing 'fines' was illegal?

NSW Fair Trading will consider taking any action available to address any breaches of the Australian Consumer Law that are identified.

Coalition Job Cuts and Service Cuts

26. How will Fair Trading meet its current obligations given the projected \$13 million cut to its budget in 2012-2013?

NSW Fair Trading will meet its current commitments by finding savings and efficiencies that have minimal impact on service delivery to the community. Examples of savings identified include a reduction in corporate fees, removal of funding under the industry grants programs and a reduction in capital expenditure.

27. Will the Government commit to maintaining all Consumer Trader and Tenancy Tribunal offices for at least the duration of its current term?

The Government has no plans to close any Consumer, Trader and Tenancy Tribunal offices at this stage. On 26 October 2012, the Government tabled its response to the Legislative Council Standing Committee on Law and Justice inquiry report on opportunities to consolidate tribunals in NSW, accepting its recommendation to create a new tribunal to consolidate existing tribunals. The Consumer, Trader and Tenancy Tribunal has been included in the proposed NSW Civil and Administrative Tribunal, which is scheduled to commence in 2014.

28. Will the Government commit to maintaining all NSW Fair Trading offices for at least the duration of its current term?

Fair Trading will continue to have a physical presence in all regional areas it currently services.

29. I refer to the decision by NSW Fair Trading in July this year to not take action against developer Statewide Development Pty Ltd, a company accused of falsely advertising off the plan apartments to first home buyers.

a. What advice, if any, did the Minister receive regarding this decision?

The Minister was advised that on 9 January 2012, NSW Fair Trading had reviewed Australian Securities and Investment Commission records, which indicated that an administrator was appointed to Statewide Development Pty Ltd on 14 December 2011 and a liquidator appointed on 23 December 2011.

Based on this information, Fair Trading assessed the allegations made to it by a third party and decided that as the company was now in liquidation there would be no investigation of this entity. Generally, Fair Trading does not investigate corporations which have entered liquidation unless there is a real prospect of enforcing penalties levied or recouping any costs awarded against the corporation by a court.

These decisions are consistent with Fair Trading's compliance and enforcement policies, which include investigation selection criteria and can be viewed on the Fair Trading website.

Arising from the same complaint, Fair Trading commenced an investigation into two licensed real estate agents who were involved in selling the apartments. Fair Trading is also looking at alleged building defects.

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b. What was the justification for this decision?

See the answer to question 29a.

c. Was the refusal to take action a result of budget and staffing cuts to NSW Fair Trading?

No.

30. I refer to the decision by NSW Fair Trading to not investigate Ticket Finders, a company accused of selling fake tickets to thousands of Rugby Fans for the 2011 Hong Kong Rugby Sevens.

a. What advice, if any, did the Minister receive regarding this decision?

NSW Fair Trading did, in fact, conduct an investigation into Ticketfinders.

An investigation was conducted into Sion Events Pty Ltd, trading as Ticketfinders under the misleading and deceptive conduct and consumer guarantees provisions of the Australian Consumer Law. Aspects of unfair contract terms were identified during an analysis of the website. These issues were rectified during the course of the investigation once it was brought to the attention of the traders.

On 26 September 2011, the Minister for Fair Trading exercised his powers under section 223 of the Australian Consumer Law to publicly name Ticketfinders in order to warn consumers about dealing with this company.

On 22 December 2011, legal action was commenced in the NSW Supreme Court against Sion Events Pty Ltd, David Keith McGuire and Thomas Gilmartin. After commencing this legal action, a number of changes were made to the Ticketfinders' website. These changes were consistent with addressing issues raised in the Statement of Claim before the Supreme Court.

Fair Trading and representatives of Ticketfinders negotiated consent orders, which were signed on 19 March 2012 and sealed by the Supreme Court on 30 March 2012. Ticketfinders failed to comply with the consent orders. Ticketfinders' solicitors advised that the company ceased to trade. Ticketfinders went into liquidation on 30 April 2012. Fair Trading acted to have Ticketfinders domain name removed from the internet.

b. What was the justification for this decision?

See the answer to question 30a.

c. Was the refusal to take action a result of budget and staffing cuts to NSW Fair Trading?

See the answer to question 30a.

31.

a. How many complaints were made to the NSW Fair Trading in the 2011- 2012 Financial Year?

44,248 complaints were received by NSW Fair Trading in the 2011-12 financial year.

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b. How many of these complaints were investigated by Fair Trading?

NSW Fair Trading deals with complaints under a three step process:

1. Complaints resolved through mediated dispute resolution over the telephone or through correspondence. The vast majority of complaints received by Fair Trading are finalised this way.
2. Where issues of complexity or legislative breaches are identified, complaints are referred for further assessment. A percentage of these are resolved without further investigation, such as the issuing of warning letters.
3. Out of the matters referred for further assessment, a decision is made on a percentage of them to conduct a formal investigation.

The following statistics relate to matters included in the third step of the complaint handling process.

In the 2011-12 financial year, Fair Trading carried out 2,313 investigations (including 1094 home building investigations and 313 energy utilities investigations).

In the same period, Fair Trading also completed 5,365 inspections (including 942 field audit inspections as part of compliance activities and campaigns within the residential building industry around the State and technical inspections as part of dispute resolution in 2,668 building complaints).

c. What is the average time frame for investigating a complaint made to Fair Trading?

In the 2011-12 financial year, the average time frame for completing formal investigations were as follows:

- 105 days for completing general investigations;
- 17 days for completing technical home building inspections;
- 44 days for completing home building investigations about defects; and
- 32 days for completing home building investigations about legislative breaches.

General investigations include investigations under the real estate, co-operative association, motor vehicle and product safety laws, as well as under the Australian Consumer Law.

d. In how many instances was this time frame achieved in the 2011-2012 Financial Year?

In the 2011-12 financial year, the following time frames were achieved:

- 67% of product safety investigations were completed within the guarantee of service of 90 days;
- 100% of co-operative and association investigations were completed within the guarantee of service of 180 days;
- 81% of all other general investigations were completed within the guarantee of service of 180 days;
- 72% of technical home building inspections were completed within the guarantee of service of 20 days;
- 57% of home building investigations about defects were completed within the guarantee of service of 40 days; and
- 98% of home building investigations about legislative breaches were completed within the guarantee of service of 180 days.

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32. I refer to the answer published in *Questions & Answers Paper No. 103*, to Question on Notice, 2402 – NSW Fair Trading Job Losses, submitted on 14 June 2012. The Minister's response stated:

"...Agencies have a significant degree of flexibility in how they meet their saving targets across the areas of employee-related and operational expenses, though it is likely that some position will no longer be considered essential for Fair Trading...."

a) Which positions, if any, have been identified by Fair Trading as being no longer essential?

Those positions that are no longer essential are positions which have responsibility for business functions that have transferred to the Commonwealth. They include positions that were assigned to the Registry of Encumbered Vehicles Service (REVS) and Business Registration. REVS functions transferred to the Commonwealth in January 2012. Business Registration transferred to the Commonwealth in May 2012.

b) What number of positions have been ear marked as no longer essential?

See answer to Question 32.a).

c) What are the locations of these non-essential positions?

See answer to Question 32.a).

d) Are any of the positions deemed 'no longer essential' by the Minister assigned to the investigative arm of the Department?

No.

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Office Closures / Job Losses:

33. I refer to your response to Question 1567 – Closure of Parramatta and Liverpool CTTT Office, to which you responded:

"The Treasurer's Office played no role in the decision to close the CTTT's Parramatta office."

a) What role did your office play in the closure of the Parramatta CTTT Registry?

The Consumer, Trader and Tenancy Tribunal (the Tribunal) has been undertaking the process of maximising the use of its infrastructure for some time. As part of this process, the Tribunal decided to close its Parramatta registry and sought endorsement to this action. The Minister's office played no role in proposing the closure of the Parramatta Registry.

b) What were the reasons for closing the Parramatta CTTT Registry?

The reasons provided by the Consumer, Trader and Tenancy Tribunal for its decision to close its Parramatta Registry were that only 7.5% of its matters were heard at the Parramatta facility in 2010-11. In an environment where the Tribunal's accommodation, hearing and conciliation rooms and Registry office space are under utilised, this presented an opportunity for the Tribunal to consolidate its hearing facilities so they are better utilised.

34.

a. How many positions have been shed from the CTTT since March 2011?

Three jobs were deleted from the CTTT's Sydney office as a result of the recommendations of the Better Services and Values Taskforce.

b. Which CTTT offices have lost staff because of the public sector job cuts instigated by the Government?

See the answer to question 34a.

c. How many positions were lost at each CTTT office because of the public sector job cuts instigated by the Government?

See the answer to question 34a.

35. Are there plans to slash more Fair Trading jobs in the following financial periods:

a) 2013-2014?

b) 2014-2015?

a) & b) No.

36. Given that Fair Trading is operating with a reduced budget in the 2012-2013 financial year is the O'Farrell-Baird Government intending to further slash the Department budget for the following financial periods:

a) 2013-2014?

b) 2014-2015?

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Budget figures for these periods will be released in the 2013-2014 and 2014-2015 Budget Papers.

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Mobile Phones and Related Devices

37. How many mobile phones and other communication devices, including digital tablets, have been assigned to your staff?

In 2011/12, 179 phones were assigned to the Premier's and Ministers' offices.

38. For each device, how much was each bill for the 2011/12 financial year?

The total expenditure on mobile phones by the Premier's office and Ministers' offices as represented in the Department's financial system is set out in the table below. Please note that this expenditure may include mobile phone purchase costs as the financial system does not separate the purchase costs and mobile usage charges.

	2008-09	2009-10	2010-11	2011-12
Premier's Office	\$103,152	\$76,457	\$68,475	\$27,570
Ministers' Offices	\$475,539	\$358,396	\$120,285	\$169,655
TOTAL	\$578,691	\$434,854	\$188,761	\$197,226

Note. 2010-11 figures are a combination of 9 months of Keneally Government and 3 months of O'Farrell Government.

39. Have any such devices been lost by your office?

For Premier's office and Ministers' offices, the number of phones lost was:

	2011/12
Premier	1
Ministers	5
Total	6

40. If any, what is the cost of replacing these devices?

The cost is the normal contract price and this cost is claimed through the NSW Treasury Managed Fund.

41. To which staff members have mobile phones and related devices been issued? For what purpose have these devices been issued?

In 2011/12, 179 phones were assigned to the Premier's and Ministers' offices.

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Media/public relations

42. How many media or public relations advisers are employed by Fair Trading?

Financial statements, including expenditure on public relations staff, are available in agency annual reports.

43. What is the forecast for 2012-13 for the number of media or public relations advisers employed and their total cost?

See the answer to Question 42.

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Overseas trips

44. Have any of your overseas trips in the past year been paid for in part or in full by using public money?

Information regarding Ministerial travel is available on the relevant Minister's appropriate agency website, in accordance with Ministerial Memorandum M2009-10 "Release of Overseas Travel Information".

45. If so, did any of your relatives or friends accompany you on these trips?

See answer 44.

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Office costs

46. What is the annual remuneration package for your chief of staff?

Ministerial staff numbers and salary bands are available on the Department of Premier and Cabinet website at

http://www.dpc.nsw.gov.au/about/publications/premiers_and_ministers_staff_numbers.

47. What is the annual remuneration package for your head media advisor?

Ministerial staff numbers and salary bands are available on the Department of Premier and Cabinet website at

http://www.dpc.nsw.gov.au/about/publications/premiers_and_ministers_staff_numbers.

48. What is the annual remuneration package for each of your staff?

Ministerial staff numbers and salary bands are available on the Department of Premier and Cabinet website at

http://www.dpc.nsw.gov.au/about/publications/premiers_and_ministers_staff_numbers.

49. What is the estimated expenditure for your office budget in 2012-13?

The total budget allocation for the Premier's and Ministers' offices in 2012-13 is \$40,103,650, with \$5,744,883 allocated to the Premier's office and \$34,358,767 to the Ministers' offices.

50. Have any office renovations or fit outs been undertaken in your ministerial office since April, 2011? If so, can you please provide details of contracted costs?

Information on the assets balances for leasehold improvements are available in the Department of Premier and Cabinet Annual Report.

51. How many political advisors are in your office?

Ministerial staff numbers and salary bands are available on the Department of Premier and Cabinet website at

http://www.dpc.nsw.gov.au/about/publications/premiers_and_ministers_staff_numbers.

52. How many administration staff?

Ministerial staff numbers and salary bands are available on the Department of Premier and Cabinet website at

http://www.dpc.nsw.gov.au/about/publications/premiers_and_ministers_staff_numbers.

BUDGET ESTIMATES 2012-13 – SUPPLEMENTARY QUESTIONS ON NOTICE

53. How many Department Liaison Officers are assigned to your office?

	Number of DLOs as at 5/09/2012
Premier	1
Ministers	57
TOTAL	58

54. How many staff in the Department have been assigned to Ministerial support duties?

Ministerial and Executive Services is the central liaison point between NSW Fair Trading and the Minister's office. The Unit performs the following functions:

- executive and administrative support for the Minister for Fair Trading, Director-General and Commissioner for Fair Trading;
- management of Ministerial, Director-General and Commissioner correspondence, information requests from the Minister's office and Parliamentary activities/operations;
- coordination of Ministerial events and meetings including briefing, speech notes and contentious issues briefing notes as required;
- secretariat services to the Minister's five Advisory Councils (Fair Trading, Motor Vehicle Industry, Property Services, Home Building and Retirement Villages) and the Rental Bond Board, as well as non-statutory Advisory Councils that are set up from time to time;
- coordination of Fair Trading's input into the COAG Legislative and Governance Forum on Consumer Affairs (CAF) and the Consumer Affairs Australia New Zealand (CAANZ), including hosting of these meetings from September 2012; and
- determination of applications made to Fair Trading under the *Government Information (Public Access) Act 2009*.

As at 11 October 2012, the Ministerial and Executive Services Unit comprised 10 staff, including administration support.

55. Are any contractors or consultants working in your ministerial office? If so, in what capacities?

No.

56. How much did your Ministerial office spend on contractors or consultants?

Nil.

BUDGET ESTIMATES 2012-13 – SUPPLEMENTARY QUESTIONS ON NOTICE

Cabcharge

57. How much did your Ministerial office spend on taxi fares, including Cabcharge in the 2011/12 financial year?

Taxi expenditure by the Premier's office and Ministers' offices as represented in the Department's financial system is represented in the table below.

	2008-09	2009-10	2010-11	2011-12
Premier	\$26,418	\$32,525	\$27,600	\$15,485
Ministers	\$133,697	\$143,251	\$32,678	\$80,609
TOTAL	\$160,155	\$175,776	\$60,277	\$96,094

Note. 2010-11 figures are a combination of 9 months of Keneally Government and 3 months of O'Farrell Government.

BUDGET ESTIMATES 2012-13 – SUPPLEMENTARY QUESTIONS ON NOTICE

Restructure

58. Is NSW Fair Trading presently undergoing a restructure?

No.

59. If so, how many jobs are expected to be cut as a result of that restructure?

See the answer to question 58.

60. How many people are expected to have their wages cut as a result of that restructure?

See the answer to question 58.

61. How many voluntary redundancies were offered to NSW Fair Trading employees since April 2011?

As outlined in the 2012/13 budget, the Government's 2011-12 program of voluntary redundancies remains on track to reach its target of 5,000 positions.

A labour expense cap has also been introduced as a new savings measure across the public sector with the target of a 1.2 per cent per annum reduction in labour costs growth.

Directors General will be given as much flexibility as possible to achieve the savings in the most appropriate way to meet the service requirements of their agencies. If it was solely achieved through headcount this would equate to up to 10,000 jobs over four years.

Nurses, police officers and teachers in schools have been quarantined from this measure.

62. How many voluntary redundancies were accepted from employees in your Departments since April 2011?

See the answer to Question 61.

63. How many voluntary redundancies are expected to be offered in 2012/13?

See the answer to Question 61.

BUDGET ESTIMATES 2012-13 – SUPPLEMENTARY QUESTIONS ON NOTICE

Agency costs

64. How much did your Department(s) spend on catering in 2011/12?

\$29,993.

65. How much did your Department(s) spend on stationary in 2011/12?

NSW Fair Trading can only provide a combined figure for printing and stationary as it does not itemise these expenses separately. Accordingly, in 2011-12, Fair Trading incurred \$1,093,114 on both printing and stationary.

BUDGET ESTIMATES 2012-13 – SUPPLEMENTARY QUESTIONS ON NOTICE

Correspondence

66. How long is the average turnaround for responding to correspondence in your Department(s)?

The Department's recommended time frame for completing responses to correspondence from Ministers, Members of Parliament and members of the public is 20 working days from the Department's receipt of the correspondence.

However, it is not always possible to comply with this time frame for any number of reasons including: the nature and complexity of the matter; stakeholder consultation; or further information required from other Departments and sources.

67. How many pieces of correspondence have been outstanding for more than 60 days?

See the answer to Question 66.

BUDGET ESTIMATES 2012-13 – SUPPLEMENTARY QUESTIONS ON NOTICE

Paying bills on time

68. In 2011/12 how many invoices has your Department(s) failed to pay a supplier or contractor for more than 30 days?

As the Premier stated in Parliament on 23 August 2012, the 30 day bill payment policy formally commenced on 1 January 2012. The first quarterly performance report is currently being finalised for release. In the first quarter almost 92 per cent of invoices were paid within 30 days, consistent with our policy and initiative. 31 small businesses have already been eligible to receive automatic interest charges on overdue accounts.

69. As a result of late payment, how much penalty interest has been paid to contractors since 1 January 2011?

See the answer to Question 68.

70. How many invoices have been outstanding for longer than 60 days?

See the answer to Question 68.

Grants to non-government organisations

71. What recurrent grant funds are provided by Fair Trading to non-government organisations?

NSW Fair Trading provides community grants to not-for-profit organisations via periodic competitive tendering processes for the delivery of education, advice and advocacy services for tenants, retirement village residents, residential park residents and consumers needing assistance with personal financial difficulties. Programs include:

▪ **Tenants' Advice and Advocacy Program**

Fair Trading fully funds the Program for the delivery of advocacy, information and education services for tenants. The current Program is funded until 30 June 2013 and funding as at 1 July 2012 is \$9,086,589 per annum, sourced from the Rental Bond Board Interest Account (50%) and the Property Services Statutory Interest Account (50%).

▪ **Financial Counselling Services Program**

The Financial Counselling Services Program provides free-of-charge financial counselling by accredited counsellors. Funding for the Program as at 1 July 2012 is \$6,081,851 per annum. Funding is sourced from the Credit Counselling Program and the Financial Counselling Trust Fund. Applications for funding for the 2012-2015 Program closed on 27 July 2012, with more than 130 applications being received. Successful applicants were advised in September 2012. Funding for 2012-2015 Program will begin on 1 December 2012, following a transition period involving current providers.

▪ **No Interest Loan Schemes (NILS)**

No Interest Loan Schemes are community-based programs to help low-income earners buy essential household items and services, such as washing machines, refrigerators or dental services. Fair Trading manages the No Interest Loans Scheme Funding Program and provides funding toward salaries and salary related on-costs associated with the operation of NILS. Capital is provided by National Australia Bank.

The Program also funds the salary and operational costs of a 1800 number and a NSW Co-ordinator to assist in setting up, supporting and expanding new and existing NILS services, which is now located in Lismore. Funding for the Program (as at 1 July 2012) is \$2,176,085 per annum. In July 2011, the NSW Government increased its funding to the NILS Program by \$315,000, providing funding for an additional five NILS services.

▪ **Home Building Advice and Advocacy Service (HoBAS)**

Fair Trading funds Macquarie Legal Centre to provide advice to NSW residential home building consumers on their rights and responsibilities. It is also funded to provide advocacy on behalf of residential home building consumers, negotiation of disputes between consumers and builders, assistance in the preparation of cases for Consumer, Trader and Tenancy Tribunal hearings and representation at hearings when appropriate. The Home Building Advice and Advocacy Service was funded at \$229,278 (plus GST) per year until 30 September 2012. Funding has been approved for Macquarie Legal Centre to continue operating the Service from 1 October 2012 to 30 June 2015.

▪ **The Aged Care Supported Accommodation Service**

Fair Trading has provided a funding contribution from the Rental Bond Board Statutory Interest Account for advocacy, information and education services to be provided to older residents in supported accommodation, such as retirement villages, nursing homes, hostels and boarding houses in NSW since 1996. The organisation funded by Fair Trading to operate this service is The Aged-Care Rights Service (TARS), which is currently funded at \$413,101 (plus GST) per annum up to 30 June 2013.

72. What are the names of all organisations in receipt of funding?

NSW Fair Trading provides a list of all organisations in receipt of funding on its website at the following links:

- **Tenants' Advice and Advocacy Program**
http://www.fairtrading.nsw.gov.au/pdfs/About_us/TAAP_Currently_Funded_Services.pdf
- **Financial Counselling Services Program**
http://www.fairtrading.nsw.gov.au/pdfs/About_us/FCSP_Currently_Funded_Services.pdf
- **No Interest Loan Schemes (NILS)**
http://www.fairtrading.nsw.gov.au/pdfs/About_us/NILS_Currently_Funded_Services.pdf

There is also the no interest loan scheme program, auspice for NSW State Co-ordinator. The purpose of the co-ordinator's position is to provide ongoing support to NILS schemes throughout NSW. The currently funded organisation to 30 June 2014 is the Lismore Neighbourhood Centre, 76 Carrington Street, Lismore NSW 2480.

- **Home Building Advice and Advocacy Service (HoBAS)**
The service currently funded is the Macquarie Legal Centre, Suite 302, Level 3, 107 Philip Street, Parramatta NSW 2150.
- **The Aged Care Supported Accommodation Service**
The service currently funded is The Aged-care Rights Service (TARS), Level 4, 418A Elizabeth Street, Surry Hills NSW 2010

73. What is the total amount of funding received by each organisation including goods and services tax?

See the answer to question 71.

74. On what date was the funding advanced?

See the answer to question 71.

75. What was the purpose for each grant or funding advance?

See the answer to question 71.

76. Was any funding withheld or returned?

No funding was withheld by NSW Fair Trading.

\$184,474 was returned by the Northern Area Tenants' Service as surplus funds.

77. If so, what were the reasons for withholding or requiring the funding to be returned?

See the answer to question 76.

BUDGET ESTIMATES 2012-13 – SUPPLEMENTARY QUESTIONS ON NOTICE

78. What is the indexation rate applied to non-recurrent grant funds in 2011/2012?

No indexation was applied to non-recurrent grants funds in 2011-12.

79. What are the details of any costs involved in each study, audit, taskforce or review?

As with previous NSW Governments, the Government undertakes feasibility studies, audits, taskforces and reviews to inform government decision making. A number of feasibility studies, audits, taskforces and reviews are currently being undertaken across the NSW Government.

BUDGET ESTIMATES 2012-13 – SUPPLEMENTARY QUESTIONS ON NOTICE

Contractors

80. How many contractors has your Department(s) retained since 1 July 2012 and at what cost?

Financial statements, including expenditure on contractors, are available in agency annual reports.

BUDGET ESTIMATES 2012-13 – SUPPLEMENTARY QUESTIONS ON NOTICE

Consultants

81. Has NSW Fair Trading engaged consultants in the 2011/12 financial year?

Financial statements, including expenditure on consultants, are available in agency annual reports.

82. If yes, which companies were engaged for consultancy services in the 2011/12 financial year?

See answer to Question 81.

83. For what purpose has NSW Fair Trading engaged consultants?

See answer to Question 81.

84. How much have your agencies spent on consultants in the 2011/12 financial year?

See answer to Question 81.

85. What is your Department(s) budget for consultants in the 2012/13 financial year?

See answer to Question 81.

BUDGET ESTIMATES 2012-13 – SUPPLEMENTARY QUESTIONS ON NOTICE

Sponsorships

86. Has NSW Fair Trading sponsored any organisations or events in the 2011/12 financial year?

NSW Fair Trading provided sponsorship funding to the following organisations and events in the 2011-12 financial year in the following amounts:

▪ Family and Community Services (FACS) for Ageing, Disability and Home Care's 'Don't Dis my Ability' campaign	\$5,500
▪ The Society of Consumer Affairs Professionals (SOCAP)	\$1,500
▪ Strata Community Australia	\$11,000
▪ Koori Knockout	\$10,000
▪ Muda Aboriginal Corporation/2CUZ FM	\$3,300
▪ Gosford Art Competition	\$3,000
▪ Armidale Art Competition	\$1,300
▪ Toronto Art Competition	\$500
▪ Dubbo Family Fun Day	\$4,500
▪ Port Macquarie Family Fun Day	\$2,500
▪ Newcastle Family Fun Day	\$1,500
▪ Orange Family Fun Day	\$2,700
▪ Tenancy Information Forum for Aboriginal Community Workers	\$1,250
▪ Woodberry NAIDOC Family Event	\$500
▪ Coffs Harbour NAIDOC Sports and Cultural Day	\$760
▪ Nambucca LALC NAIDOC Events	\$500
▪ The Australian Institute of Building Professional Excellence in Building Awards	\$5,500
▪ The Master Painters' Association Awards for Excellence	\$3,300
▪ The Master Builders' Association Excellence in Housing and Pool Awards	\$11,000
▪ The Housing Industry Association CSR NSW Housing, Kitchen and Bathroom Awards	\$5,500
▪ The Housing Industry Association NSW Building and Business Show	\$11,000

87. If yes, which organisations and events were sponsored in the 2011/12 financial year?

See the answer to question 86.

88. How much did your agencies within your Departments spend on sponsoring organisations and events in the 2011/12 financial year?

See the answer to question 86.

89. What is your Department(s) budget for sponsorship in the 2012/13 financial year?

NSW Fair Trading does not generally have a separate budget for sponsorship. However, there is an exception for the Home Building Service, which has a sponsorship budget of \$28,000 for 2012-13.

END OF QUESTIONS FROM THE HON. A. SEARLE, MLC