

UNCORRECTED PROOF

GENERAL PURPOSE STANDING COMMITTEE NO. 5

Thursday 27 October 2011

Examination of proposed expenditure for the portfolio area

FAIR TRADING

The Committee met at 3.40 p.m.

MEMBERS

The Hon. R. L. Brown (Chair)

The Hon. R. H. Colless
Dr J. Kaye
The Hon. S. MacDonald

The Hon. Dr P. R. Phelps
The Hon. E. Roozendaal
The Hon. W. Secord

PRESENT

The Hon Anthony Roberts, Minister for Fair Trading

NSW Fair Trading

Mr R. Stowe, *Commissioner for Fair Trading*

Mr J. Tansey, *Assistant Commissioner, Home Building Service*

Mr D. Jones, *Assistant Commissioner, Compliance and Enforcement*

Mr M. Silk, *Director, Reform Coordination Unit, Department of Finance and Services*

CORRECTIONS TO TRANSCRIPT OF COMMITTEE PROCEEDINGS

Corrections should be marked on a photocopy of the proof and forwarded to:

**Budget Estimates secretariat
Room 812
Parliament House
Macquarie Street
SYDNEY NSW 2000**

CHAIR: I declare the hearing of General Purpose Standing Committee No. 5 inquiry into the budget estimates for 2011-12 open to the public. I welcome Minister Roberts and accompanying officials to this hearing. Today the Committee will examine the proposed expenditure for the portfolio of Fair Trading. Before we commence I will make some comments on procedural matters. I made a comment earlier in relation to the broadcast of proceedings, which I will not repeat. In relation to the delivery of messages, any messages from attendees in the public gallery must be delivered through support staff or the Committee secretariat. Minister, I remind you and the officers accompanying you that you are free to pass notes and refer directly to your advisers whilst at the table. Transcripts of this hearing will be available on the web tomorrow morning.

The Committee has resolved that answers to questions on notice must be provided within 21 days. I remind all Committee members, the Minister and his staff and all members of the public gallery that mobile phones must be turned off. All witnesses from departments, statutory bodies and corporations will be sworn in prior to giving evidence. Minister, I remind you that you do not need to be sworn as you have already sworn an oath as a member of Parliament. All other witnesses should state their full name, job title and agency, and either swear an oath or make an affirmation.

RODNEY STOWE, Commissioner of NSW Fair Trading, sworn and examined:

DON CLARK JONES, Assistant Commissioner, Compliance and Enforcement, NSW Fair Trading,

JOHN TANSEY, Assistant Commissioner, Home Building Service, NSW Fair Trading, and

MICHAEL SILK, Director, Reform Coordination Unit, NSW Fair Trading, affirmed and examined:

CHAIR: I declare the proposed expenditure of the portfolio of Fair Trading open for examination. As there is no provision for a Minister to make an opening statement the Committee will commence questions. The Government has elected to take its questions, so the hearing will run the full period from 3.45 p.m. to 5.45 p.m. Questions will be by rotation—Opposition, crossbench and Government—with each allocated a round of 20 minutes and then another round.

The Hon. WALT SECORD: Welcome, Minister. How many people are employed by NSW Fair Trading in areas under your ministerial responsibility?

Mr ANTHONY ROBERTS: Thank you the opportunity to answer the question. We have a total of 1,005 full-time employees [FTE].

The Hon. WALT SECORD: How many of those are outside Sydney?

Mr ANTHONY ROBERTS: I am very proud that we have a department that is very heavily decentralised and it is something we are intending to pursue even further. I will pass that to my commissioner with respect to the exact numbers.

Mr STOWE: We have 24 Fair Trading centres located right around New South Wales. I cannot give you a specific figure for our regional centres. I am happy to take that on notice and provide it to the Committee.

The Hon. WALT SECORD: Thank you. Minister, on Tuesday the Premier announced that 2,000 bureaucrats would be sacked: 489 in Justice, jails and courts; 262 in Education; 248 in Trade and Regional Services; 214 in Finance; 200 in Transport; 173 in Family Services; 170 in Health; and 138 in Premier and Cabinet. How many public servants are going to be removed from the areas of your ministerial responsibility?

Mr ANTHONY ROBERTS: I must say I am very proud of my Fair Trading staff and the work they do. This is an operational issue. We are—

The Hon. WALT SECORD: It is not an operational issue. This is a policy decision of the Premier.

Mr ANTHONY ROBERTS: It is a policy decision but it comes down to professionals within my department. I will ask the commissioner to respond.

The Hon. WALT SECORD: Commissioner, how many?

Mr STOWE: I should explain that in regard to NSW Fair Trading a number of our responsibilities are transferring to the Commonwealth Government. As a consequence, we have a number of positions that will no longer be required.

The Hon. WALT SECORD: How many is that?

Mr STOWE: Forty-three of those.

The Hon. WALT SECORD: So 43 people will lose their jobs because the responsibility goes to the Commonwealth?

Mr STOWE: That is correct—25 of those positions are in the Business Names area and 18 have been identified in the Registry of Encumbered Vehicles. Within the agency itself we have been able to relocate some

of those staff to other positions and a number of people will be offered voluntary redundancies. The cost of that is covered in our current budget.

The Hon. WALT SECORD: You have answered about the Federal responsibility. How many of the 2,000 will come from your area?

Mr STOWE: In addition to meet the savings targets that the Government set us we have some targeted voluntary redundancies.

The Hon. WALT SECORD: How many?

Mr STOWE: Altogether, we expect it will be about 29. Twelve have already been effected.

The Hon. WALT SECORD: Have those people been communicated to. Are they aware?

Mr STOWE: Twelve of those people have already left the agency. These are voluntary redundancies; they are not forced retrenchments. This is where we have been able to look at rationalisation in some parts of the agency and identify people who are interested in taking voluntary redundancy. So there are probably about 17 further of those to go.

The Hon. WALT SECORD: Seventeen?

Mr STOWE: Yes.

The Hon. WALT SECORD: When do you plan to have those 17 removed?

Mr STOWE: Over a period of time.

The Hon. WALT SECORD: By the end of the year?

Mr STOWE: Yes, by the end of the year.

The Hon. ERIC ROOZENDAAL: Any guarantee that none of those will come from the Grafton Office of Fair Trading?

Mr STOWE: I think I can pretty much guarantee they will not come from regional New South Wales.

The Hon. WALT SECORD: Can you give an ironclad commitment not to close Albury, Armidale, Bathurst, Broken Hill, Coffs Harbour, Dubbo, Gosford, Goulburn, Grafton, Lismore, Newcastle, Orange, Port Macquarie, Queanbeyan, Tamworth, Tweed Heads, Wagga Wagga, Wollongong, Blacktown, Hurstville, Liverpool, Parramatta and the Sydney central business district?

Mr ANTHONY ROBERTS: There are no plans to close any.

The Hon. ERIC ROOZENDAAL: What about removing any staff from any of those offices?

Mr ANTHONY ROBERTS: That has already been answered by the commissioner.

The Hon. WALT SECORD: We would like you to give a commitment here today that there will be no closures of those offices.

Mr ANTHONY ROBERTS: I am quite happy to commit today, unlike the previous Government, which seemed to think that New South Wales stopped at the Great Dividing Range. I am committing and you will see that—

The Hon. WALT SECORD: Minister, you are dodging the question.

Mr ANTHONY ROBERTS: No, I am answering the question. I have travelled widely throughout New South Wales—

The Hon. SCOT MacDONALD: You were in Armidale on Tuesday.

Mr ANTHONY ROBERTS: Yes, I was in Armidale on Tuesday. I can say without hesitation that we will be closing no centres in rural and regional New South Wales.

CHAIR: I advise members that Hansard has difficulty when a number of members speak at once. I ask members to speak one at a time.

The Hon. WALT SECORD: What about the 69 regional Fair Trading service centres across the State—the 69 that were on your website? Will you give the same commitment to those: Balranald, Bega, Bombala—I will not read through all 69.

Mr ANTHONY ROBERTS: These are government access centres not all of which are controlled by Fair Trading; quite a few of them are Roads and Traffic Authority offices. But, as you would be aware, the Government is embracing a one-stop shop, one government operation, which I think, particularly for people in rural and regional New South Wales, would be a great boon to the public. So I think what you will see out of our Government is more of an embracing of rural and regional New South Wales not the opposite.

The Hon. WALT SECORD: Can you give a public commitment that there will be the same number of Fair Trading centres in March 2015 as there are today? I will just clarify that they are centres.

Mr ANTHONY ROBERTS: These are access centres or centres?

The Hon. WALT SECORD: These are Fair Trading centres—the 29.

Mr ANTHONY ROBERTS: As in offices, the 29 that we have?

The Hon. WALT SECORD: Yes.

Mr ANTHONY ROBERTS: Twenty-four.

The Hon. WALT SECORD: I am sorry, you are right.

Mr ANTHONY ROBERTS: If anything I would like to expand that number. But I am quite happy to give a commitment that there are no plans whatsoever to close any of those centres.

The Hon. ERIC ROOZENDAAL: What is the efficiency dividend that has been imposed on your agency by Treasury?

Mr ANTHONY ROBERTS: Can I ask the commissioner operationally who has been dealing with this?

The Hon. ERIC ROOZENDAAL: Are you telling me you do not know what the efficiency dividend is imposed by Treasury? Surely it would have been discussed in Cabinet as part of the budget deliberations, and it was set down in the budget. You do not know what the efficiency dividend is for your agency? Is that what you are telling me today? It is something you should know. It is a basic 101 answer for a Minister to know: Do you know what dividend is required by Treasury?

Mr ANTHONY ROBERTS: It is a total of \$16 million. But do not give me part of a broader cluster.

The Hon. ERIC ROOZENDAAL: What is the total budget of your agency?

Mr ANTHONY ROBERTS: Currently?

The Hon. ERIC ROOZENDAAL: Yes.

Mr ANTHONY ROBERTS: It is—

The Hon. ERIC ROOZENDAAL: You do not know that?

Mr ANTHONY ROBERTS: It is \$168 million.

The Hon. ERIC ROOZENDAAL: How is your agency going to deliver the \$16 million saving?

Mr ANTHONY ROBERTS: That is something we are currently addressing. I might ask the commissioner to expand on that, or ask one of our staff to expand on that. It is something that we are looking at. As you would know, we have been dealt a budget that is certainly not as good as we expected and there are efficiencies being asked for. But I can tell you right now that from a Fair Trading perspective we are very keen to make sure that our operational side and our service delivery side remain the same or are not increased. But I will ask the commissioner to expand upon that.

Mr STOWE: Essentially the way in which we will deal with it is by not filling vacancies that are not in priority areas, and that has been a practice of the agency for some years. We have a rolling resources plan: we put resources into those areas that are a priority for the organisation and the Government. Similarly, as I indicated earlier, we will be looking at some voluntary targeted redundancies in areas where we can provide for rationalisation that do not affect the provision of our services.

The Hon. ERIC ROOZENDAAL: The voluntary redundancies and a reduction of the public sector is a separate issue from the efficiency dividend imposed on the agency. Have I got that wrong, have I?

Mr STOWE: There was—

The Hon. ERIC ROOZENDAAL: You cannot double-count voluntary redundancies as part of your efficiency dividend, can you?

Mr STOWE: I will ask Mr Silk to give you a full—

The Hon. ERIC ROOZENDAAL: All right, we will go to a third attempt to answer my question.

Mr SILK: The efficiency dividend is the dividend that has been payable over a number of years. Essentially it is an operational expense. The efficiency dividend affects the normal employee-related expenses of Fair Trading. Over the years we have met those efficiency targets of 1 and 2 per cent through accommodation rationalisation, looking at technology in terms of efficiencies that are gleaned from improving our business processes. We have also looked at other opportunities around our consultancies and contractors to meet the efficiency dividend target as opposed to efficiency savings that have to be realised to meet salary increases over time.

The other savings that Fair Trading is dealing with relate to the expenditure reviews that were conducted in 2010-11. They are being looked at in the context of looking at the call centre operations in terms of efficiencies, looking to share technology and office accommodation with other government agencies, and in the broader context of the Department of Finance and Services, the 6,500 staff across New South Wales, there is a further opportunity for Fair Trading to leverage off the increased capacity, size and scale of the new department in terms particularly of co-location and sharing infrastructure, and those measures would lead to cost reductions across Fair Trading's part of the budget of the department.

The Hon. ERIC ROOZENDAAL: Minister, you said the budget of your agency was roughly \$160 million?

Mr ANTHONY ROBERTS: \$168 million.

The Hon. ERIC ROOZENDAAL: So you are talking about roughly a 10 per cent cut that is imposed by the efficiency dividend. I am still waiting for a specific area where you will be implementing savings. I have heard about the historic things you have done in the past but I want to know what you will be cutting out of your agency in this financial year to meet that dividend.

Mr ANTHONY ROBERTS: I think it has been made quite clear that we are looking at this. We are not keen to cut front-line services. I want to make it quite clear that I wish we were not in a position where we had to cut a budget and find savings, but unfortunately we have been left in a position, right across government, where we have to. You are probably in a better position than I am to explain it.

The Hon. ERIC ROOZENDAAL: That is all very nice but you still have not answered the question. I will ask you now for the fourth time: What will you be cutting from your agency to fund the \$16 million? From what will you fund the 10 per cent cut in your budget? What will you be cutting?

Mr ANTHONY ROBERTS: I am quite happy to take that on notice.

The Hon. ERIC ROOZENDAAL: You do not know?

Mr STOWE: I have answered that question earlier: We are not filling vacancies which are not priority areas, and we have been doing that for a number of years. Under the previous administration—

The Hon. ERIC ROOZENDAAL: Are you telling me that you will save \$16 million by not filling vacancies? What will the rest of it be?

Mr STOWE: Mr Silk has outlined to you that there is a number of strategies we are looking at in terms of making our operations more efficient.

The Hon. ERIC ROOZENDAAL: Can you give a guarantee that there will be no cut in services?

Mr STOWE: I can give a guarantee that our services will continue to be provided in the best way we can and delivered to the current guarantee of services that Fair Trading—

The Hon. ERIC ROOZENDAAL: Can you give a guarantee there will be no cut in services as delivered as of today?

Mr STOWE: I repeat: We will endeavour to ensure that the guarantee of service that we currently operate under will continue to be met.

The Hon. ERIC ROOZENDAAL: It is very nice that you will endeavour to do that but I will ask you once more: You deliver a level of services at this point and effectively you are now going to have a \$16 million cut in your budget. Are you telling me that you give a guarantee that there will be no change to the delivery of services across New South Wales despite a \$16 million cut in your budget?

Mr STOWE: I am saying that it is our intention to continue to deliver the services that we have been providing to the people of New South Wales for the last few years and we have got no intention of making any change to that.

Mr ANTHONY ROBERTS: You have asked that question five times and we have answered it five times. We are quite happy to answer it for a sixth time.

The Hon. ERIC ROOZENDAAL: Minister, I understand you have got a lot of interest in so-called price gouging from information technology companies. Have you had any meetings yet with Apple in relation to price discrimination?

Mr ANTHONY ROBERTS: We have written to Apple requesting some reasons why they charge Australian consumers more than they do United States consumers, for example. We have asked a number of questions. We have also written to the Federal Government with respect to that. It is one of the broader areas right across the board that we are interested in. I would hope that you could take this message back to some of your colleagues federally and I would hope that there is an active interest in consumer protection.

The Hon. ERIC ROOZENDAAL: When did you write this letter?

Mr STOWE: Some weeks ago. We are happy to give you the details on that.

The Hon. ERIC ROOZENDAAL: Has there been a response?

Mr STOWE: No, there has not been a response.

The Hon. ERIC ROOZENDAAL: So you have made no attempt to speak to anyone from Apple?

Mr ANTHONY ROBERTS: Go and knock on their head office door maybe, or camp out—

The Hon. ERIC ROOZENDAAL: No, get one of the many staff members behind you to contact them.

Mr ANTHONY ROBERTS: There is a process that one undertakes and I think we have done the correct thing in writing to them. This has been going on for much longer than I have been in government. It is something that we are pursuing, together with other jurisdictions across Australia. I suppose, to answer your question, yes, we have written to them and, no, we have not received a response.

The Hon. ERIC ROOZENDAAL: You said on 5 October that you were going to take action on information technology pricing at the Federal level. Were you aware at that time that the Productivity Commission had already announced investigation into that issue almost two weeks before you made that announcement?

Mr ANTHONY ROBERTS: No, I was not.

The Hon. ERIC ROOZENDAAL: You were not aware of that?

Mr ANTHONY ROBERTS: No, but I have to say that I welcome it.

The Hon. ERIC ROOZENDAAL: No-one in your office or your agency bothered to tell you that this important Productivity Commission review had already been announced two weeks before you made an announcement on information technology? At the time you made the announcement I assume you consulted your agency and it did not mention to you that the Productivity Commission was doing an investigation into information technology pricing already?

Mr ANTHONY ROBERTS: It does not matter when an announcement is made or not made; Fair Trading is a watchdog. My staff eat, live and breathe consumer protection. This has been going on for too long. There was total inaction by your Government, but I did not shoot the blame for inaction anywhere. I saw where there was a problem and we raised it.

The Hon. ERIC ROOZENDAAL: The watchdog must have been asleep if the Productivity Commission had already announced an inquiry into information technology pricing two weeks before you even noticed the issue and announced publicly that you were going to do something about it. Who is asleep? Is it your office or your agency?

Mr ANTHONY ROBERTS: I think it is more the case that the previous Government, the owner of the watchdog, was asleep for maybe eight or nine years.

The Hon. WALT SECORD: Before the election the Premier spoke a lot about cutting waste and mismanagement. In a summary provided by the Department of Premier and Cabinet, which is available on its website, about taxi usage by Ministers and ministerial staff, it shows that you are the third biggest user of taxis of the 22 Ministers in the O'Farrell Government. In the first 13 weeks your expenses were only slightly less than the Deputy Premier. I remind you that of the 22 Ministers you are eighteenth in seniority and your expenditure is the third highest. You racked up a bill of \$582 in a mere 13 weeks. I remind you that you have a full-time ministerial driver. What were you doing with all those taxis? This information is available on the Premier's website.

Mr ANTHONY ROBERTS: This is for my office?

The Hon. WALT SECORD: Yes, \$582.22 in the first 13 weeks. I remind you that you have a full-time ministerial driver.

Mr ANTHONY ROBERTS: The full-time ministerial driver would be transporting me. We utilise the driver to the best of our ability. My office is heavily active in meetings—

The Hon. WALT SECORD: Were you investigating the taxi industry?

Mr ANTHONY ROBERTS: Is that a second question?

The Hon. WALT SECORD: That was an aside.

Mr ANTHONY ROBERTS: When it comes to consultation with stakeholders, my office has consulted widely. In fact, we have consulted stakeholders that have not been consulted for many years. That involves my staff travelling to parts of Sydney, particularly in between my office and McKell and Parramatta. Being a decentralised department, of course there are costs involved. I do not apologise for the fact that my staff are very busy; they work long hours—

The Hon. WALT SECORD: You are the eighteenth Minister and only the Premier and the Deputy Premier were ahead of you in expenditure.

Mr ANTHONY ROBERTS: Yes. Our Cabcharge policy is the same—

The Hon. WALT SECORD: The Premier made waste and mismanagement a big issue before the election.

Mr ANTHONY ROBERTS: There is no waste or mismanagement in my office. My office works very hard and very long hours to ensure that we do the right thing by consumers and the marketplace of New South Wales.

The Hon. WALT SECORD: Could you arrange for the tabling of those taxi documents and the destinations?

Mr ANTHONY ROBERTS: I might say that \$562 versus a \$5.2 billion budget black hole is a significant difference. If we want to talk about waste we can do that.

The Hon. WALT SECORD: No, you are not answering my question.

Mr ANTHONY ROBERTS: I have answered the question. We have a very strict Cabcharge policy that is adhered to.

The Hon. WALT SECORD: You did not answer my question. Will you table the documents? They are available. Will you table the documents? It is a yes or no answer.

The Hon. ERIC ROOZENDAAL: Or are you covering up?

The Hon. WALT SECORD: Get a taxi to bring them to us.

Mr ANTHONY ROBERTS: I will take that question on notice.

The Hon. WALT SECORD: Are you planning any overseas trips?

Mr ANTHONY ROBERTS: Yes, I have just returned from an overseas trip.

The Hon. WALT SECORD: Where was that?

Mr ANTHONY ROBERTS: That was to Fiji for five days with my wife.

The Hon. WALT SECORD: That was a personal trip?

Mr ANTHONY ROBERTS: That was a personal trip.

The Hon. WALT SECORD: I meant as part of your ministerial duties.

Mr ANTHONY ROBERTS: No. The last time a fair trading Minister went overseas Beechwood Homes collapsed and it was pretty nasty and messy. I have taken it upon myself to avoid overseas trips.

The Hon. WALT SECORD: Minister, do you provide credit cards to your ministerial staff?

Mr ANTHONY ROBERTS: No.

The Hon. WALT SECORD: Minister, have you been provided with any speech, voice or media training since becoming a Minister?

Mr ANTHONY ROBERTS: No. Do I need it?

[Time expired.]

Dr JOHN KAYE: Minister, can I take you to the Strata Scheme Management Act 1996 and ask you about the way it is being enforced in New South Wales, in particular with respect to the almost complete absence of conflict of interest clauses that apply to executive committee members for owners corporations. Are you at all concerned that there are no conflict of interest provisions?

Mr ANTHONY ROBERTS: Can I put on record that this year we are celebrating 50 years of strata laws in Australia. It will be a big celebration. In fact, strata unit application number one, a three storey walk-up in Burwood, is still in existence. I am keen to deal with strata. Five pieces of legislation—

Dr JOHN KAYE: But I was taking you to the Strata Scheme Management Act 1996 which refers specifically to the way in which executive committees operate. I was taking you specifically to the sections within that Act. In division 2, sections 22 to 25 of the Act there is almost a complete absence of conflict of interest provisions. My question is quite specific: Are you or is your office at all concerned about the absence of conflict of interest provisions?

Mr ANTHONY ROBERTS: There are a number of things that we want to change with respect to strata and which need to be changed. There will be an opportunity to do that in a review. I will ask you, with respect to that, we are concerned about a number of things and as we see the—

Dr JOHN KAYE: I appreciate you are concerned. I appreciate the invitation and I will accept that invitation. But my question is quite specific: Is one of those concerns to do with the absence of conflict of interest provisions? For example, are you concerned that a member of a strata title executive corporation could cause that executive to award a sizable contract to a company that was owned or operated by a close associate or family member?

Mr ANTHONY ROBERTS: Do you have an example?

Dr JOHN KAYE: I do not wish to provide you with an example. I am asking you about the provisions of the Act.

Mr ANTHONY ROBERTS: Of course one would be concerned about any conflict of interest. I will defer to the commissioner. Have we had any complaints with respect to this?

Mr STOWE: Minister, there have been allegations from time to time but I am not aware of any substantiated cases where this has occurred.

Dr JOHN KAYE: Commissioner, if I may, since you have picked up the ball from the Minister, can you tell us whether in the Act the provisions do proscribe conflict of interest?

Mr STOWE: I am not aware of it, no.

Dr JOHN KAYE: There is no proscription against conflict of interest? If Mr Roozendaal was on a strata executive he could easily award a large contract to his brother-in-law, his brother, or his uncle?

Mr STOWE: One would have thought that in those sorts of circumstances he would have acted in the appropriate way and disclosed—

Dr JOHN KAYE: I am sure Mr Roozendaal would, but there are no provisions to stop somebody with a lesser standard of probity than him. When you investigated those cases, Mr Stowe, what were you measuring them against? Given that there are no provisions in the Act, how were you investigating those? Against what regulation were you investigating them?

Mr STOWE: I think the question the Minister posed to me was whether I was aware of complaints that we had received in relation to that matter. I indicated that from time to time there had been such matters brought to attention.

Dr JOHN KAYE: But you then said they had not been substantiated. Substantiated against what test? If the Strata Management Scheme Act 1996 does not have a conflict of interest provision within it, how are you then able to say they were not substantiated? What measure of conflict of interest were you using if the Act does not contain any such provision?

Mr ANTHONY ROBERTS: Is your point that the Act should contain that?

Dr JOHN KAYE: No, my point is whether you are aware that the Act does not contain that and what has happened about it. How are you handling this situation? It is not about you, Minister; it is about you and your predecessors going back—did you say 50 years—during which time there has been no appropriate conflict of interest clause. This is not a partisan thing, it is a genuine concern. What are we doing about it?

Mr ANTHONY ROBERTS: I do not think I have received correspondence from you on that—tell me if I am wrong. My predecessors might have. I am taking very much a broad cross-party approach in fixing a lot of these consumer issues across New South Wales and I would be happy to discuss this with you. If you see an area that needs to be fixed I am more than happy to sit down with you and address it.

Dr JOHN KAYE: Thank you, Minister, I appreciate the invitation. Would that extend to the issue of tender processes from executive committees of ownership corporations that require only two quotes? Is it a matter of concern to you or your office that only two quotes are required?

Mr ANTHONY ROBERTS: Again, without knowing the full details—

Dr JOHN KAYE: This is not a matter of details; this is a matter of what is prescribed.

Mr ANTHONY ROBERTS: How many quotes would you suggest?

Dr JOHN KAYE: I am asking the questions. The question is: Are you concerned that only two quotes are required?

Mr ANTHONY ROBERTS: I am seeking clarification. Would five quotes be sufficient? What is wrong with two quotes compared with five quotes or 10 quotes?

Dr JOHN KAYE: So you are not concerned about two quotes?

Mr ANTHONY ROBERTS: If it is a quote to get a plumber and one is \$50 and the other is \$60, I do not know that more are needed, but if it is a quote to build a restaurant on the top of a large strata building for \$3 million or \$30 million there has to be a level of—I do not see where you are coming from; is two, five, six—

Dr JOHN KAYE: You do not need to see where I am coming from. I am asking you whether you are concerned that the law only prescribes the need for two quotes. Obviously if it is to get a washer fixed on a common tap two quotes might be adequate—

Mr ANTHONY ROBERTS: Then you are not concerned about that?

Dr JOHN KAYE: But if, for example, it is to deal with concrete cancer in a large, old strata-titled building would you be concerned that only two quotes are required?

Mr ANTHONY ROBERTS: I would have to look at it, depending on the amount of money. These are good examples, but how many do you then have—five quotes, 10 quotes?

Dr JOHN KAYE: It is not for me to answer; it is for me to ask you whether you have problems. With regard to the same Act, at the moment there is no limit on the proportion of proxies one member can hold. In fact, it can be quite substantial—for example, up to 99 per cent or more. Are you concerned that one member can come to a meeting with all those proxies?

Mr ANTHONY ROBERTS: One of the major issues that face strata organisations is democracy. I have to say that the strata system was founded in New South Wales and it is a very good and democratic system. One of the problems we face in balancing this, as we have seen recently in Sydney where there have been allegations of proxy farming or stacking of meetings, is how we as a Government decide whether 10 or 20 proxies are allowed. There is a problem and it is something we are looking into. But in a small strata scheme of as few as 20 units it is quite often difficult to get a quorum. You have to balance what is manageable and what is not manageable.

Dr JOHN KAYE: So you are looking into the issue of proxies?

Mr ANTHONY ROBERTS: We are.

Dr JOHN KAYE: What has triggered your wanting to look into the issue of proxies? Have you had specific complaints about individuals holding too many proxies or is it an inquiry in the abstract?

Mr ANTHONY ROBERTS: Certainly there has been an issue recently in the City of Sydney with respect to a certain tower where Fair Trading has received two complaints and there has been some media interest in the issue. Again, it would be a sensible thing to look at in a complete review of strata. I can tell you now that there will be a massive increase in the number of people as a percentage of the population who will be living in strata dwellings in the next 10 years. That is something that we as a good Government need to address and plan for.

Dr JOHN KAYE: On 1 September 2010 your predecessor brought in a new model by-law that allowed strata residents to hang washing on balconies but only if it cannot be seen from the street. What is your position on those residents, of whom there is a large number, who live in strata units where their only access to outdoor light and air is a balcony that faces the street?

The Hon. ERIC ROOZENDAAL: What about the other windows? Don't they count?

Dr JOHN KAYE: I could have made many interjections during your questions but I chose not to.

Mr ANTHONY ROBERTS: My understanding is that this is optional. Again, the beauty of strata, and the reason we need to focus on strata living as a major issue for the next century, is that people are living closer together and we need strata by-laws to represent the majority of people in those units. It is optional. If a strata said, "We want to accept that", well and good. It is a majority. People living there decide on it. Let them decide.

Dr JOHN KAYE: You have a majority but what happens to the minority who do not have an appropriate outdoor drying space? In many strata structures the majority face away from the street but a minority face onto the street and the majority decide they cannot hang their washing on their balcony. They cannot even put a little clothes hoist on their balcony. What happens to those individuals?

Mr ANTHONY ROBERTS: It comes down to democracy. This is the beauty of strata living. You empower people and they can get involved and if they have a good case I am sure they can pursue that and push their case at a body corporate level.

Dr JOHN KAYE: Is it not the case that you and your predecessors are saying to those people, "Tough luck. You got overruled by the majority. We are not going to give you any assistance at all. You will have to go to a laundromat"?

Mr ANTHONY ROBERTS: These are quite often complex and very personal issues. Fair Trading has a good mediation service and we are developing it so that if there is an issue and someone feels they are being discriminated against or are part of a minority in a large body corporate they can go to Fair Trading and its officers will mediate to see whether they can arrive at a solution. It is a great thing for the department to do.

Dr JOHN KAYE: That is terrific. This has been going on for a long time, as you would be well aware. It is not something that will be easily resolved by mediation. The majority says no, they cannot hang their washing and those people whose only sensible drying space faces the street cannot even hang a pair of undies on a clothes hoist or on the back of a chair without being dobbed in. That is the by-law that was introduced. It is

certainly better than its predecessor. That is the model code by-law that came into effect on 1 September 2010. Are you not going to offer those people any relief?

Mr ANTHONY ROBERTS: Again, it is optional. People live close together and you cannot have someone decide "I am going to have 15 large dogs in my one-bedroom unit because I can and I am not worried about anyone else." People need to live together and there have to be rules—in this case by-laws—that assist those people to live together in a harmonious fashion.

Dr JOHN KAYE: So there is no intention by the O'Farrell Government to provide relief in a forward-looking way by saying strata titles that make that decision have to provide some form of drying space for those individuals who are affected by it?

Mr ANTHONY ROBERTS: Something might come out of mediation. That could be one key point. I think you have raised a valid point. When there is a review of strata I invite you to participate and provide these comments and I will be happy to take them on board.

Dr JOHN KAYE: Minister, could we go to the issue of high-fronted gutters? If you are not across the issue, I am sure there are at the table people who might know a thing or two about high-fronted gutters and may be able to provide you with some assistance. Minister, you will be aware—correct me if I wrong—that the Office of Fair Trading has written to all plumbers in New South Wales informing them of the need to conform with the Building Code of Australia requirement that all gutters can withstand a one in 100 years flood without water entering the building, and that part of the understanding is that all high-fronted gutters either have to have a 10-millimetre or more weir gap between the rear of the guttering and the fascia or part of the building to which they are affixed, or have to have flashing that is higher than the front of the high-fronted gutters. Am I correct in saying that all plumbers and qualified individuals in New South Wales have been written to in that fashion?

Mr ANTHONY ROBERTS: I can go through the history of high-fronted guttering here today.

Dr JOHN KAYE: Please don't. The New South Wales upper House is well aware of that history. I am asking a specific question: Is it true that a letter has gone out to councils and to plumbers?

Mr ANTHONY ROBERTS: Do you mind if I refer that to Mr Tansey?

Dr JOHN KAYE: I am happy for you to do so.

Mr TANSEY: Minister, I can assist with that. The member is right: one specific recommendation of the High Front Guttering Advisory Committee report was that Fair Trading write to all relevant licence holders—builders, roof plumbers and plumbers—to remind them that guttering in replacement works needs to be carried out in compliance with the Building Code of Australia. I can confirm that we acted on that recommendation, and that in late July letters were sent to more than 57,000 licence holders in New South Wales, exactly in the terms of that recommendation.

Dr JOHN KAYE: Did similar letters go to councils?

Mr TANSEY: No. The letters went as per the recommendation of the committee, which was to the relevant licence holders.

Dr JOHN KAYE: Did the Office of Fair Trading communicate either with councils or with private certifiers, or both?

Mr TANSEY: Since the report came out we have certainly updated information on our website. That is available to all members of the public.

Dr JOHN KAYE: But did you let councils know that you had updated your website and that you had written to licence holders?

Mr TANSEY: We have not specifically written to councils, no.

Dr JOHN KAYE: So at this stage there has been no notification going to private certifiers or councils?

Mr TANSEY: There have been none issued specifically pursuant to the report.

Dr JOHN KAYE: Why is that? Given that the private certifier or council officer is required to inspect building works to make sure they comply, why were they not informed of the new commitment to implementation of the Building Code of Australia's one in 100 years requirement?

Mr TANSEY: We have separately pursued one of the other recommendations of the advisory report. There was a separate recommendation regarding looking at the role of the certification process in supporting this issue. We have acted on that. The recommendation calls on Fair Trading to get together with other government agencies that are in this space, the Building Professionals Board and Planning, to look at the role of certification. We acted on that. This matter was raised at a meeting of the Building Industry Co-ordination Committee, which involves all government agencies involved in building industry regulation. It was discussed there. As a specific agreement out of that, Planning and Infrastructure and the Building Professionals Board have agreed to look at improving the information and advice to the certification fraternity, whether private certifiers or those based in council, about their obligations and about the relevant information related to high-fronted gutters.

Dr JOHN KAYE: So at this stage, if I were a private certifier out there, I would have received nothing from any arm of government to tell me: Hey, look, we're really serious about the one in 100 years water penetration provision within the Building Code of Australia and we think that means either flashing that is higher than the front of the gutter or a 10-millimetre or more weir slot to allow water to overflow without going into the house? They would not know that; you told the licence holders but not the certifiers?

Mr TANSEY: I have already outlined who we have written to, the licence holders and not certifiers, and spoken about the other actions that are underway. I would also highlight that when the report was released by the Government there was a ministerial release, there was information on the Fair Trading website drawing the attention of people to both the release of the report itself and to our revised information, revised consumer check list, and revised technical information available to people.

Dr JOHN KAYE: So at this stage we are relying on the enthusiasm of the certification fraternity, as you put it, reading the Minister's media releases or going to the Office of Fair Trading website in order to have the Building Code of Australia's one in 100 years requirement enacted?

Mr TANSEY: We are relying on modern forms of communication for interested people to be aware.

Dr JOHN KAYE: Interested but not involved.

Mr TANSEY: I guess the other point I would make is that as a result of the release of the report there has not been imposed or immediately inserted different provisions in the Building Code of Australia. So, if I understand your comments correctly, you are making reference to particular treatments that might be relevant where premises have high-fronted gutters installed. I guess the point I would emphasise is that the Building Code of Australia does not prescribe only single solutions for roof plumbing systems. It provides options, whether building solutions or deemed to satisfy solutions; it allows people to design performance-based solutions. There is no single, one size fits all solution in terms of roof plumbing systems, whether or not they have high-fronted gutters as a component of them. [*Time expired.*]

The Hon. Dr PETER PHELPS: Mr Stowe, I have some questions in relation to an organisation called Coastal Voice Community Group Inc. Do you have officers here who would be able to help me with that?

Mr STOWE: We do.

The Hon. Dr PETER PHELPS: I believe it was incorporated in 2006. Can you tell me who was Coastal Voice's public officer when it was first incorporated?

Mr STOWE: The registration shows Craig Thomson was the public officer.

The Hon. Dr PETER PHELPS: That would be Craig Thomson who is now the Federal member for Dobell?

Mr STOWE: That is correct.

The Hon. Dr PETER PHELPS: I have seen press reports indicating that Coastal Voice Community Group Inc. may have had recent dealings with the department. Could you outline what the current status of that organisation and your dealings are, please?

Mr STOWE: Indeed. I will ask Mr Jones to respond.

Mr JONES: Under the Associations Incorporation Act all associations are required to lodge annual statements. In circumstances where an association fails to lodge annual statements for three consecutive years, that then triggers a power that the director general and commissioner hold to cancel the association's registration. As you noted earlier, the association was incorporated in May 2006, so it was obliged to file from 2007 onwards. By December 2010 it had failed to lodge any annual statements, and that triggered a process within Fair Trading to look at any organisation that breaches one of the 10 criteria set out in section 76 of the legislation.

The Hon. Dr PETER PHELPS: Are there purely financial statements, or do they include office-bearer positions? What is the nature of the statements that they have to provide?

Mr JONES: At any time an association is required to keep the details of its public officer's identity and also contact details up to date. Where a public officer resigns, the association is responsible for notifying Fair Trading within a period of 28 days of the new public officer. Earlier this year, as a result of the process that I have just outlined, Fair Trading wrote to the public officer on the record, Mr Thomson—

The Hon. Dr PETER PHELPS: Sorry?

Mr JONES: We wrote to the public officer on the record, who is Mr Thomson—

The Hon. Dr PETER PHELPS: Hold on. Mr Thomson is on the record as having said that he resigned back in 2007, I believe.

Mr JONES: That is correct. From subsequent events we can explain that. That information had not been conveyed by the association to Fair Trading, so therefore the public register shows that Mr Thomson was the public officer in subsequent years. The association was issued with a formal notice to explain why it should not have its registration cancelled. We did not receive a response to that. As a result of that non-response we commenced an investigation. The purpose of the investigation under the legislation is to determine whether there are grounds to cancel the organisation and then also to look at who has properly or improperly exercised their responsibilities as officeholders—not just the public officer but members of the committee as well. Our investigation focused on Mr Thomson still being the then current public officer. Recently he provided a statutory declaration indicating that he had resigned his position as public officer in 2007. We then took action to interview members of the management committee of the association and we spoke to the nominated secretary of the association.

The Hon. Dr PETER PHELPS: Who was that?

Mr JONES: Ms Criselee Stevens. Ms Stevens provided us with a statutory declaration just in the past week, which indicates that she believes that the organisation became defunct in a period around 2007 because it had insufficient members to hold a quorum, which is a requirement of—

The Hon. Dr PETER PHELPS: When in 2007?

Mr JONES: She did not state when in 2007, but she did say 2007. She indicated also that the association had no bank account and had never received funds or raised income. On the basis of that statutory declaration, which is a sworn statement, we have decided to cancel the registration of the association. That process will now proceed over the next 28 days as it is obliged to do under the legislation.

The Hon. Dr PETER PHELPS: It has no bank account at present or it had no bank account for the time it existed?

Mr JONES: The information provided by Ms Stevens stated that it had no bank account and it had raised no funds.

The Hon. Dr PETER PHELPS: How then was it able to produce multiple full-colour leaflets for wide circulation across the electorate if it had no bank account and no funds?

Mr JONES: The purpose of the Fair Trading investigation, and the only lawful purpose of our investigation is to make sure that the association has complied with its responsibilities under the associations Act. It is clear that it has not complied with its responsibilities under the legislation.

The Hon. Dr PETER PHELPS: I am sorry; I probably should have said that that is a rhetorical question. You cannot know that.

Mr JONES: I was having a go.

The Hon. Dr PETER PHELPS: You said there were statutory declarations from Ms Criselee Stevens?

Mr JONES: Yes.

The Hon. Dr PETER PHELPS: And also from Mr Thomson?

Mr JONES: And from Mr Thomson.

The Hon. Dr PETER PHELPS: Are they public documents?

Mr JONES: No, they are not. They are part of our investigation.

The Hon. Dr PETER PHELPS: And your investigation is ongoing at present?

Mr JONES: No, our investigation is complete in relation to gathering evidence. We have made the decision that the association's registration should be cancelled.

The Hon. Dr PETER PHELPS: In that case I will not ask that the documents be tabled. I take it from that that Mr Thomson made no effort to contact you between 2007 and this year to inform you that he no longer was the principal officer of the organisation?

Mr JONES: Mr Thomson's responsibilities were to resign, if he chose to resign, and communicate that to the association, not to Fair Trading. It is the association's responsibility to nominate the new public officer.

The Hon. Dr PETER PHELPS: Is there any indication that Ms Stevens has failed in her duty? Has Ms Stevens said that she knew he had resigned? Was she aware that he resigned at the time?

Mr JONES: Well, that is a question you would have to ask Ms Stevens about, whether she was aware.

The Hon. Dr PETER PHELPS: She had not indicated to you in writing?

Mr JONES: No. The purpose of our information request from Ms Stevens was to identify whether the association had bank accounts or assets because upon termination of any association the assets are vested in the director general. The part of our investigation was to make sure that if there were assets around or there were financial records that had not been tabled but had been prepared or produced, or if the secretary had additional information about the association that she would tender that information to Fair Trading.

The Hon. Dr PETER PHELPS: As the secretary of the organisation, surely it would have been incumbent on her, if the principal officer resigns, to have notified you? Would that have been appropriate? Who normally—

Mr JONES: In her declaration to Fair Trading she indicates that she contacted Fair Trading at some stage and had a discussion with Fair Trading. She was not precise about the dates on which that occurred or who she spoke to, but she has made that statement as part of her most recent response to us.

The Hon. Dr PETER PHELPS: I return to something you said earlier. You have received no annual statements dealing with the financials of this organisation since it was established, is that correct?

Mr JONES: That is correct.

The Hon. Dr PETER PHELPS: Moreover, you say this Ms Stevens has put in a statutory declaration saying that—I do not want to verbal you—it never had a bank account?

Mr JONES: That is right.

The Hon. Dr PETER PHELPS: And it never received any income?

Mr JONES: That is correct.

The Hon. Dr PETER PHELPS: So you have an organisation, which I think we can firmly assert now, was a front for a Labor Party campaign in the Federal election, which has put out material and yet appears to have had no discernible source of income, if Ms Stevens is to be believed. Given that it is a statutory declaration I would say that there is no reason for us not to believe it. It strikes me as rather remarkable that—

The Hon. ERIC ROOZENDAAL: Is there a question in this or is this a speech?

The Hon. Dr PETER PHELPS: I am just wondering.

The Hon. ERIC ROOZENDAAL: Is there a question in this or is this a speech? Come on, we let you go, you got nowhere, move on.

The Hon. Dr PETER PHELPS: I have gotten nowhere, have I?

The Hon. ERIC ROOZENDAAL: Move on. You are just talking to yourself.

CHAIR: Order!

The Hon. Dr PETER PHELPS: There is an organisation, which has been established by the HSU—

The Hon. ERIC ROOZENDAAL: Point of order—

The Hon. Dr PETER PHELPS: Okay, I will ask the next question.

The Hon. ERIC ROOZENDAAL: Point of order: All we are hearing are longwinded statements from the Hon. Dr Peter Phelps and no question. Representatives from Fair Trading have made it clear that they have dealt with their legal responsibilities in relation to the association. This is just a fishing expedition of long speeches from the Hon. Dr Peter Phelps without even a question. If he wants to make speeches he should save them for the House. If he wants to ask questions about the portfolio he should ask questions about the portfolio.

CHAIR: Order! There is no point of order. Dr Phelps indicated that he was about to move on.

The Hon. Dr PETER PHELPS: Thank you, Chair. I can understand why his factional colleague is so upset by—

The Hon. ERIC ROOZENDAAL: Point of order—

The Hon. Dr PETER PHELPS: I will just ask the next question.

The Hon. ERIC ROOZENDAAL: Point of order—

The Hon. Dr PETER PHELPS: Is there any indication—

The Hon. ERIC ROOZENDAAL: Point of order: The rules of the House are quite clear. All members must be referred to by their correct titles. I resent the imputations made by the member. I can always talk about his factional allies on the extreme Right of the Liberal Party if he wants to go down that track.

CHAIR: Order! Committee members will address each other, other members of the Government and other members of Parliament by their correct titles. Dr Peter Phelps may continue.

The Hon. Dr PETER PHELPS: As I said, I can understand why an honourable gentleman like the Hon. Eric Roozendaal would want to dissociate himself from Mr Thomson. Is there any indication from the advice you have received? Have you spoken to Mr Thomson or Ms Stevens or have you received only written correspondence from them?

Mr JONES: I have not spoken to either of them, but officers of mine have spoken to them.

The Hon. Dr PETER PHELPS: Are you aware of the substance of the conversations that your officers have had with them, at least in broad outline?

Mr JONES: Generally, yes.

The Hon. Dr PETER PHELPS: Was there any indication from either of them that the Health Services Union had provided funds that were not declared to the organisation?

The Hon. ERIC ROOZENDAAL: Point of order: The Hon. Dr Peter Phelps now is delving right into the area of hearsay. It is highly inappropriate to ask one bureaucrat what he believes may have been said to another bureaucrat when he was not present for the discussion. That places that particular public servant in a difficult position. It is not appropriate that we start dealing in hearsay about what one public servant heard and then may have heard from another public servant.

The Hon. Dr PETER PHELPS: To the point of order—

CHAIR: Order! There is no point of order. I am sure the Minister and his officers are capable of answering questions. When they have no knowledge of the matter they will say so. Dr Phelps may continue.

The Hon. Dr PETER PHELPS: Continuing with that question: Did either of them indicate to you that money may have been paid by the Health Services Union, funnelled through the Coastal Voice Community Group and used without appropriate accounting in the Coastal Voice Community Group's books.

Mr JONES: In all cases the conversations that my officers had with either of those two people were over the telephone. The first proviso is that you never know who is on the other end of the telephone. They could indicate they are someone they are not.

The Hon. Dr PETER PHELPS: They could be wearing a burqa.

The Hon. WALT SECORD: What was the point of that little racist aside?

The Hon. ERIC ROOZENDAAL: What did you just say?

The Hon. WALT SECORD: I think you should apologise for that.

The Hon. ERIC ROOZENDAAL: I find that offensive.

CHAIR: Order. I call all members to order. This is a public hearing.

The Hon. WALT SECORD: Mr Chair, this is a budget estimates Committee into the State budget. It is not an opportunity for the member to engage in his racist hobby horses.

CHAIR: Thank you for the lecture, Mr Secord. This is a public hearing. I remind all members that they must conduct themselves with the utmost decorum at all times. Please proceed, Dr Phelps.

The Hon. Dr PETER PHELPS: Having established the identity of the people on the end of the telephone, did either of them indicate that money may have been funnelled from the Health Services Union or any other source through Community Voice which was not properly recorded by Community Voice?

Mr JONES: As I understand it, Ms Stevens indicated—not in these terms—to one of my officers that she believed funding had been received from the Health Services Union, or other sources, to fund some of the activities of the association. That is not a remarkable event. There are 34,000 associations in New South Wales and quite often there are charitable works done as part of that and money is funnelled there. It is not atypical. It is not reflected in her statutory declaration. I am also acutely aware there are inquiries being conducted by other authorities who would be able to identify money funded by other organisations, such as unions, in relation to that sort of expenditure.

The Hon. Dr PETER PHELPS: It is incumbent upon such organisations, if they receive money, to properly account for the money received. Is that not correct?

Mr JONES: I do not think that the information I received second-hand from Ms Stevens is inconsistent with her statutory declaration.

The Hon. ERIC ROOZENDAAL: I thought you did not speak to her?

Mr JONES: That I received second-hand.

The Hon. WALT SECORD: Point of order: How does this relate to budget estimates?

The Hon. RICK COLLESS: It is the Government's question time.

CHAIR: There is no point of order. Budget estimates hearings are an opportunity for members to question Ministers and their staff on all aspects of their portfolios. I ask Dr Phelps to move on to his next question.

The Hon. Dr PETER PHELPS: Did your officer, in conversation with them, form the opinion that there was other than Health Services Union money being channelled into this body, Coastal Voice?

Mr JONES: On the basis of that conversation alone we would have no knowledge about whether there were other funding sources or other organisations paying for products badged under the title of the association.

The Hon. Dr PETER PHELPS: Are there any financial documents that need to be lodged with Fair Trading?

Mr JONES: The financial documents that need to be lodged with Fair Trading are the annual financial statements. They were not tabled and that gives us cause to deregister the organisation.

The Hon. Dr PETER PHELPS: Has the assertion been made that they never existed or simply they have never been forwarded to you.

Mr JONES: The assertion is that they never existed. There was never a bank account and you cannot make financial statements if you do not have a bank account unless someone runs it in a somewhat unique way.

The Hon. Dr PETER PHELPS: Has the cancellation gone through yet, or is it still in the process?

Mr JONES: No, it is a 28-day show cause process.

The Hon. Dr PETER PHELPS: When did that start?

Mr JONES: The paperwork is underway now, so it will be 28 days from yesterday or the day before. The important thing to note is that at any stage, even after cancellation, should it happen that additional or new information is provided to Fair Trading which controverts what we believed to be the case we can re-establish the association and continue our investigation.

The Hon. Dr PETER PHELPS: Following the conclusion of your investigation would you be willing to pass on evidence that you have gleaned to such bodies as the Australian Electrical Commission.

Mr JONES: Depending on what evidence you received you would make that decision as a matter of ordinary course, and that would tend to be an appropriate course.

The Hon. Dr PETER PHELPS: What penalties are there for the non-lodgement of documents or providing false and misleading information?

Mr JONES: They are two different offences. We have acted under section 76. The penalty for non-lodgement of a document for three consecutive years is cancellation of the association and thereby the loss of the assets of the association that have been vested in the director general.

The Hon. Dr PETER PHELPS: In that instance no liability accrues to the principal officer?

Mr JONES: No, not to the public officer.

The Hon. Dr PETER PHELPS: What penalties are there for false information?

Mr JONES: That is covered under the Oaths Act.

The Hon. Dr PETER PHELPS: What would the penalty be?

Mr JONES: I am not an expert on the Oaths Act.

The Hon. Dr PETER PHELPS: Will you take it on notice?

Mr JONES: Obviously it is one of those pieces of legislation which has a jail term attached to it.

The Hon. Dr PETER PHELPS: That is all my questions, thank you. [*Time expired*].

The Hon. ERIC ROOZENDAAL: Mr Jones, you said there are 34,000 associations?

Mr JONES: Yes.

The Hon. ERIC ROOZENDAAL: How many deregistrations would you deal with a year on average out of those 34,000 associations?

Mr JONES: About 2,000.

The Hon. ERIC ROOZENDAAL: Would I be correct in assuming, as you have an intimate knowledge of the particular issue raised by the Liberal member, you would have intimate knowledge of the 2,000 deregistrations that you deal with on average each year?

Mr JONES: There are two sorts of deregistration. One is the voluntary deregistration and there are 700 of those. I have no knowledge of those individually at all.

The Hon. ERIC ROOZENDAAL: And involuntary deregistration?

Mr JONES: I would know some of them, but not all of them.

The Hon. ERIC ROOZENDAAL: I put it to you that in fact you do not have in your folder all the intimate details of the other deregistrations you have dealt with in the last 12 months. Would that be right?

Mr JONES: That is correct.

The Hon. ERIC ROOZENDAAL: I put it to you that this is a set-up between your agency and the Liberal Party, that you would be asked these questions specifically and you knew you would be asked these questions, and you had the answers prepared. Would that be right?

Mr JONES: I am not sure I referred to my notes in answering any of those questions and certainly not for the last 10 minutes or so. I might have had them in front of me.

The Hon. ERIC ROOZENDAAL: You do have notes on that particular association, do you not?

Mr JONES: I do.

The Hon. ERIC ROOZENDAAL: You do not have notes on the other 1,000 associations that have been involuntarily deregistered, do you?

Mr JONES: I have notes on some associations.

The Hon. ERIC ROOZENDAAL: You were tipped off you would be asked questions about this association, were you not?

Mr JONES: No, I was not tipped off.

The Hon. ERIC ROOZENDAAL: You had no conversation with anybody in your agency about this question being asked of you today?

Mr JONES: I formed a view a long time ago that I thought I would be asked a question about this particular association so I requested a note be prepared on it to make sure I had the facts available for this Committee.

The Hon. Dr PETER PHELPS: I seek leave to table two press releases from the Hon. Michael Ronaldson, whose media contact is listed as Peter Phelps. If you want to know why I am interested in this, it is something that has been going on for quite a long while

CHAIR: Order. The Committee will deal with the tabling of documents at the conclusion of the hearing of evidence.

The Hon. WALT SECORD: Minister, I want to ask a few questions about loyalty programs and consumer affairs. I note that in Australia there are about 10,000 people who belong to various loyalty programs—Fly Buys being the biggest one. This is due to the cost of living pressures. How many complaints have you or the department received since March involving loyalty programs?

Mr ANTHONY ROBERTS: Did you say 10,000?

The Hon. WALT SECORD: I mean 10 million.

Mr ANTHONY ROBERTS: That is a very good question. It is an area where there have been some issues raised in the past as to the value of those. Certainly Choice, the organisation itself, has been quite vocal in this area. Would you mind if I pass that question to my commissioner who has been dealing with this far longer than any of us?

Mr STOWE: I will have to take that question on notice in terms of the actual number of complaints. I do not have that information on hand today but we are happy to provide it to the Committee.

The Hon. WALT SECORD: Do you have an idea of the general nature of complaints?

Mr STOWE: Complaints in the past have been in relation to people not being able to access flights when they have tried to invoke the arrangements under the scheme. That is the issue that was raised in the *Choice* article recently. It is more around the issue of people not being able to access some of the rewards that they believe they are entitled to under the scheme.

The Hon. WALT SECORD: Do you treat this area of consumer affairs with importance?

Mr STOWE: Most certainly. Any complaint that we receive we firstly try to act in terms of a dispute resolution arrangement to try to ensure the consumer gets the outcome that they are looking for. If there has been a breach of legislation we will have a very careful look at that as to whether or not we take compliance recourse and action. These sorts of matters would certainly come within that sphere. If we believed it was a matter that needed to be dealt with we would have taken action.

The Hon. WALT SECORD: Have Gloria Jean's coffee outlets come onto your radar involving problems with their loyalty program?

Mr STOWE: I personally am not aware of them. I would have to seek advice.

The Hon. WALT SECORD: I am referring specifically to Gloria Jean's Sydney and Gloria Jean's Wollongong. Complaints and concerns have been expressed about their not honouring the loyalty programs involving other stores.

Mr STOWE: I personally am unaware of any complaints. Again, I am happy to take that question on notice and provide the Committee with advice.

Mr ANTHONY ROBERTS: If you do have specific complaints, please bring them to us.

The Hon. WALT SECORD: I will send you an email.

The Hon. ERIC ROOZENDAAL: Minister, what is your agency doing to protect New South Wales consumers from unsuspectingly buying flood-damaged vehicles, particularly from Queensland?

Mr ANTHONY ROBERTS: As soon as the floods occurred departmental staff, who have been around for quite some time, brought to our attention the problems that arise from cars basically written off in Queensland and then moved down, cleaned up and sold here. It is something we take very seriously. I know for a fact that from a compliance point of view we have been incredibly active in this space for some time. Don Jones knows probably more than anyone else in this country about compliance in this area and what we have done from a compliance point of view.

Mr JONES: We obviously take complaints from consumers who believe that their motor vehicles were subject to repairable write-off, including in another State. We also have a very active compliance program which covers licensed dealerships in used cars and also unlicensed or backyard sellers. In terms of the licensed dealerships, it is a regional-based program where we will inspect without notice the dealerships that are in the used car market. When we go on site we will take the records of the motor vehicles on the lot and make sure that their vehicle identification numbers match the records that motor vehicle dealers have. We conduct those sorts of inspections as well of licensed motor vehicle repairers. If the repairable write-offs have been purchased in another State and brought to New South Wales to be renovated or renewed we also have a process of catching that as well.

One area of particular concern in the compliance area has been the growth of unlicensed motor vehicle dealing because of the large growth in online sales of motor vehicles. We have a number of arrangements with the people who run those websites. As a matter of routine we get information about every motor vehicle sold through those websites. We subject that to an intelligence-based search to check out the bona fides of the motor vehicles and those who are selling them. It will come as no surprise that there are a number of practices we have identified within the industry involving unlicensed dealing which involves some of those sorts of issues and other issues as well.

The Hon. ERIC ROOZENDAAL: How many flood-damaged vehicles have you detected being sold online in the last 12 months?

Mr JONES: I do not have that precise number here but we have a number of unlicensed dealers who have been prosecuted in the last 12 months for a number of offences, including odometer wind backs and those sorts of things.

The Hon. WALT SECORD: Could you provide that material to us on notice?

Mr JONES: Yes.

Mr STOWE: I should also mention that immediately after the floods the department was quite active in alerting consumers to the risk of vehicles being sold, particularly through private sales which we do not regulate, in relation to flood damage. We encourage people to get a Roads and Traffic Authority report, which gives them information on a vehicle's history. We were pretty active in making sure that the community were aware of the dangers and risks.

The Hon. ERIC ROOZENDAAL: Does the Register of Encumbered Vehicles [REVS] report indicate the history of interstate vehicles?

Mr STOWE: The REVS documentation does provide some information in relation to repairable write-offs and the like but it is really the Roads and Traffic Authority database that is the most accurate because it has a link to other States and Territories. We encourage consumers to access it. When the PPS, personal private securities, register is available—this is a national register that will start next May—that data will be available on that register across the country. So the information will be easily accessed.

The Hon. WALT SECORD: Minister, how many cases have been heard by the various Fair Trading tribunals since March?

Dr JOHN KAYE: What? You do not know that number off the top of your head?

Mr ANTHONY ROBERTS: I just want to make sure I get it right.

The Hon. WALT SECORD: Did you take a taxi to those tribunals?

Mr ANTHONY ROBERTS: During the last financial year the tribunal received almost 60,000 applications, held 72,836 hearings and made 88,339 orders.

Dr JOHN KAYE: That is the Consumer, Trader and Tenancy Tribunal?

Mr ANTHONY ROBERTS: That is correct.

The Hon. WALT SECORD: Are you aware that the Minister for Finance and Services asked at a parliamentary committee hearing of the Legislative Council Standing Committee on Law and Justice to investigate merging all the various State tribunals?

The Hon. SCOT MacDONALD: You were probably the Ministers that asked for it.

The Hon. WALT SECORD: Are you a Minister now? Can you answer questions?

Mr ANTHONY ROBERTS: Yes, I am.

The Hon. WALT SECORD: Will you make a submission to that inquiry about tribunals?

Mr ANTHONY ROBERTS: The tribunal will be making a submission.

The Hon. WALT SECORD: Are you confident that there will not be a reduction in consumer protection?

Mr ANTHONY ROBERTS: In my discussions with the Consumer, Trader and Tenancy Tribunal it has said that it believes it is well placed to provide services and infrastructure to support any changes to tribunal arrangements in New South Wales that may arise from the review.

The Hon. WALT SECORD: Are you confident that the mums and dads, as your Premier so often refers to them, will still be able to get justice through the various tribunals?

Mr ANTHONY ROBERTS: Absolutely. The Consumer, Trader and Tenancy Tribunal has a good story to tell, as you would be aware. It is a very cheap and effective form of justice for many people throughout the State.

The Hon. WALT SECORD: Will you make a commitment that fees and charges involving those tribunals will not go up?

Mr ANTHONY ROBERTS: I can never commit that fees and charges will not go up. In fact, they go up from time to time by way of the consumer price index [CPI]. The beauty about the tribunal and one of the great benefits is the fact that it is very cost-effective.

The Hon. WALT SECORD: Minister, you will not give a commitment that fees and charges will not rise and it will not be more cumbersome and more difficult to navigate through these tribunals?

Mr ANTHONY ROBERTS: The Consumer, Trader and Tenancy Tribunal believes that it is in a very good position to embrace these changes and still provide the same levels of support, openness and engagement that it currently does.

The Hon. WALT SECORD: Will your department make a submission detailing what they think should be kept and what should be merged?

Mr ANTHONY ROBERTS: The Consumer, Trader and Tenancy Tribunal will be making a submission.

The Hon. WALT SECORD: Will that be made public?

Mr STOWE: Normal submissions to those inquiries, as you know, are publicly available, yes.

The Hon. WALT SECORD: Are you drafting the submission now or has it been completed?

Mr ANTHONY ROBERTS: My understanding is that the tribunal will be drafting that submission and making the submission.

The Hon. ERIC ROOZENDAAL: Minister, what is your agency doing about protecting tenants who risk being evicted when mortgages are not paid and the banks take repossession? It is a big issue at the moment with mortgage stress.

Mr ANTHONY ROBERTS: This is where the tribunal plays a major role in bringing some justice for, as the Hon. Walt Secord said, the mums and dads out there. People will still have access to the tribunal. Certainly right across the board people are doing it rather tough. To have an organisation such as the tribunal there for them to fall back on and to gain some form of justice is incredibly important. Those services are there.

The Hon. WALT SECORD: Minister, I note that on 26 September you issued a press statement urging consumers not to deal with a business run by Thomas Gilmartin, the Director of Zeon Events, trading as ticketfinders.com.au in relation to major concerts and events. This involved selling tickets to the 2011 Hong Kong Rugby Sevens. Other than issuing a warning what have you done to help people who have been duped out of thousands of dollars in travel and accommodation? What have you done other than simply issue a press release warning consumers after the horse has bolted?

Mr ANTHONY ROBERTS: We are doing our best. We have only been in this job for a short period of time but certainly you raise a very valid point and that is that consumers should have a level of confidence when dealing with, particularly, Australian-owned and operated entities. This is not the case with this organisation and issuing a warning is one of the fastest, most expedient things we can do to warn people off a certain program, project or service whilst we undertake our own Fair Trading compliance activities. But I will pass this across to Don Jones.

The Hon. WALT SECORD: How many warnings have been issued since 26 March this year?

Mr JONES: We will have to take that question on notice. There have been several public warnings issued. We do not take that responsibility lightly. We only take that decision when we believe it is in the public interest and we need to give information to consumers about the conduct of traders that is detrimental and—

The Hon. WALT SECORD: What happens after you issue a warning? Do you just say that is it; boys, pick up the balls and bat? What happens after a warning? Is that the end of the matter?

Mr STOWE: No, there was an investigation underway. I will let Mr Jones outline exactly where we are at with that.

Mr JONES: As the Commissioner has said, there is an investigation underway and it is in an advanced stage. One of the purposes of issuing that public warning with this particular business is because it sells nationally and it sells to international events as well—so it is not just consumers in New South Wales—and we

are using the provisions of the Australian consumer law and working with the other regulators, including the Australian Competition and Consumer Commission and other State and Territory regulators to obtain information about consumer detriment experienced by consumers in other States when dealing through the Ticketfinders website and with this company and this individual. That information is being aired now and we have a range of actions available to us under the Australian consumer law—which, for reasons that are obvious I do not wish to go into just now—foreshadowed in the public warning, which we are prepared to take.

The Hon. WALT SECORD: So nothing has happened since the warning.

Mr JONES: A lot of work has happened since the warning and there will be more action announced publicly. But it would be totally inappropriate to announce that action before we have taken it.

The Hon. WALT SECORD: But you issued a warning. Have you not actually tipped him off?

Mr JONES: The purpose of a public warning is not to punish a company. The purpose of a public warning is to alert consumers not to deal with a particular trader.

The Hon. WALT SECORD: You tell consumers not to deal with this person but you let them get away?

Mr JONES: We are not letting that company get away or the individuals concerned get away. The investigation is continuing and there will be action taken in relation to that company because we believe that they are breaching the provisions of the Australian consumer law.

The Hon. WALT SECORD: Have you made contact with Mr Gilmartin?

Mr JONES: Mr Gilmartin has hung up on me.

The Hon. WALT SECORD: So that is it? Is that case closed?

Mr JONES: The case is not closed, it is open. I have said this on a number of occasions: We are preparing a case to take further action against this particular company but we need to have all of our evidence right.

The Hon. WALT SECORD: How much do you reckon has been lost? How many hundreds of thousands of people have been duped by this man?

Mr JONES: We have had consumers come forward and we have consumer detriment statements. We have had a number of consumers who have been prepared to give evidence to Fair Trading, which we will be using in proceedings should we choose to take those proceedings as well.

The Hon. WALT SECORD: You are still going to pursue this man?

Mr JONES: There is no doubt that we will pursue this company because we believe it is breaching the provision of the Australian consumer law because it is selling tickets that it does not have or a licence to sell.

The Hon. WALT SECORD: We are talking about flights to Hong Kong. We are not talking about \$20; we are talking about thousands and thousands of dollars.

Mr JONES: If the company resells the tickets to a sporting event or an entertainment event in Hong Kong the consumer detriment of course is the associated cost of flying to Hong Kong or to New Zealand or if you go onto the company's website, at some stage recently they were selling tickets to the London Olympic Games, which is covered by the same sorts of provisions that the Sydney Olympic Games were covered by, for which you could only buy tickets through an authorised ticketing agent. So at the very heart of our investigation is the need for us to prove that the company concerned does not hold title to those tickets and therefore is not an authorised reseller. Therefore we need to deal with consumers who have worked through the process and they have lost their money or the tickets have not been available after they had paid for them.

The Hon. WALT SECORD: Can I make a suggestion? Now that he has hung up the phone when you called him maybe you should go to his home. Do you know where he lives?

Mr JONES: We have been to his home.

The Hon. WALT SECORD: You have been to his home?

Mr JONES: Yes, and we have been to the registered office of the business. That is standard form for any Fair Trading investigation. So we have attempted to contact the company and to get it to comply with the Australian consumer law—

The Hon. WALT SECORD: Could we return to the earlier part of my question? Is it tens, thousands—how much has been lost?

Mr JONES: I will have to take that on notice.

The Hon. WALT SECORD: Is he a large-scale operator or is he—

Mr JONES: He is a large-scale operator.

Mr ANTHONY ROBERTS: We are quite happy to take it on notice. Could I just make the point that this is a national issue as well and the Australian Competition and Consumer Commission should have played a bit of a role in this, but it is New South Wales that is leading the prosecution.

The Hon. ERIC ROOZENDAAL: Petrol is under your responsibility—the cost of petrol, the quality of petrol?

Mr ANTHONY ROBERTS: No.

The Hon. ERIC ROOZENDAAL: The quality of petrol is not under your responsibility?

Mr ANTHONY ROBERTS: No. It would be nice if it were—maybe.

The Hon. WALT SECORD: Minister, since petrol prices are skyrocketing in New South Wales what are you doing about dirty petrol? I understand that you have teams of people who go around checking bowsers and their content.

Mr ANTHONY ROBERTS: I will pass that on to Don Jones.

Mr JONES: Since 1 July 2010 those responsibilities transferred to the Commonwealth agency and it is the Commonwealth agency of sustainability, energy, water and there are a couple of other names. We have met with that Commonwealth agency. We are in the stages of preparing a memorandum of understanding whereby that agency will provide reports about dirty or unsafe fuel to Fair Trading and our investigators will decide whether to issue a public warning about that particular service station. We will contact the traders involved and then we will deal with the matter. So there are two issues: one is unsafe fuel because of the flashpoints; the other issue is that you are not getting the fuel that you think you are paying for.

The Hon. WALT SECORD: Could you provide a list of petrol stations that you have launched proceedings against in this area since March?

Mr JONES: I do not need to take it on notice. We have taken no action against any particular service station in New South Wales as a result of that.

Dr JOHN KAYE: Before I go back to the issue of high-fronted gutters I want to pick up on a couple of things that came out of Labor's questions. Minister, you were asked whether you were putting in a submission to the Law and Justice inquiry into the merging of tribunals and your response was, "Yes, the Consumer, Trader and Tenancy Tribunal is putting in a submission". Does that mean the Office of Fair Trading is not putting in an independent submission?

Mr STOWE: We have not formed a view as to whether we will do that at this point.

Dr JOHN KAYE: So it is possible that it will be left up to the Consumer, Trader and Tenancy Tribunal and there will not be a separate submission either from the Minister or from the Office of Fair Trading?

Mr ANTHONY ROBERTS: I was quite specific. To my understanding today I know that the Consumer, Trader and Tenancy Tribunal is putting in a submission. I cannot tell you as of today whether we will be because we have not formed our opinion as to whether we will or not.

Dr JOHN KAYE: What are the considerations you are giving as to whether you will put in a submission or not?

Mr ANTHONY ROBERTS: We will review this. Again, the Consumer, Trader and Tenancy Tribunal is in a very good position, I think, to put a case. Whether or not Fair Trading sees a need to put in an additional submission is something that is being discussed.

Dr JOHN KAYE: I was asking Mr Tansey questions and he was providing answers. Was the advice that you provided to the licence holders, the licensed plumbers and so on, specific? What was that advice? Did it say you should not use the clip systems being sold by companies like Stramit and Ace Guttering and BlueScope, or did it say they had to comply with the Building Code of Australia one-in-100 rule, to use the shorthand? What was the nature of the advice, in summary?

Mr TANSEY: The letter I referred to earlier was entirely in keeping with the recommendation of the advisory report. That dealt specifically with reminding licence holders that replacement guttering work was subject to the requirements of the Building Code of Australia. That was what the letter was limited to.

Dr JOHN KAYE: You did not in any way indicate ways in which the requirements of the Building Code of Australia could be satisfied?

Mr TANSEY: No, we did not.

Dr JOHN KAYE: Did you refer to any ways in which it would not be satisfied?

Mr TANSEY: The letter did not provide instructions to licence holders about any particular building solution. I do not think that would be something that we could easily or readily do in a single letter. The building code requirements necessarily deal with a range of factors. It would not be something I would seek to try to deal with in a letter.

Dr JOHN KAYE: You are aware of the spring clip system that is being sold by most major gutter manufactures. Certainly Stramit Gutters, BlueScope Steel and Ace Gutters are all selling a particular kind of spring clip system that affixes the high-fronted gutter to the fascia board.

Mr TANSEY: I am aware that there is a spring clip in some of the systems, yes.

Dr JOHN KAYE: Is it your opinion, or is it the opinion of the Office of Fair Trading, that the spring clip system would lead to a non-conformance with the one in 100 years flood requirements of the Building Code of Australia?

Mr TANSEY: I would be reluctant to provide a definitive view. I think in my earlier response I indicated I do not believe there is a one-size-fits-all solution.

Dr JOHN KAYE: If I may interrupt you, this is not saying what the solution ought to be. I am asking you about a particular, extremely popular system of affixing high-fronted gutters to fascia boards. That system is the spring clip system. You would agree with me, would you not, that with the spring clip system you cannot provide a 10-millimetre weir slot and you cannot provide flashing that is higher than the front of the high-fronted gutter?

Mr TANSEY: If I can issue the proviso that I do not pretend to be as technically expert as the licensed installers that are required to do that work. Nonetheless, with my understanding, the point of distinction I would make in answering your question is that it seems to be based on the proviso that there is a single requirement that any and every system must provide—

Dr JOHN KAYE: Not at all. I am not asking you about what has to happen; I am asking you about what should happen and I am asking you whether it is the opinion of the Office of Fair Trading that the spring clip system, for example, the one sold by Ace Gutters, allows for conformance with the one in 100 years flood requirements of the Building Code of Australia?

Mr TANSEY: I am not familiar with the Ace Gutters model in particular. If I take it more generally, I have to go back to the point that it is not my understanding that a single instrument or a single solution is mandated. The nature of roof plumbing is that it is—

Dr JOHN KAYE: Perhaps I was not clear, Mr Tansey. I am not asking you for a single solution. I am asking whether one particular solution, the spring clip system, cannot conform to the Building Code of Australia.

Mr TANSEY: I am not aware that it cannot conform to the Building Code of Australia.

Dr JOHN KAYE: Are you saying that on behalf of the Office of Fair Trading? It is not the opinion of the Office of Fair Trading that it cannot conform?

Mr TANSEY: Sorry, I am getting tripped up by double negatives here.

Dr JOHN KAYE: Then let us do it another way. Do you believe that that solution could be a conforming solution?

Mr TANSEY: That is my understanding, yes.

Dr JOHN KAYE: We have not made any progress at all. It is still the position of the Office of Fair Trading that it is okay to use the spring clip system. That could provide for a solution that conforms to the Building Code of Australia.

Mr TANSEY: It is my understanding that the use of a spring clip system as part of a roof plumbing system may be perfectly acceptable. As I was trying to make the point earlier, my understanding is that the requirements are not one size fits all. There is not a single solution allowed or disallowed. It needs to deal with the design of the dwelling, the roof plumbing—

Dr JOHN KAYE: You will forgive me for interrupting you but what comes next is a standard set of phrases—they are valid and fine, but they have been said 100 times and we know what comes next. Can you give us one example—it need not necessarily be prescriptive—of one thing that you could do to make spring clip affixed high-front guttering conform to the one in 100 years requirement of the Building Code of Australia?

Mr TANSEY: No, I do not think I can.

Dr JOHN KAYE: Can anybody at the Office of Fair Trading answer that question?

Mr TANSEY: I am happy to take that question on notice, if that is what you would like. We do employ people who are more technically expert than me.

Dr JOHN KAYE: But you understand the significance of this. As you no doubt would be aware, all the large high-fronted guttering manufactures—Ace, Stramit, BlueScope and Lysaght—sell and promote a spring clip system. It has been alleged that it is impossible for that spring clip system to conform to the Building Code of Australia. Given that high-front guttering is now dominating, we have a real opportunity for almost all re-guttered dwellings in New South Wales not to conform to the Building Code of Australia. I want to know whether the Office of Fair Trading has dealt with that issue. Has it said that there is a problem here?

Mr ANTHONY ROBERTS: Chair, can I interrupt? I want to put on the record that the report of the expert High Front Guttering Advisory Committee found that there was no evidence of a systemic problem concerning high-front guttering and the issues relating to overflow provisions were applicable to all types of guttering that had been installed. I want to put that on the record because I think there is the potential for unnecessarily scaring a lot of people. That high-level committee was set up by the previous Government to investigate this matter and it came through with quite a straightforward response and outcome.

Mr STOWE: Indeed, the findings replicate the department's own experience; we have had very few complaints about high-front guttering. When we interrogated the industry associations concerned they told us that was the same. When I spoke with my colleagues in other States and Territories they advised that they did not have problems with this type of guttering. The Insurance Council of Australia also confirmed that this is not a problem as far as they are concerned. Dr Kaye, so confident am I in the findings of the outcome of the inquiry that the new house I am building has high-front guttering.

Dr JOHN KAYE: Since you put it on the record, Mr Stowe, what solutions are you using to conform to the Building Code of Australia requirements to withstand a one in 100 years rainfall event and not have the water enter your new house?

Mr STOWE: What my architect and builder have recommended.

Dr JOHN KAYE: And what was that, Mr Stowe?

Mr STOWE: I will have to go and get the drawings out, Dr Kaye.

Dr JOHN KAYE: You put it on the record. It would be interesting to know. Do you have a 10-millimetre weir slide? Are you using the spring clip system?

Mr STOWE: I would be happy to supply the details, Dr Kaye.

Dr JOHN KAYE: Are you using the spring clip system? You do not know?

Mr STOWE: All I know is that the recommendations made by my architect and builder are the ones that I have accepted on the basis that I believe there is not a problem with high-front guttering per se.

Dr JOHN KAYE: To be honest I do not think anybody has ever said there is a problem with high-front guttering per se. They have said there are problems with the way it is affixed to the fascia board.

Mr STOWE: I think the inquiry also said that if there are not sufficient downpipes that can also be a problem. So I think that if the guttering is properly installed then, as I indicated earlier, it is not the experience of the Office of Fair Trading that this is a major concern to the community.

Dr JOHN KAYE: Just while we are on the issue of high-front guttering, have you any complaints about the physical spring clips that are sold with respect to their coatings?

Mr ANTHONY ROBERTS: I assume that question is directed to me. Can I pass it on? It is not something I deal with on a day-to-day basis.

Dr JOHN KAYE: No, I would not expect you to know that, Minister. It was directed to any one of the witnesses.

Mr TANSEY: The commissioner and the Minister have already made the point that the fundamental here is that we have not had significant numbers of complaints. I am not aware, and I have not been made aware, that any of those complaints relate specifically to the spring clip system.

Dr JOHN KAYE: No, not the system; the spring clips. I am moving on from the system.

Mr TANSEY: The spring clips.

Dr JOHN KAYE: Are you aware that all the spring clips sold by all the major manufacturers are not compliant with Australian standard 2179.1, the coating standard to which that refers? You have to have coating of the standard AZ150. This is a corrosion issue when you put two metals in contact with each other.

Mr TANSEY: I am aware, and maybe this is the information source you are drawing on, that a study was commissioned as far back as 2007 that subjected some common clip models to salt atmosphere testing. It found, perhaps not surprisingly, that if these products are exposed to salty environments over time they can be subject to corrosion. I do not think that in and of itself is a novel or concerning issue.

Dr JOHN KAYE: I think we are talking about a similar study that also made the observation that the coatings on those spring clips were too thin and did not comply with standard 2179.1 in that the coatings were electroplated, not heat-plated. You cannot heat-plate a spring clip because it will anneal.

Mr TANSEY: I go back to the point I made earlier, which is that the Building Code of Australia, to which you have made reference, does not require that a single product or a single building solution work on every dwelling in every suburb of every State and Territory in Australia. By and large it tries to do the opposite; it tries to deal with the range of issues that will be required.

Dr JOHN KAYE: Except the Building Code of Australia makes specific reference to 2179.1 and requires metal-to-metal contacts for rainwater infrastructure and accessories to conform to that standard. That standard states directly that the coating must be class AZ150. None of the spring clips sold is class AZ150.

Mr TANSEY: The broader point I would make is that my understanding is the building code also deals with different requirements for dwellings that are or are not in areas where exposure to salty spray will be material or otherwise. It may be an issue in Bondi but it will not be an issue in Broken Hill. The point I am making is that your questions seem to be based on an assumption that there is necessarily a single solution or a single test of conformity anywhere and for any dwelling. That is not my understanding of the requirements of the code, as the Minister and the commissioner have said. That is part of the reason why the expert advisory committee found that there is no systemic problem with high-front gutters. I think your question is trying to draw the issue back as if there were a single or systemic problem, but the expert panel found that that is not the case.

Dr JOHN KAYE: We might pick that up later. Minister, has your department received complaints with respect to wood-fired heaters and their performance particularly with respect to smoke and other pollutants?

Mr ANTHONY ROBERTS: I am not aware of any complaints about wood-fired heaters or smoke.

Mr STOWE: That is my understanding. I certainly have not seen those matters come across my desk. We would have to take that question on notice.

Dr JOHN KAYE: Is it correct there are standards for wood-fired heaters?

Mr STOWE: I am not sure; I cannot give you an answer.

Dr JOHN KAYE: Can you take that question on notice and also whether your department has taken any steps to make sure wood-fired heaters sold in New South Wales conform to those standards?

Mr STOWE: Certainly. I am happy to take that question on notice.

Dr JOHN KAYE: The findings of the Blewett inquiry have a substantial impact across a range of portfolios and there will need to be a number of individual responses from State Government Ministers. We were told that the New South Wales Minister for Health—good on her for doing so—is taking the matter to her ministerial council. It no doubt will go to the Primary Industries Ministerial Council and it also has a consumer angle. Is it something in which you have been involved?

Mr ANTHONY ROBERTS: No, not at this stage, but it is something we have discussed at department level. I know the commissioner has been heavily involved in other Federal issues.

Mr STOWE: I understand the New South Wales Government response has been coordinated by the Department of Premier and Cabinet and we certainly have had some input into that process.

Dr JOHN KAYE: Can I ask what the nature of the input was?

Mr STOWE: At this stage I certainly cannot disclose that. That is something for the Premier and Cabinet to determine. I am not even sure what the response from the New South Wales Government will be ultimately. We were asked for some advice, which we have furnished.

Dr JOHN KAYE: Are you saying it is Cabinet-in-confidence?

Mr STOWE: I am not sure how the matter will be dealt with ultimately but we have been able to provide some advice to the Cabinet office. It will furnish a response to the Commonwealth Government.

Dr JOHN KAYE: Obviously you are not prepared to tell me what the specific advice was but can you tell me what areas that advice related to?

Mr STOWE: My understanding is it was in relation to food issues.

Dr JOHN KAYE: Given that the Blewett inquiry was about food it would be surprising if it was about zebras, Mr Stowe. Can you be a little more helpful than that? Obviously the Blewett inquiry made a number of recommendations, some of which were widely accepted and some of which were not. It would be interesting to hear from you and very helpful for the people of New South Wales to understand what sorts of inputs the New South Wales Government is receiving in forming its response.

Mr STOWE: We will be happy to outline the areas in which we have provided some information to Premier and Cabinet and furnish to the Committee the areas in which we have had some input.

Dr JOHN KAYE: Can you not do that now? Are you taking that question on notice?

Mr STOWE: Correct.

Dr JOHN KAYE: In the 40 seconds remaining to me can you comment on the transition to the Australian Consumer Law from the New South Wales consumer law and whether this has achieved a higher standard of protection for New South Wales consumers?

Mr ANTHONY ROBERTS: No we cannot in 40 seconds or less. I will ask the commissioner to try to do so, but I want to put on record that Commissioner Stowe, over a number of years, has played a major role in developing the Australian Consumer Law.

Dr JOHN KAYE: I acknowledge the role Commissioner Stowe has played in that transition. Perhaps you could furnish the Committee with an answer on notice about the changes in the first six months—is that how long it has been?

Mr STOWE: Yes, it started on 1 January this year.

Dr JOHN KAYE: Can you furnish the Committee with the impact it has had in the first 10 months of the changes?

Mr STOWE: I am very happy to do that. Part of that material will be submitted to the ministerial council when it meets in December.

The Hon. Dr PETER PHELPS: Approximately how many show-cause cancellation letters would the department send out each year?

Mr ANTHONY ROBERTS: I will direct that question to Mr Jones.

Mr JONES: We issue show-cause notices in a number of areas. The two for I have prime responsibility are the property services area and the motor industry. I will let you know the numbers shortly. The third area is home building where there are licensed occupations as well. The show-cause process is used to give licensed occupations and the people holding those licences an opportunity to respond to a series of allegations about their behaviour or their performance at work. The issuing of a notice to show cause does not necessarily mean that Fair Trading has formed a view that the licence holder no longer deserves to hold a licence. We publish the result of every enforcement action or disciplinary action that we take on our website. I will get the figures for you in a moment. Mr Tansey may want to comment on the show-cause process in the home building area, which essentially is the same.

The Hon. Dr PETER PHELPS: I am happy for you to take that on notice. Getting back specifically to the Coastal Voice issue: you said you commenced proceedings after it failed for three consecutive years to provide annual statements.

Mr JONES: That is correct.

The Hon. Dr PETER PHELPS: If it was formed in 2006, presumably that means it failed to provide any statements in 2007, assuming a financial year arrangement for that organisation?

Mr JONES: It was formed late in the financial year 2006-07, so the first reporting year was 2007-08. So it had 2007-08, 2008-09 and 2009-10.

The Hon. Dr PETER PHELPS: So it would not have to provide financials for the year 2006-07?

Mr JONES: No. You have to hold an annual general meeting at which the quorum of the annual general meeting votes to accept the financial statements, the annual returns; and then you have a period of time after the holding of that annual general meeting, which I believe to be 28 days, to lodge that return. So the association was obliged under the former legislation to hold its first annual general meeting within 12 months of being formed, which took it into the next financial year, and then it would have needed to file those returns a short period after that.

The Hon. Dr PETER PHELPS: Even still, that is 2008, 2009 and 2010. Do you allow some sort of grace period for organisations that have not met their statutory requirements to provide that material?

Mr JONES: Yes. The 30 June 2010 would have been the last day of the financial year by which they needed to report to a subsequent annual general meeting; they have up to six months to have that annual general meeting, and then the 28 days to report that as well. So it does take you some way into the following financial year to hold that.

The Hon. Dr PETER PHELPS: Into 2011?

Mr JONES: Yes. That is why there is a lag in the department's process in respect of these things.

The Hon. Dr PETER PHELPS: Do you provide to the Minister a batch list of organisations that have not met their statutory obligations?

Mr JONES: No. The authority to terminate an association reposes in the commissioner or delegate, who happens to be me. But, no, we do not provide that information to any Minister routinely.

The Hon. Dr PETER PHELPS: I have no further questions.

The Hon. ERIC ROOZENDAAL: Minister, I was concerned to read today that one of the major credit card providers is investigating selling people's purchase histories to marketing organisations. What is your agency doing to prevent that?

Mr ANTHONY ROBERTS: This is an issue that the Australian Securities and Investments Commission basically will look after. But I have to say that from a Fair Trading point of view—and this goes across many years—Fair Trading has built a reputation, without fear or favour, whether an issue is within its jurisdiction or not, of putting its hand up and being counted when it comes to protecting consumers. I have to say, from a personal point of view, I could not think of anything worse for consumers than the proposal you refer to. Recently, we have seen pass through both Houses, with the support of both Government and Opposition, legislation to improve the lot of consumers. Hopefully, I would be looking at gaining the support of both sides to pursue this proposal from a New South Wales point of view, to make sure that the Australian Securities and Investments Commission comes down pretty heavily on it.

Dr JOHN KAYE: I want to ask a question on food labelling. Thus far, the issue of brightly coloured food dyes is an issue that has been dealt with almost exclusively by Agriculture Ministers around Australia. I am talking of course about Southampton six brightly coloured food dyes. On the advice of Food Standards Australia New Zealand, Ministers have steadfastly refused to act on this issue. Minister, do you have an opinion on this? You said before, and I welcome the statement, that you are there for the consumers. For the benefit of consumers who have children who respond to these brightly coloured food dyes in a behavioural fashion—and for whom understanding that there is one of these brightly coloured food dyes in the product they are buying requires them to be able to read and remember six three-digit numbers, because there are no names to indicate

their presence because they are always buried on the back—do you have a view on how Australia should move forward on this?

Mr ANTHONY ROBERTS: Fair Trading itself does not play in this sphere. However, personally, as the father of a boy approaching two years of age and another child on the way, I know the pitfalls of feeding kids food that is coloured with dyes—if you want to sleep.

The Hon. ERIC ROOZENDAAL: A can of coke.

Mr ANTHONY ROBERTS: Yes, a can of coke. Personally, I think consumers are becoming more and more savvy. For most shoppers these days there is a level of education out there not only from government but also via the Internet, which has had an important role in empowering people with information that they require. So, personally, I avoid artificial colourings and flavourings where I can, and I think that is the direction in which most people, particularly those with children, are heading. But that is my personal opinion.

Dr JOHN KAYE: I take on board what you are saying: that most consumers—I think "most" is probably a bit of an exaggeration—but at least a number of consumers want to, or know they need to, avoid for the sake of their children the artificial brightly coloured food dyes, the Southampton six. Yet you would accept that to know that one or more of those colours is present in a product requires reading the contents and ingredients labels, which are often very small, and being able to remember that, for example, 104, 105, 120, 123—and even I cannot remember the other two—are present in that product. Do you think that is a reasonable impost on the average consumer who has a child who is sensitive to these products?

Mr ANTHONY ROBERTS: This again is something on which I have a personal opinion, but I believe it would be better dealt with by the NSW Food Authority. I understand that there is in this area some discussion about possible changes and reforms.

The Hon. WALT SECORD: Minister, it would not be a Fair Trading budget estimates hearing without asking you about Nigerian financial schemes or Christmas toys. So I am going to go with the trinkets of death and ask you to update us on the status of your preparations for the Christmas period, and toys.

Mr ANTHONY ROBERTS: Thank you very much. I am pleased to say we always warn consumers. Fair Trading, unfairly, is seen as the office that deals with dodgy show bags and killer Christmas toys. All here would know, particularly after questioning today, that it has a much broader and deeper portfolio. But it gives me no pleasure to inform the Committee that shortly we will be making some announcements about the safety of some of the most popular Christmas toys that are on the market.

The Hon. Dr PETER PHELPS: Mr Stowe, I ask you to take a question on notice. Would you consider tabling—and if you consider it appropriate, do so—all correspondence between the department and Mr Thomson, all correspondence between the department and Ms Criselee Stevens, and all correspondence between the department and any other person who exercised or purported to exercise a position of authority in Coastal Voice?

Mr STOWE: We would be happy to provide whatever we can legally provide to the Committee.

The Hon. Dr PETER PHELPS: Thank you.

CHAIR: Minister, thank you very much for attending, and thank you to your officers. It was a sterling performance from all at the table, and I thank you for your cooperation.

(The witnesses withdrew.)

The Committee proceeded to deliberate.