

GENERAL PURPOSE STANDING COMMITTEE No. 3

Tuesday 14 October 2008

Examination of proposed expenditure for the portfolio area

LOCAL GOVERNMENT

The Committee met at 9.15 a.m.

MEMBERS

The Hon. A. R. Fazio (Chair)

The Hon. J. G. Ajaka
Ms S. Hale
The Hon. D. Harwin

The Hon. R. A. Smith
The Hon. I. West
The Hon. H. M. Westwood

PRESENT

The Hon. B. M. A. Perry, *Minister for Local Government, and Minister Assisting the Minister for Health (Mental Health)*

Department of Local Government

Mr G. Payne, *Director General*

Mr G. Gibbs, *Director, Performance Management and Compliance, Finance Management*

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 this hearing for the inquiry into budget estimates 2008-2009 open to the public. I welcome Minister Perry and accompanying officials to this hearing. Today the Committee will examine the proposed expenditure for the portfolio of Local Government. Before commencing I will make some comments about procedural matters.

In accordance with the Legislative Council guidelines for the broadcast of proceedings, only committee members or witnesses may be filmed or recorded. People in the public gallery should not be the primary focus of any filming or photos. In reporting the proceedings of this Committee you must take responsibility for what you publish or what interpretation you place on anything that is said before the Committee. The guidelines for the broadcast of proceedings are available on the table by the door.

Any messages from attendees in the public gallery should be delivered through the Chamber and support staff or committee clerks. 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. I remind everyone to please turn off their mobile phones—even on silent mode they can interfere with the Hansard recording.

The House has resolved that answers to questions on notice must be provided within 21 days. The Committee has not varied the 21-day period for return of answers to questions on notice. Transcripts of this hearing will be available on the website from tomorrow morning. All witnesses from departments, statutory bodies or corporations will be sworn prior to giving evidence. Minister, I remind you that you do not need to be sworn as you have already taken an oath to your office as a member of Parliament.

GARRY PAYNE, Director General, Department of Local Government, and

GRAHAME RUSSELL GIBBS, Director, Performance Management and Compliance, Department of Local Government, sworn and examined:

CHAIR: I declare the proposed expenditure for the portfolio of Local Government open for examination. As there is no provision for a Minister to make an opening statement before the Committee commences questioning, we will begin with questions from the Opposition.

The Hon. JOHN AJAKA: Minister, given that the Independent Commission Against Corruption has made three recommendations to your Government that councillors should be prohibited from caucusing on development applications, why has your Government to date not introduced regulations to prohibit it?

Mrs BARBARA PERRY: Thank you for the question. Firstly, in my role as the local government Minister, the model code of conduct clearly recommends against caucusing in relation to development applications, and I note recommendation 27 of Commissioner Cripps's report—the third ICAC report into Wollongong—indicates and confirms that in the body of his report. Secondly, in relation to political parties, certainly the Australian Labor Party took the lead a number of years ago and prohibited in its rules caucusing on development applications, so that is where it clearly stands at this stage.

The Hon. JOHN AJAKA: You would agree with me that a recommendation does not have the same weight or effect as a complete prohibition?

Mrs BARBARA PERRY: The Independent Commission Against Corruption handed down its final report only last week. It is clearly a comprehensive report—143 pages—and it is currently being considered, but as I have indicated there will be a government response entirely to that report, so that will happen, and no doubt it will include each and every one of the recommendations, but, insofar as my portfolio is concerned, certainly the guidelines do recommend against the practice of caucusing on development applications.

The Hon. JOHN AJAKA: Will that be the first government response in relation to these recommendations on caucusing?

Mrs BARBARA PERRY: No. For a long time in relation to caucusing certainly the department together with the stakeholders in local government, and with ICAC, have developed guidelines in relation to caucusing and therefore that has been a government response, and that has been there for a number of years now.

The Hon. JOHN AJAKA: I know that you are a new Minister in this portfolio, but having regard to the fact that you have been a Minister previously and obviously been part of the Cabinet, in your personal view, would you wish to see all caucusing completely prohibited as opposed to simply a recommendation not to proceed that way?

Mrs BARBARA PERRY: Firstly, I am here as the Minister, not in relation to my personal views, and secondly, I believe applications should be judged individually on their merits. My party rules are strong about that and the guidelines that my department has issued since 2005 are very clear about it—very, very clear.

The Hon. JOHN AJAKA: Are you aware of a recent article in the *Sydney Morning Herald*—I think it was last Friday—that the mayor of Fairfield, who also happens to be the candidate for Cabramatta, was still holding fundraisers with developers? Do you have any comments on that, having regard to what has previously been said?

Mrs BARBARA PERRY: This is not related to my portfolio responsibility, and it is way outside the ambit of this in my view, but what the mayor of Fairfield does—there are very clear guidelines about disclosure. He has made certain comments about that. Perhaps you should go and ask the mayor for Fairfield exactly what that was about. I was not there; I do not know what the function was about—I have no idea.

The Hon. JOHN AJAKA: So you do not see a problem with a mayor holding a fundraiser with developers simply on the basis that he is the mayor of a council?

Mrs BARBARA PERRY: With the greatest of respect, I do not know what that function was about—nor do you, because you were not there.

The Hon. JOHN AJAKA: Given that the Premier said only last week that "political donations should become a thing of the past", do you not feel there is some real urgency for this to be dealt with and that it is something your department should take up and deal with immediately?

Mrs BARBARA PERRY: The former Premier and the current Premier have been very clear about political donations. We have had legislation, to which you have acceded in the upper House, strengthening the laws around donations. On top of that my department has strong guidelines in relation to it. I do not think we can be any clearer. What the Premier has been referring to, as I understand it to be on the record, is that he believes, as I do, that there is a case to be made for banning of all political donations and having publicly funded elections. That is something on which I would like to see some bipartisan agreement.

The Hon. JOHN AJAKA: We still have a mayor of Fairfield, who is the candidate for Cabramatta, not only holding a function with developers to raise funds but, as I understand it, this man is a major developer and according to the *Sydney Morning Herald* article made large profits from his own development company.

Mrs BARBARA PERRY: That is what you say that function was about. I do not know what that function was about, but generally speaking there are clear and strong rules around disclosures of donations.

The Hon. JOHN AJAKA: As the Minister will you be making inquiries in relation to this function to try to ascertain what you do not know about this function?

Mrs BARBARA PERRY: Let us be clear about my role, Mr Ajaka. My role as the Minister and as part of the Government is to provide a legislative and policy framework for local governments. That is my role, simply and clearly. Whatever individuals do and how they do it, or what councils do operationally, they should operate within those guidelines and legislative frameworks.

The Hon. JOHN AJAKA: So that I can understand this, you do not see your role as Minister or the role of the Government being to have any say in relation to councillors dealing with political donations and holding fundraisers?

Mrs BARBARA PERRY: That is not what I said. I have already said in answer to many of your questions that the Government has acted appropriately and has set out clearly the first parts of its legislation in relation to donations and how they are governed. My role as the local government Minister is to set the policy framework. I am happy to go through that detail if you would like.

The Hon. DON HARWIN: Can I just take you back to the caucusing issue for a minute? You mentioned that the third ICAC report on Wollongong council made recommendations last week, but it is not the first time there have been recommendations on caucusing on development applications, is it? It is the third time. Given this ongoing problem with caucusing, is a mere amendment to the model code of conduct appropriate? Will you consider going further and toughening it? ICAC has had to raise this three times and make a recommendation three times. Clearly there is a problem. Will you consider going further than that and introducing regulations to prohibit it?

Mrs BARBARA PERRY: Firstly, when ICAC has raised it we have acted. That is correct. In conjunction with ICAC and the guidelines—

The Hon. DON HARWIN: With respect, you cannot have—

Mrs BARBARA PERRY: Wait a minute.

CHAIR: Order! Allow the Minister to answer the question.

Mrs BARBARA PERRY: In relation to when ICAC raised it, the department worked with ICAC to introduce into the model code of conduct a recommendation against caucusing. That is the first thing. Second, in relation to the balance of your question, I do not accept that we never acted. We did, and we did that in conjunction with ICAC. Clearly we acted before last week.

The Hon. DON HARWIN: So did you introduce the recommendation after the first time it was raised or after the second time it was raised? First or second, Minister?

Mrs BARBARA PERRY: The model code of conduct was developed, as I said, in consultation with the local government sector and ICAC. It was a process of inviting comments from all councils on the draft model code and there were direct consultations with reference groups, so there was a process around it. That included representatives from councils, the Local Government and Shires Associations and the Local Government Managers Association as well as the New South Wales Ombudsman and ICAC. You have to understand that first there was a process. Guidelines were issued to assist councils with the implementation of the first model code of conduct. The first code came in in 2005. In addition to that my department has sent out a number of circulars outlining matters in relation to all sorts of things in the code.

The Hon. DON HARWIN: There have been recommendations about prohibition but at the moment all we have is guidelines.

Mrs BARBARA PERRY: Recommendation 27 clearly states that council should consider. I have indicated to you that there will be a whole-of-government response in relation to all these recommendations.

The Hon. DON HARWIN: Why is the response taking so long? What is the real reason? Why is this taking so long?

Mrs BARBARA PERRY: That is a silly question.

The Hon. DON HARWIN: With respect, it is not silly question. There is a great deal of concern in the community about why this is taking so long and what the real reason for the link between property, property development, local government decision-making and political fund-raising by your party. I want to know what is the reason.

Mrs BARBARA PERRY: Are we talking about the response to the third ICAC report, which came out only last Wednesday?

The Hon. DON HARWIN: Obviously we are not because that was last week. But there have been two previous recommendations. All we have is a mere suggestion in the code of conduct.

Mrs BARBARA PERRY: There have been two previous reports. It is you who said that there were previous recommendations specifically in relation to this. I have addressed the issue about political donations and caucusing, and at the time the Government also addressed them in consultation with ICAC and the Ombudsman. I cannot go any further than what I have said.

Mr PAYNE: I wish to add to that. The department works in consultation with the ICAC and it has done so in relation to the current code. So we are very aware of what the code provides. The second thing about the general issue is that pecuniary interest provisions have been in place since 1993. Any pecuniary interests by a councillor or a staff member would be caught under those provisions. As I said, they have been in place for many years.

The Hon. JOHN AJAKA: I will phrase my next question in the simplest way. Would you be prepared in the next session of Parliament to introduce legislation to completely prohibit caucusing on development applications? In other words, I am not asking for a recommendation: I am asking for a complete prohibition, as it is an offence.

Mrs BARBARA PERRY: Will you support that?

The Hon. JOHN AJAKA: The question is: Would you introduce legislation?

Mrs BARBARA PERRY: I have already answered that question. I have indicated that there will be a response to the recommendations in that third extensive report.

The Hon. DON HARWIN: The final recommendation in the report states that all councils should be supporting such a prohibition. Surely that would be most effective with the introduction of legislation or regulations?

Mrs BARBARA PERRY: That is not what Commissioner Cripps said. He said what you just read out, "All councils should be supporting such a prohibition." He also talks about the model code of conduct. But, as I said, there will be a response to that report.

The Hon. DON HARWIN: How long will that take?

Mrs BARBARA PERRY: I do not think it will take very long. It will occur as soon as that response is received.

The Hon. DON HARWIN: Are you expecting a response before Christmas?

Mrs BARBARA PERRY: You would probably need to take up that matter with the Premier.

The Hon. JOHN AJAKA: But you are the Minister; I do not understand.

Mrs BARBARA PERRY: There is a whole-of-government response involving different people across different departments, et cetera. This will not occur overnight and we need to get it right. I totally agree with the member: we need to get this right. Our model code of conduct is exceptional in its stance. The rules of the Australian Labor Party, of which I am a member, are clear on it. The Government has been clear for a long time in relation to these matters. It introduced legislation that you supported, which made things even more transparent and open than they had been in the past.

The Hon. DON HARWIN: Can you accept that it is now almost nine months since Premier Iemma said there would be a comprehensive ban on donations? With respect, all we have had is minor change to the political donations laws. We have had delay after delay in relation to the caucusing issue. Surely it is understandable that there is enormous concern in the community as to why the Government's response seems to be taking so long. I refer to your situation and to your response to some of these concerns since you have taken up the Local Government portfolio. What action have you taken as Minister for Local Government to put yourself at arm's length from property developers? Will you still be attending Labor Party fundraisers with property developers?

Mrs BARBARA PERRY: You have asked a number of questions that contain imputations and implications. I do not accept that there has been a delay in anything that the Government has done. The Government has acted strongly. It introduced legislation in the previous session of Parliament, which you supported. They are clear, strong laws about donations and disclosure. Whilst I have been a member of Parliament and a Minister there has always been a system of disclosure in this State and I have always disclosed according to those rules.

The Hon. DON HARWIN: Have you attended any fundraisers with property developers since your appointment as Minister for Local Government?

Mrs BARBARA PERRY: No, I have not.

The Hon. DON HARWIN: Minister, are you aware of a closed meeting at Fairfield council in July this year—

Mrs BARBARA PERRY: Sorry, I have.

CHAIR: Minister, if you are not sure you can take the last question on notice.

Mrs BARBARA PERRY: I might take that last question on notice. I really need to check my diary to confirm that.

The Hon. DON HARWIN: That is fine. I can understand that.

The Hon. JOHN AJAKA: This relates to the question about whether you have attended any fundraising functions with developers?

Mrs BARBARA PERRY: Yes. The answer to that question is that I do not know.

The Hon. DON HARWIN: And you are taking that question on notice?

Mrs BARBARA PERRY: I will take that question on notice. I state in answer to that question that is mischievous to imply it is wrong to do that. To say that I have done something wrong—if I have done anything—clearly would again be inappropriate.

The Hon. DON HARWIN: Minister are you aware of a closed meeting at Fairfield council in July this year so that Labor Mayor Nick Lalich, the candidate for Cabramatta, and councillors could discuss allegations about corruption regarding a local development. Do you think that is appropriate?

Mrs BARBARA PERRY: It was a closed meeting so I was not there. I have no idea what the meeting was about.

The Hon. DON HARWIN: Minister, have you, your predecessor, or the department had any complaints about Fairfield council? If so, will you table that correspondence?

Mr PAYNE: I am not sure whether or not we have had any complaints, but I am happy to take that question on notice and check the records.

The Hon. DON HARWIN: Have you, your predecessor, or the department made any investigations into Fairfield council? If so, what was the verdict?

Mr PAYNE: I am not sure of that. I will check the situation relating to Fairfield council and that issue.

The Hon. DON HARWIN: Mr Payne, have you provided any advice to Minister Perry on the situation at Fairfield council, which has been extensively reported in the local media in the last couple of weeks?

Mr PAYNE: From memory, no. I am not sure whether we received a complaint. As you know, we receive many complaints over the period of a year. There may well be something. I am not sure but I will check it.

The Hon. DON HARWIN: Minister, are you aware of the allegations made by Councillor Lawrence White who said he thought that a developer had been in the pockets of several councillors?

Mrs BARBARA PERRY: No.

The Hon. DON HARWIN: You have not had those drawn to your attention?

Mrs BARBARA PERRY: No.

The Hon. DON HARWIN: Minister, have you heard of a South Australian development firm called the Makris group?

Mrs BARBARA PERRY: No.

The Hon. DON HARWIN: Do you know Mr Lalich, the Labor Mayor of Fairfield council?

Mrs BARBARA PERRY: Yes, of course, I know Mr Lalich.

CHAIR: Time for Opposition questioning has now expired. We will now go to the crossbench and allocate 10 minutes for each member.

The Hon. ROY SMITH: There has been a move by some shire councils to have the Government share its income from coalmining with local communities that it affects. Indeed, they are looking at asking for 3 per cent of the Government's take on coal sales. Has the Government been approached about this proposal? Will it properly consider the idea, given that many councils find it hard to stretch their limited funds to provide additional resources demanded by the mining boom, particularly in the Gunnedah area?

Mrs BARBARA PERRY: As the Minister for Local Government I certainly have not been approached in relation to that. I cannot speak for any other government Minister over whose portfolio areas this may cross.

The Hon. ROY SMITH: If the Local Government and Shires Associations approaches you, as I have been led to believe it will, would you support the proposal and take it to the Government in a positive fashion that councils should be able to share in income received from coal sales?

Mrs BARBARA PERRY: I would consider that, but it will probably be a matter that would have to be considered by my colleague the Minister for Primary Industries. You may wish to discuss that with him.

The Hon. ROY SMITH: Earlier this year the Shooters Party's private member's bill was passed in the upper House calling for the Port Macquarie-Hastings Council to have elections in September 2008. Obviously, this did not occur because we simply ran out of time. Is the Government prepared to reconsider the bill, which is now in the lower House, and allow the Port Macquarie-Hastings Council electorate to have elections this year and to then revert to the normal council elections cycle thereafter?

Mrs BARBARA PERRY: We have to look at the issues that resulted in Port Macquarie being in administration. They were quite serious. So, in relation to re-establishing the council at this stage, I can say to you that I have not received a recommendation from the administrator that those issues have resolved themselves. If I were to receive a recommendation from the administrator, I would consider it; but at this stage I have not. We need to get complete community confidence back in that area. That is the role of the administrator in part, but it is also to oversee the ongoing issues that resulted in the council going into administration in the first place.

The Hon. ROY SMITH: There were no findings of impropriety whatsoever that resulted in the Port Macquarie-Hastings Council being handed over into administration. The local residents to whom I have spoken believe that they have been duded in having their right to elect their own council removed. It would be a different story if the council was dismissed because of misconduct or other offences, but that is not the case at all. Port Macquarie-Hastings Council is a special case in this respect and the local people should be allowed to elect their own council. If there is a difference of opinion on whether or not projects are viable, valid or supported, the place to determine that is at the ballot box by giving the people the opportunity to elect their own local council?

Mrs BARBARA PERRY: The last point of anything really is dismissal of a council, and that should be as a last resort. This decision was not arrived at lightly; it happened after an extensive inquiry, in which the community and a number of other witnesses participated. We have to examine the issues that led that council into administration. We need to place on the record that the inquiry concluded that the council failed to demonstrate adequate diligence when dealing with the financial management of the project. One of the major

roles of council is to exercise due diligence in these things and to govern appropriately. Second, in particular the council failed to adequately equip itself with the project and its costs—they are fundamental issues. It failed also to impose adequate financial controls over the project or to recognise and consider the financial and other implications of the substantive changes to the project brief. So, initially we had a project that the community was aware was going to be approximately \$7 million but somehow, through lack of proper oversight, the project blew out to something like—well, if we ever know—over \$40 million and maybe more. That is a concern, and I would have thought would have been a concern of the Port Macquarie community. How it got to that stage should be a concern for all of us.

Ms SYLVIA HALE: Minister, I believe you are on the record as saying that simply because someone is found to be corrupt by the Independent Commission Against Corruption [ICAC] that that does not mean they should be suspended from their position. Would you like to give the reasons behind that?

Mrs BARBARA PERRY: Where did I say that?

Ms SYLVIA HALE: Sorry, I was told. I must say that I do not have it. You have not said that at all?

Mrs BARBARA PERRY: No, I have not said that.

Ms SYLVIA HALE: As you would be very much aware, John Gilbert, who was found by the ICAC to have acted corruptly, was appointed as Assistant General Manager of Wollondilly Shire Council. It is my understanding that he has now resigned. Have you at any stage investigated the circumstances surrounding his appointment, given that he was the subject of investigation by the ICAC at the time he was appointed?

Mrs BARBARA PERRY: Well, first, I have been the Minister for five weeks. Second, how could I investigate something pre-emptively when the ICAC did not release its report until last week, Wednesday 8 October I believe? Third, my powers in relation to that are clear. I do not have particular powers of investigation like the ICAC. However, I believe what you are referring to section 440D of the Local Government Act, which gives a general manager the right to temporarily suspend a member of staff if the Independent Commission Against Corruption recommends it. As I understand the ICAC report, the commission did not appear to have made such a recommendation in relation to Mr Gilbert. I would urge you to read that report and the section in relation to Mr Gilbert. That is where it stands but, as you have already said, Mr Gilbert has resigned.

Ms SYLVIA HALE: The ICAC report on page 68 states, "In light of the fact that Mr Gilbert is no longer employed by the Council, the Commission is not of the opinion that consideration should be given to any of the matters referred to in section 74A (2) (b) and (c) of the ICAC Act." Clearly, the commissioner was making a finding with regard to Mr Gilbert's former employment by Wollongong City Council. However, my question related to when he was appointed to Wollondilly Shire Council. I understand he was a friend of the current general manager and had worked with the general manager of Wollondilly Shire Council. He was then appointed as the assistant general manager. My question to you concerns the appropriateness of one council appointing to a senior position a person who is under investigation by the ICAC?

Mrs BARBARA PERRY: Firstly, I would not know of any of the matters you have raised about whether the person is a friend or otherwise. Secondly, appointments are for councils to make and, of course, like any other employer, they obviously would have in place a process of interviews et cetera. Thirdly, again there are no powers for me under the Act in relation to employees. These are matters for the council. There are powers for general managers under the Act and I refer you specifically to section 440D of the Local Government Act, which stipulates what has to happen if the Commissioner of the Independent Commission Against Corruption makes a recommendation pursuant to that section, and he did not make a recommendation pursuant to that section. However, this is all academic given that Mr Gilbert, the person you speak of, has now assigned.

Ms SYLVIA HALE: I will revert to another issue concerning the Wollongong City Council. You would be aware of the former manager of sustainability, Joe Scimone. Joe Scimone was a member of the senior staff. Can you give me details of the redundancy payment made to Joe Scimone by the council or by the council's insurers?

Mrs BARBARA PERRY: I would have no knowledge of that, nor should I have any knowledge because that is an operational matter for the council.

Ms SYLVIA HALE: Except that your predecessor, Mr Lynch, has written and stated that that matter should be made public. I shall try to find his letter. The trouble with what Mr Lynch has said is that what has been made public is a lump sum payment—the lump sum that was paid to all the council employees who resigned or received redundancy or termination payments. What I am interested in is the amount that was paid to Mr Scimone.

Mrs BARBARA PERRY: I have no knowledge of Mr Lynch's letter, but I will refer you to the director-general in that regard.

Mr PAYNE: Under the Local Government Act, if a council makes a payment in excess of the monetary value of 12 months, it needs the Minister's approval. In the case you mention, there was an allegation that in fact the payment exceeded the equivalent of 12 months. But the 12 months does not include statutory rights to long service leave and annual leave. What it is trying to capture is a payment of a gratuity in excess of 12 months.

That allegation came to us—I am guessing now—six or nine months ago. The department, based on information provided by the council, was satisfied that the payout figure did not exceed the statutory limit of 12 months, although the dollars may have because Mr Scimone was entitled to extended leave or long service leave, annual leave and those sorts of statutory provisions. As I say, they are a statutory provision; we have no role in those. We are just looking for a gratuity or payment above what is normally required by the legislation, and we were satisfied, based on information provided by the council, that the 12 months figure was not exceeded.

Ms SYLVIA HALE: It is my understanding that Mr Scimone is reported to have received a payout of \$329,000 dollars in his final year, which is an increase of \$160,000 above the previous year. But can I draw your attention to another section of the Local Government Act, namely section 337, which relates to the council being consulted as to the appointment and dismissal of senior staff. Can you tell me if the council was consulted in relation to the dismissal or the departure of Mr Scimone?

Mr PAYNE: That I would not know. They do not report to us. You are right; there is a provision in legislation that for a senior staff appointment or removal, the general manager must consult with the council.

Ms SYLVIA HALE: Section 354A, "Ministerial approval for certain termination payments to senior staff", states:

- (1) A council must not make a payment to the general manager or other senior staff member of the council in relation to his or her termination of employment (including termination on the ground of redundancy) without first obtaining the Minister's approval to the payment.
- (2) The Minister may refuse to approve a payment under subsection (1) if the Minister is not satisfied the payment is appropriate.

There are other subsections, but can you tell me whether your predecessor approved the termination payouts to Mr Scimone?

Mr PAYNE: The answer is no because councils have delegation to approve, as I said earlier, up to 12 months. You cannot look at the figure and conclude that the 12 months is exceeded because it comprises a component of statutory rights.

Ms SYLVIA HALE: What you are suggesting is that the Minister had delegated the authority and his approval was not required.

Mr PAYNE: Up to 12 months.

Ms SYLVIA HALE: Up to 12 months?

Mr PAYNE: Correct.

Ms SYLVIA HALE: Is that in the regulations rather than in the Act, is it?

Mr PAYNE: No, it is not in the Act. It is by regulation or delegation.

Ms SYLVIA HALE: Could you please provide a copy of the regulation which stipulates that?

Mr PAYNE: This is in relation to another council. They are exempted from ministerial approval under the Local Government (General) Regulation 2005. That regulation provides up to the 12 months; otherwise, that is all we would be doing.

Ms SYLVIA HALE: So you would concede that here we have a situation of a very substantial payout going to Mr Scimone, the matter not been discussed by the Wollongong City Council and not being discussed or brought to the Minister's attention, but the arrangement being made by the former general manager, Rod Oxley. Is that an appropriate way for people who are under a very heavy cloud because of their sexual assaults on members of the staff and their behaviour generally at the council? And do you think that is an appropriate way for public moneys, ratepayers' money, to be expended?

Mr PAYNE: Firstly, they were allegations at the time. Secondly, I have already said that for up to 12 months, councils are free to make that payment. There are statutory provisions in place for long service leave and annual leave, which most public servants and council employees are entitled to. Neither the Minister nor the department has any role in deciding whether they will be paid or not. It is a statutory right.

Ms SYLVIA HALE: But at this stage, what we are talking about is a matter that did not come before the Wollongong City Council—and in fact it did not come before the Wollongong council, despite the request of councillors to be informed about the payout and the arrangements. It was a deal done with Rod Oxley, the disgraced former general manager, and you are telling me that it did not come before the Minister either because of this regulation.

Mr PAYNE: It did not have to, okay?

Ms SYLVIA HALE: But perhaps it is not just a question of what you have to do, it is a question of what you ought to do in the circumstances. Here we have a substantial monetary reward for someone who had been under investigation by the Independent Commission Against Corruption, the Anti-Discrimination Board, and eventually the Administrative Decisions Tribunal.

Mr PAYNE: Let me just say something. You are talking about a substantial reward. I again state that part of that reward is a statutory right. It is not a reward; it is a right.

Ms SYLVIA HALE: But we are looking at a figure of \$160,000—

Mr PAYNE: I do not know what the figure is.

Ms SYLVIA HALE: —above those statutory entitlements.

Mr PAYNE: I can only keep saying what I said.

Mrs BARBARA PERRY: We have industrial laws and employment laws to take into consideration. I am not minimising your question in any way, shape, or form, but I think Mr Payne has answered that question in relation to his knowledge of both the regulations and the situation. I do not think you can answer for what happened at the council at that time.

Ms SYLVIA HALE: In view of the highly unsatisfactory outcome when a deal was made by a corrupt general manager about which neither the council was consulted nor the Minister's office obliged to intervene, will you seek to revise that regulation so that termination payments to senior members of staff come before the council, at the very least, for its endorsement and approval?

Mr PAYNE: There is already provision in the legislation for the removal or appointment of senior staff to go before a council. There is an obligation on the part of the general manager, who is responsible for the employment of staff, to consult the council on an appointment or a removal. That is already there. There is no way that we can get involved in the actual determination of payments.

Ms SYLVIA HALE: But you have become involved by this regulation, which says that a sum below a year's salary does not have to be approved by the council or go to the Minister. What I am asking is this: Surely

we have seen a case with this substantial loophole where a totally undeserved ex-gratia payment has been made to a person who has been subsequently found to be corrupt?

Mr PAYNE: Look, the regulation was designed to stop excessive payouts. It is generally industry practice, I think, that up to 12 months is acceptable. I am talking generally rather than about individual cases. That is what it was designed to do and it has been effective in doing that.

Ms SYLVIA HALE: How do we know, if it is not open to public debate and disclosure? How do we know that thoroughly undeserving people are not given 51 weeks salary as a friendly send-off? It is a very arbitrary line to draw. It seems to me that, when you are talking about senior council staff just as we speak about the bonuses that executives of large companies receive, there is every reason to want as great a public scrutiny of what they receive as anyone could expect.

Mr PAYNE: As I said to you, that payment was the subject of an allegation. The department had a look at that payment some time ago and was satisfied that the statutory requirements were met. I am not there to judge whether a person is entitled or not entitled to that payment.

Ms SYLVIA HALE: I am not asking you to judge that. I am asking you whether you will revisit the regulation that allowed such a payment to avoid public scrutiny.

Mr PAYNE: Under contract law, if there is a finding of corruption, there would be no need, I suspect, for councils to make any payment as a gratuity.

CHAIR: The time for crossbench questioning has expired. We now go to Government members.

The Hon. IAN WEST: What initiatives has the Government introduced to improve the strategic focus of local councils?

Mrs BARBARA PERRY: The New South Wales Government is committed to helping improve local council's management of community assets. A new integrated planning and reporting framework for New South Wales local government has been developed to strengthen councils' strategic focus, cut red tape and improve service delivery to meet community needs. The new planning and reporting system will replace the current management plan, social plan, state of the environment report and annual report. The key plan is that councils must develop a long-term community strategic plan, a resourcing strategy and a delivery program. The delivery program must be developed by each newly elected council. It will enable the community to hold the elected councillors accountable for their performance. The annual reporting requirements will be streamlined and focused on reporting information that is important to the community.

The new system recognises that communities do not exist in isolation; they are part of a larger natural, social, economic and political environment that influences and helps shape their future direction. Council plans do not exist in isolation either. Land use and infrastructure planning produces social, environmental and economic outcomes that are all connected. This system encourages councils to draw their various plans together, to understand how they interact and to get the maximum leverage from their efforts by planning holistically for the future. It recognises that most communities share similar aspirations, including a safe, healthy and pleasant place to live, a sustainable environment, opportunities for social interaction, opportunities for employment and reliable infrastructure. The difference lies in how each community responds to these needs and the decisions made by its council.

The new system opens the way for councils and their communities to have important discussions about funding priorities, service levels and preserving local identity, and to plan in partnership for a more sustainable future. The proposed new system will also require that councils give due regard to the New South Wales State Plan and consult with relevant State government agencies when developing their community strategic plan. It is essential that councils identify initiatives and opportunities to work with State government agencies, and that all State agencies embrace the opportunities that partnerships with councils provide effectively to deliver services to the community.

It is important to remember that local government in New South Wales is responsible for assets worth more than \$50 billion. Infrastructure assets include roads, water and sewerage assets, drains, bridges, footpaths, parks and reserves, and public buildings. A strong and sustainable local government system requires a robust planning process to ensure that all assets are maintained and renewed in the most appropriate way on behalf of

local communities. As custodians, local councils are responsible, effectively, to account for and manage these assets and to have regard to the long-term and cumulative effects of their decisions. Failure to adequately manage infrastructure assets is a key risk that could prevent local councils from achieving their strategic goals.

Asset management planning is included in the resourcing strategy component of the proposed integrated planning and reporting system. The resourcing strategy requires that councils plan for their long-term needs for assets, money and people to ensure that they can deliver services to the community in a sustainable way and in line with the community's long-term vision. By improving their asset management practices, councils will gain a better understanding of the following things: first, the scope of the assets under their control—they will have complete knowledge of that; that is what the proposed integrated planning and asset management stuff is all about—secondly, the condition of those assets, including the maintenance requirements and when they will need to be renewed or replaced; thirdly, whether their current asset stock matches their community's current and future needs; and, fourthly, their capacity to invest in new assets or dispose of surplus assets.

By putting strong asset management practices in place, councils will also be better equipped to determine whether they require additional funding to maintain local services and where that funding might be sourced. Over the past three years the Department of Local Government has been working closely with the local government sector on development of the new system and will continue to provide capacity building support and guidance during implementation. A key aim of the proposed system is to streamline council planning and reporting so that more resources are available to deliver services to the community. I am pleased to say that the sector has indicated widespread support for the new system. The Government will soon be releasing an exposure draft bill and detailed guidelines relating to the integrated planning asset management strategy for public consultation.

The Government then plans to introduce a bill to amend the Local Government Act in the 2009 budget session of Parliament. As the Minister for Local Government I think these are extremely sensible reforms. They are about a getting back to basics approach. They will help local councils achieve better outcomes, deliver better services to the community and make matters more transparent for the local community. They will involve much more community input than what we have had in the past. That is something local councils are good at, and it is something we can continue to maintain. The reforms will also improve the position of councils, both individually and as a sector, to lobby for and access funding from various levels of government.

The Hon. HELEN WESTWOOD: The Government has been undertaking Promoting Better Practice reviews since 2004. How many councils have been reviewed, and what are the benefits and main findings of the program?

Mrs BARBARA PERRY: The aim of the Promoting Better Practice Program is to improve the delivery of local government services to local communities. The review acts as a sort of health check for local councils. In the 2007-08 financial year the Department of Local Government completed 22 Promoting Better Practice reviews, covering both city and country councils. To date the program has undertaken 80 reviews; 71 of these have been completed and nine remain partially completed. The program has a number of objectives, including promoting continuous improvement and greater compliance across local government, promoting good governance and ethical practice, identifying innovation and sharing good practice in local government, helping to more effectively identify legislative and policy issues requiring attention in the local government sector, providing an early intervention option for councils experiencing operating problems, and helping councils to assess their performance in key areas and focus attention on key priorities.

The reviews involve departmental officers closely evaluating the effectiveness and efficiency of key aspects of council operations, and they give feedback to the councils in that regard. The process involves examining council's overall strategic direction, checking compliance, examining appropriate practices and ensuring that the council has frameworks in place to monitor its performance. The findings of the review are provided to the council by way of a written report which contains recommendations to treat performance problems and to prevent problems arising in the future. Councils have been enthusiastic about the program and they have cooperated well with the review teams. For the most part, I think it has been a beneficial exercise for both the councils and the department. Many councils, in fact, also requested the department to undertake the review. I think that is really good. In addition to identifying problems, the program identifies good practice in local government and encourages sharing with others what is working well.

So far, the reviews have uncovered the following: most councils are able to exhibit some degree of strategic focus, but at times this is poorly articulated and not effectively documented or communicated to their community; most councils reviewed have at least the basic elements of a good governance framework in place, and many councils respond to the review process by actively trying to fill the gaps in their framework; weaknesses are still evident in the areas of risk management and complaints handling; enforcement policies and practises are a continuing concern; efforts to implement asset management systems are more widespread, but many councils have a long way to go—my earlier answer referred to that; business planning for council business activities is not as widespread as it should be; community land management is often poor and, surprisingly, a number of councils still have a lot of community land that is not the subject of plans of management, many years after the requirement was introduced; smaller councils are particularly impressive in their efforts to fill any gaps in human service provision in their communities; workforce policy frameworks are of a relatively good standard in most councils; and there is evidence councils are recognising the need for improved workforce planning.

The tools used in the reviews are also available on the department's website for everyone to see along with all completed and tabled review reports. With the availability of the review tools on the department's website more councils are using the program tools to evaluate their own practices and their processes. This seems to show that councils want to do better, it builds on a culture of self-assessment and, what is pleasing, is that councils say they want to have a continuous improvement in their sector. As the program has been underway since 2004, the department is currently evaluating it to ensure that the program continues to meet its objectives and to help clarify its future direction. The evaluation should be completed by the end of 2008. A number of councils have undergone Promoting Better Practice reviews. It has been one that has been beneficial to everyone and the community. There has been wonderful cooperation. It has served as a useful tool for councillors and the community at the end of the day.

The Hon. IAN WEST: What is the Government doing to support councillors to help them to be more efficient and effective in their role?

Mrs BARBARA PERRY: The task of council and councillors is a large one, like it is at any level of government. In order for councillors to effectively discharge their duties, obligations and responsibilities of public office—and I know many councillors take their role very seriously—it is essential for them to have a good understanding of their role and responsibilities. We know that councillors come from all walks of life, as do members of Parliament, and bring a variety of skills and experiences to their role. The job is both rewarding and challenging. When councillors commence their term in office it is important for them to quickly attain a clear understanding of the system of local government, how the council works and the full range of their roles and responsibilities.

No matter what the individual circumstances are of councillors on a council their role is important and their responsibilities are wide ranging. It is equally important that all councillors have ongoing opportunities to undertake appropriate skills development and training in areas needed to assist them to carry out their role effectively. The Local Government Act sets out the role of a councillor. It includes the overall responsibility for establishing and guiding policies, allocating resources, setting service delivery standards and overseeing the council's performance.

One of the recommendations from the public inquiry undertaken into Brewarrina Shire Council in 2005 was that councillors should undertake compulsory training so they fully understand and they are able to undertake their roles and responsibilities effectively. The Government has developed a councillor development strategy to assist all councillors, including those elected for the first time at the recent local government elections, to gain understanding of their important role as civic leaders. The strategy is about ensuring that New South Wales councillors have timely access to information, they need to understand and undertake their role effectively, and it aims to facilitate the ongoing professional development of councillors.

The strategy has been implemented in partnership with the Local Government and Shires Associations with input from other relevant organisations, such as Local Government Managers Australia. The strategy also comprises a number of components which are as follows. This year councillor information sessions have already been run. In fact, the Department of Local Government is conducting more than 40 councillor information seminars not only for councillors but also general managers. It is doing that in multiple regional and metropolitan local government areas during October and November. I hope the seminars will be interactive. They are designed to maximise learning outcomes and will focus on three topic areas of roles, responsibilities and relationships, the code of conduct and meeting practises. We are developing a resource package that will be

distributed to all councillors who attend the councillor information seminars. They will include relevant departmental guidelines, practice notes and other useful information.

The induction and professional development guide for councils is also another part of what we are doing. Recently I released a new councillor induction and professional development guide for councils about giving them information to assist them to develop their own induction and their own continuing professional development. It will provide information to councils about how to develop and implement programs, as well as a checklist of what to include in them. The councillor's guide, which will be released shortly, is a joint publication between the department and the Local Government and Shires Associations. It is aimed at newly elected councillors and includes detailed information about their roles and responsibilities. We are also developing a web-based directory for councillors which will include resources, contact details and links to relevant agencies and organisations.

The councillor development strategy will be evaluated to assess its effectiveness in achieving its aims. These resources seek to help council's ensure that councillors have every opportunity to clearly understand their role, responsibility and to develop the skills and knowledge to perform their job and do it well in the best interests of the community that they represent. I have written to all councillors in New South Wales since their recent election to indicate the importance of them obtaining information and the tools that they need to do their job well. I hope, trust and expect that all councillors, whether they have been on the council for 13 or 15 years or whatever or are newly elected, will attend the induction seminars. The feedback from the seminars has been quite good. Some councillors have told me that the seminars have been informative and they would like to attend further seminars down the track. If that is an indication of success, that is great.

The Hon. HELEN WESTWOOD: What is being done to support councils in relation to risk management?

Mrs BARBARA PERRY: Internal audits are widely used in corporate Australia. They are a key mechanism to assist in managing risk and improving efficiency and effectiveness. At the State Government level there are clear requirements for internal audits and risk management. There is also a growing acceptance of the importance of internal audit and risk management in local government. It is pleasing to see that a number of councils in New South Wales are showing leadership in fully embracing this concept. However, the Department of Local Government's Promoting Better Practice Review Program, as I indicated earlier, has highlighted that while progress is being made there are still opportunities for improvement. Effective internal audit and risk management processes should become part of the business as usual operation of councils.

The Department of Local Government has prepared a discussion paper to give local government stakeholders an opportunity to comment on the appropriate role of internal audit in New South Wales and following the release of that discussion paper there will be submissions, but the internal audit guidelines that we propose will propose oversight of council systems and processes through an audit committee. The guidelines will be released shortly and they will be available on the department's website. I can only encourage all councillors and county councillors to use those guidelines when they are released to develop their own internal audit and risk management in local government on a collaborative basis.

CHAIR: We will now go to another 20 minutes of Opposition questioning.

The Hon. JOHN AJAKA: Minister, are you aware that Canterbury council, which has been labelled the chamber of secrets, only met for two to three minutes on seven occasions in 2007?

Mrs BARBARA PERRY: I have never heard of that label, nor would I know how long they have met for. I do not know what you are talking about.

The Hon. JOHN AJAKA: Are you aware that there were 33 council meetings in 2007 of Canterbury council?

Mrs BARBARA PERRY: No, I am not aware of how many meetings there would be.

The Hon. JOHN AJAKA: At seven of those meetings the council met for two to three minutes. That was the entire council meeting. Are you aware of that?

Mrs BARBARA PERRY: I would not know that; you are telling me. I do not know what the question is.

The Hon. JOHN AJAKA: Are you aware that at 14 of the 33 meetings council met for less than 10 minutes?

Mrs BARBARA PERRY: They might be a very efficient council, I do not know. What type of meetings were they? Can I make it very clear to the member that my role is to provide a legislative and policy framework for councils to operate within? Obviously meetings are operational in many ways and councils conduct their meetings within the policy and operational framework of their council—

The Hon. JOHN AJAKA: And you were a councillor for eight years, I understand, so you are well aware—

Mrs BARBARA PERRY: No, I was not there for eight years—don't wish that. I was there for four and a bit years.

The Hon. JOHN AJAKA: So you are well aware of council operations in that regard. Let me give you two examples. On 15 May 2007 a council meeting open to the public commenced at 7.45 p.m. and concluded at 7.47 p.m.—two minutes. I would have thought it would have taken at least a minute to get to your chair. Do you think that is an appropriate time for an open public council meeting?

Mrs BARBARA PERRY: I do not know what was discussed, I do not know what the minutes show. You are putting that to me. Councils are accountable to their communities. I really do not have knowledge of what went on there.

The Hon. JOHN AJAKA: As the local government Minister, in your opinion, 14 meetings of 33—over 40 per cent, if my calculations are right—were for less than 10 minutes. Do you see these as open, transparent public meetings, matters being dealt with in less than 10 minutes and on seven occasions two to three minutes?

Mrs BARBARA PERRY: I do not know what type of meetings they were. They could have been any type of meeting.

The Hon. JOHN AJAKA: They were full council meetings.

Mrs BARBARA PERRY: Well, I do not know, you are telling me that, but councils are open. They have public meetings. They are accountable to their communities at the end of the day. Their agendas are out there for the community to see before the meetings. They are on their websites.

The Hon. JOHN AJAKA: Would it surprise you that at those meetings development applications and other matters were being dealt with and the matters were being finalised within two to three minutes? Would that surprise you?

Mrs BARBARA PERRY: I do not know which meetings you are referring to, I do not have any of that information in front of me, but I would have thought if councils conduct their meetings in an open fashion and people, I know from my own experience, come into the public gallery to listen to those meetings—

The Hon. JOHN AJAKA: Are you aware that the mayor Rob Furolo, who is of course the Labor candidate for Lakemba, missed 40 per cent of the council meetings in 2007?

Mrs BARBARA PERRY: I am not sure. It is not within my portfolio responsibility to determine how many meetings he missed, nor do I have any jurisdiction over that.

The Hon. JOHN AJAKA: Have you or anyone from your department, or your predecessor, had any complaints about Canterbury council? Mr Payne might be aware of that. Have you received any complaints about Canterbury council?

Mr PAYNE: I am not sure. What you are saying is news to me, I do not personally recall any complaint, but can I just make the point that under the legislation—and I think I am quoting it correctly—

councils are obliged to meet 10 times a year. You said they have met 33 times, so that is three times over the statutory limit, and 14 meetings were less than 10 minutes. What about the other 19?

The Hon. JOHN AJAKA: You think it is appropriate that business is transacted in two to three minutes?

Mr PAYNE: It is not up to me to say what is appropriate or not. I do not know the basis of the meeting. I am just telling you what the law says and the law says that they have to meet 10 times.

The Hon. JOHN AJAKA: And do you think it is appropriate that a mayor misses 40 per cent of the meetings?

Mr PAYNE: I assume he had leave.

The Hon. JOHN AJAKA: Would you consider investigating this matter now that it has been brought to your attention?

Mr PAYNE: No. There are 1,300 councillors in New South Wales. We do not keep track of meetings they attend or do not attend.

The Hon. JOHN AJAKA: Are you understaffed and not able to keep track of these things?

Mr PAYNE: I do not think I will ever have enough staff to follow 1,300 people.

The Hon. JOHN AJAKA: So are you saying you are not properly resourced to be able to keep your eye on what is happening at councils, as the relevant department?

Mr PAYNE: I am properly resourced. I do not think that is an appropriate thing for the State to do.

Mrs BARBARA PERRY: Can I ask how does this relate to the estimates of my department?

The Hon. JOHN AJAKA: It relates very importantly to the estimates of your department.

Mrs BARBARA PERRY: But it has nothing to do, with the greatest of respect, with the estimates of my department.

The Hon. DON HARWIN: With the greatest of respect, Minister, your department conducted a Promoting Better Practice review of Canterbury council using your department's resources out of your Government's State budget—

Mrs BARBARA PERRY: That is true.

The Hon. DON HARWIN: Which was concluded at the end of 2007, and it would seem none of these things were picked up because none of them are mentioned in the report that was issued at the end of that process.

Mrs BARBARA PERRY: But—

The Hon. JOHN AJAKA: Is it because there is a Labor mayor, Robert Furolo, that these things are overlooked? I would have thought that that is something your department would have jumped on.

CHAIR: Order! Would members please allow the Minister to answer before they ask another question?

The Hon. JOHN AJAKA: I am sorry; my question was directed to Mr Payne.

CHAIR: No, the Hon. Don Harwin has asked a question of the Minister that the Minister has not been given the opportunity to answer.

The Hon. JOHN AJAKA: I apologise.

Mrs BARBARA PERRY: I can say, firstly, that it is irrelevant who is the mayor and how the council is comprised to both myself, as the Minister, and my department. I just gave you a whole seven or eight minutes on promoting better practice reviews and what they are all about. They are all about the systems of council. Councillors are ultimately responsible and accountable to their communities and the promoting better practice reviews are about health checks. It is a health check that goes through asset management—

The Hon. DON HARWIN: You did mention that they included governance, though. Is this not a matter of governance?

Mrs BARBARA PERRY: And governance in relation to processes inside the council, systems inside the council, such things as their asset management programs, their planning—not their planning processes so much in detail, but to make sure they have appropriate checks and balances. These are the things that we look at in our better practice reviews.

The Hon. DON HARWIN: The *Canterbury-Bankstown Express* was able to find these out and I am wondering why your department's promoting better practice reviews could not pick them up?

Mrs BARBARA PERRY: Find what out?

The Hon. DON HARWIN: The frequency of meetings, the number of times councillors had leave, and those sorts of matters. They looked at that.

Mrs BARBARA PERRY: Again, the meetings are scheduled and the times are usually put in the local papers. They are open to the community. My role is not to determine how many meetings a council has or does not have. The legislation is very clear about how many meetings there should be. Mr Payne has outlined that. My role is to look at the systems in council through those Promoting Better Practice reviews.

The Hon. JOHN AJAKA: On the basis of better practice and better practice reviews and on the basis of transparency and no spin, of which the Premier is a great advocate and continually reminds us, would you now consider that having regard to the matters we have brought to your attention and to the attention of Mr Payne your department should investigate the fact that these meetings—I mean, you have a newspaper calling Canterbury council the "chamber of secrets". One would assume that that alone would warrant an investigation. If development applications are being approved at meetings in two or three minutes are you seriously saying that no caucusing is going on? Are you seriously saying that these have not been predetermined prior to the meeting? That in itself should be sufficient reason for your department to jump on it and for your department to consider investigating this matter.

Mrs BARBARA PERRY: That is a statement you are making. What is the question?

The Hon. JOHN AJAKA: The question is: Will you investigate Canterbury council?

Mrs BARBARA PERRY: For what? You have not given me the details of those meetings or anything. As I said earlier—

The Hon. JOHN AJAKA: You are the Minister. You can call for that.

Mrs BARBARA PERRY: They are on the public record. I do not know what those meetings were. You are giving me—I do not know what those meetings were about.

The Hon. JOHN AJAKA: Do you know Mayor Robert Furolo, the candidate for Lakemba?

Mrs BARBARA PERRY: Yes, I do.

The Hon. JOHN AJAKA: Do you consider him a friend?

Mrs BARBARA PERRY: I know him. I would not consider him a close friend. What is a friend?

The Hon. JOHN AJAKA: Would you consider that he is someone who has supported you in the past?

Mrs BARBARA PERRY: I consider you a friend, Mr Ajaka.

The Hon. JOHN AJAKA: Thank you. Would you consider that I have supported you in the past?

Mrs BARBARA PERRY: You have supported me, John, especially at those functions we go to together.

The Hon. JOHN AJAKA: I take it that your answer is that your department would not even consider looking at these matters that were raised and the actions of Canterbury council and the mayor. That is what I take your answer to be.

Mrs BARBARA PERRY: That is not what my department does under the legislation.

The Hon. DON HARWIN: Could I just continue the questions I asked earlier in relation to Fairfield City Council? You discussed in response to a Government member's question Promoting Better Practice reviews. You noted that your department welcomes requests from councils to undertake a review of a council. I think I heard you say that a number of councils have taken advantage of that. At any time in the past four years since the program has been in operation has Fairfield council requested a Promoting Better Practice review?

Mrs BARBARA PERRY: I think we will have to take that on notice.

The Hon. DON HARWIN: Certainly none has occurred. We have looked at the website. My question is: Have they requested one?

Mr PAYNE: We can check the records and take it on notice.

The Hon. DON HARWIN: Thank you. Earlier I asked you about the allegations made by Councillor White that a particular developer had several councillors in his pocket. That was the claim in the *Fairfield Advance* on Wednesday 30 July, of which you said you were not aware. You said you were not aware of the South Australian development firm Makris Group, which was also mentioned in that particular article. Are you aware that the Makris Group was selected by Fairfield council as the developer for the Bonnyrigg Plaza?

Mrs BARBARA PERRY: No, I would not have any knowledge of that.

The Hon. DON HARWIN: Minister, are you aware that the Labor Mayor Nick Lalich's son is the legal adviser for the Makris Group?

Mrs BARBARA PERRY: No, I do not have knowledge of that.

The Hon. DON HARWIN: Are you aware that the Labor Mayor of Canterbury, Robert Furolo, is the public relations consultant to the Makris Group?

Mrs BARBARA PERRY: No, I do not have knowledge of that.

The Hon. DON HARWIN: Minister, do you know the Labor councillor on Fairfield Council named Sarah Trapla?

Mrs BARBARA PERRY: Yes, I do. Is she still on Fairfield council?

The Hon. DON HARWIN: Yes. Minister, are you aware that Councillor Trapla is also the Mayor of Canterbury Robert Furolo's communications manager in his role as mayor?

Mrs BARBARA PERRY: I think I was aware that she worked at Canterbury council but I was not quite sure what she did there.

The Hon. DON HARWIN: Minister, are you aware that Bonnyrigg Plaza is the Makris Group's only property on the east coast of Australia?

Mrs BARBARA PERRY: No. Makris Group's what?

The Hon. DON HARWIN: We have a council—

Mrs BARBARA PERRY: Could you just repeat that question? Makris Group's what?

The Hon. DON HARWIN: Absolutely. Are you aware that Bonnyrigg Plaza is the Makris Group's only property on the east coast of Australia?

Mrs BARBARA PERRY: No.

The Hon. DON HARWIN: What we have here is an allegation by a Fairfield councillor, Councillor White, that the developer, the Makris Group, has a number of councillors in its pocket. You have the mayor's son as the legal adviser to that particular property developer. You have another councillor, Councillor Trapla, who is an employee of the Makris Group's public relations consultant. It has been in the local papers. You say you are not aware of it. Your department says it is not aware of it and is not investigating it. Blind Freddy can see that there is something dodgy going on here. I want to know whether your department will investigate Fairfield council, and if not why not?

Mrs BARBARA PERRY: Mr Harwin, what I think you should do, very clearly, if you have concerns, or anyone else has concerns, we have an incredibly efficient and effective corruption watchdog in this State and that matter should be referred to the ICAC if you or anyone else thinks so.

The Hon. DON HARWIN: Minister, it is well known that of all the allegations that go to ICAC about local government matters, 80 per cent or 90 per cent of them, if not more, are sent back to your department for your department to investigate. The report on Wollongong council has been the only substantial report on a council in recent times. Most of them will end up with your manager of compliance. I am asking you why your development will not—

Mrs BARBARA PERRY: I do not have any developments. I am lucky to have a house to live in.

The Hon. DON HARWIN: Sorry. Why will your department not launch an investigation into Fairfield council?

Mrs BARBARA PERRY: Because the appropriate authority to do that would be the ICAC or the police if there is some other issue—

The Hon. DON HARWIN: No. With great respect, under the Local Government Act—

CHAIR: Order! Please allow the Minister to finish her answer.

Mrs BARBARA PERRY: As I indicated earlier, if there are any concerns they should be referred to the ICAC. I am sure Commissioner Cripps would not take favourably your comments in relation to his role and his investigative powers because I know that the ICAC works extremely hard and looks diligently at all the matters that are referred to it.

The Hon. DON HARWIN: They do, but like every other public sector body they have limited resources and many of those local council matters are sent back to you, as you would know. Under section 430 of your Act you have power to carry out investigations into councils' operations. It is a power that is used if the consequences of a council's conduct are having a serious impact on the local community. This is a matter on which there is enormous community concern. Why will your department not launch an investigation into the Bonnyrigg Plaza matter?

Mrs BARBARA PERRY: We have certain powers of investigation but certainly not for corruption, which is what you are implying. I urge you again, if you or anyone else has knowledge, to refer the matter to the ICAC.

The Hon. IAN WEST: Why have you not referred it?

Mrs BARBARA PERRY: That is correct. Why have you not referred it? It is a concern that you have not done so and you have this knowledge.

The Hon. JOHN AJAKA: Your department head is here, you are the Minister and this is being brought to your attention. Am I right in understanding you to say, "We will not investigate it. It's not our job to investigate it"?

Mrs BARBARA PERRY: No, that is not what I said. That is wrong and a wrong interpretation to extrapolate from what I said. What I clearly said is that we do not have powers to investigate corruption, and that is what is being implied or alleged here. In fact, the appropriate body in this State is the ICAC.

The Hon. JOHN AJAKA: Minister, unfortunately we have limited time but I wish to deal with one final aspect. Are you aware of an independent report entitled, "Are Councils Sustainable?" by Percy Allan, known as the Allan report?

Mrs BARBARA PERRY: I am aware of it.

The Hon. JOHN AJAKA: This report was given to the Minister for Local Government, Kerry Hickey, on 3 May 2006. Last year, during estimates committee hearings, your predecessor the Minister for Local Government, Paul Lynch, said that the whole-of-government response would be released "soon". Twenty-nine months have elapsed and it is almost a year since the last estimates committee hearings. I would have assumed that the word "soon" meant well below a year. When will this report be released?

Mrs BARBARA PERRY: I make the general comment that I am aware of the report and I have spoken to numerous stakeholders in the local government sector. As a further general comment I will be working constructively with the local government sector to ensure that services are delivered in a fair and equitable manner. Firstly, the State Government did not commission the Allan report; the Local Government and Shires Associations commissioned it. Secondly, the Local Government and Shires Associations did not finalise its response until July 2007.

The Hon. JOHN AJAKA: That is 13 months.

Mrs BARBARA PERRY: In fairness, it could be said that from go to whoa it has taken a long time. I have asked my department to look into it.

The Hon. JOHN AJAKA: You predecessor said that he would release his response soon. As you said, 13 months ago the Local Government and Shires Associations released its response. Minister I am asking you—and please do not say soon—when you will be releasing your response. If the answer is soon, please define "soon".

Mrs BARBARA PERRY: In the context of timing I do not think that receiving the Local Government and Shires Associations final response in July last year is all that long, given that these matters have to be discussed with other people and with stakeholders. I have sought advice from the Department of Local Government. I want to say a few other things about the report. Initially advice was also given to me that indicates the report states—and I know that the report states—more about local government sector borrowing than it does about cost shifting. Not too many people in the local government sector are happy about what this report states. I wonder why it has taken so long.

The Hon. JOHN AJAKA: Maybe you could include that in your response, if we could get a response.

CHAIR: Order!

The Hon. JOHN AJAKA: All I am saying is: Surely we are entitled to a response? When can we see a response?

Mrs BARBARA PERRY: I undertook today to seek further advice about it. I will give the matter the necessary attention.

The Hon. JOHN AJAKA: We have another "soon" answer?

CHAIR: Order! The time for Opposition members' questions has expired.

Ms SYLVIA HALE: I refer again to Wollongong. No doubt you would appreciate the strength of community feeling in Wollongong because, first, community members do not have any elections and, second, the council has been dismissed. Clearly, a lot of the corruption has come from within council, yet community members have been deprived of the right to elect new councillors who might be able to investigate the structures within council that permitted that to happen. Wollongong council received an ICAC report that shows that Rod Oxley, the former general manager, was responsible for creating an environment in which corruption has flourished. In effect, he escaped unscathed, as has John Gilbert. Joe Scimone and Rod Oxley are receiving handsome termination payments from council. In addition, a contract has been entered into, or Wollongong council has assumed legal obligations to meet the legal expenses of both Joe Scimone and Rod Oxley. I would like to ask you more about that. Against that background I have the minutes of the ordinary council meeting of 21 May 2007 when Wollongong council went into closed council. Item No. 1 was a motion from Councillor Wood.

Mrs BARBARA PERRY: What date was that?

Ms SYLVIA HALE: It was 21 May 2007. Councillor Wood moved a motion that the terms of employment for the Group Manager, Sustainability, Joe Scimone, should be made available to council. Council declined; it did not support that recommendation. In the aftermath of that, and since they could not get the council to agree to release figures from that termination deal, repeated requests were made to the director general and to the department for that information to be made public because, in the view of many Independent councillors and others, it was deemed to be in the public interest. As late as 7 March this year Dennis Williams, the council's Corporate Governance Manager, wrote to a resident and said:

I refer to your email of 5 March 2008 and advise that the resignation settlement for former officer Joe Scimone came as a result of negotiations undertaken in the Administrative Decisions Tribunal and did not involve the former Lord Mayor, Alex Darling.

The document is not available for perusal but as Rod Oxley was council's Chief Executive Officer at the time, it is reasonable to presume that Mr Oxley either signed the settlement documents or authorised for the settlement documents to be finalised.

Dennis Williams
Corporate Governance Manager.

In that context I ask: What action will you take to enable the public to learn about the details of deals that are made behind closed doors that substantially undermine public faith in local government, and the credibility of the bureaucracy and of elected councillors?

Mrs BARBARA PERRY: I agree with you. I do not know about everything that you put to me. I do not doubt that what you are telling me, and all the information you have provided, are correct. Generally speaking, referring to the principles about which you are talking, there is no doubt that the community is feeling very hurt, hence the extension to 2012 of administrative time to try to restore public confidence and ensure community engagement with the council, et cetera. The codes of conduct and legislative requirements that we have in place ultimately are about being open and accountable to the community.

Earlier the director general referred to employment issues and to what is legislatively required of them. As I do not have the legislation in front of me I am not able to take you to each of the sections relating to your question. In general, the department and the Government have done everything that they can. The codes, the practice notes, the circulars and the legislation are all about encouraging and ensuring openness and accountability in the matters that you have raised.

Mr PAYNE: I wish to make a further point in relation to what we think about payment. As I said, there is a legislative barrier of about 12 months, but under that councils can pay. Irrespective of what I, the department or the Minister feels about payment, most councils would take legal advice to determine whether, contractually, they have to make a payment, should make a payment, or whatever. In the case of Wollongong I do not know, but I hazard a guess that it sought advice as to whether it was liable to make some form of payment. I do not know. That is a matter between the council and the employee.

Ms SYLVIA HALE: Mr Payne, there were repeated requests to your department and to you for some sort of public ventilation of issues. You chose to say that the regulation allowed the council to do that. In light of what has occurred and because at that stage the council was under investigation by the ICAC—it was known to be under investigation—do you not think it is time to consider revising the regulation or at least intervening in a more proactive manner so that rather than the letter of the law being observed at least public credibility is maintained?

Mr PAYNE: You need to look at the timing of this because the council was under investigation. Nothing had been decided. Natural justice has to prevail, surely. The council was under investigation. I know where your question is coming from; I know the person behind it. There is a personal flavour to this. I was satisfied that the council in fact had met the legislative requirements. That is all I can do. That is the only thing I can do. What I feel or do not feel is irrelevant. The council had met the legislative requirements.

Ms SYLVIA HALE: I find it difficult, at least at the political level. Here we have under a Labor-appointed Minister a Labor-controlled council about which rumours of corruption and complaints have been circulating probably for the past 20 years and you just say, "I don't have the powers." If you do not have the powers, then presumably the Minister at least would have had the power or at least influence to intervene to ensure a more satisfactory outcome from the public point of view?

Mrs BARBARA PERRY: I know you asked this question of Mr Payne, and I am sorry to step in but, firstly, whether Wollongong council has been a Labor council for the past 20 years, I am not sure that that is right. I think that is wrong. Secondly, whether it is Labor, Liberals or the Greens, whatever it is, in this State if there are matters of concern relating to corruption, we cannot investigate those matters. The appropriate authority to do that is ICAC. Clearly, that is what happened here with Wollongong. Thank God we had ICAC. It at least gives the community some feeling that these things will be weeded out, exposed and dealt with. There are ongoing matters as a result of that. The legislation has been very clear on some of the matters you have raised. The legislation is the law and has been in place for some time in relation to those matters. The legislation came into place in 1993. The particular sections to which you refer have probably been in place since 1993.

Ms SYLVIA HALE: Minister, your predecessor appointed three administrators to Wollongong City Council. Do you know or have you requested the administrators to report on the legality or otherwise of council's decision to meet the legal costs of persons such as Rod Oxley or Joe Scimone?

Mrs BARBARA PERRY: Generally administrators are required to report to me every six months. In relation to the substance of your question, there is no specific request for that.

Ms SYLVIA HALE: Would you be prepared to inform yourself as to those matters?

Mrs BARBARA PERRY: I am happy to consider that.

Ms SYLVIA HALE: Will you get back to the Committee about council's obligations to meet those legal costs, how much they have amounted to and how much it is anticipated they will amount to in the future?

Mrs BARBARA PERRY: The Committee's life ends today except for the further 28 days in regard to questions on notice, is that right?

CHAIR: It is up to the Committee to determine if it wants to have supplementary hearings, at which only departmental officials are obliged to attend.

Mrs BARBARA PERRY: Okay.

Mr PAYNE: The administrators are merely playing the role of the council.

Ms SYLVIA HALE: That is right.

Mr PAYNE: They are one and the same thing. That is quite a legitimate thing for council to decide. What we are saying is that we will take it on notice and find out what the position is, but we have no rights to intervene.

Ms SYLVIA HALE: But it would be quite feasible, for example, for a council to require to be made available to it a report on the obligations to meet those legal expenses? Similarly, it would be within the powers of the administrators to request the officers of the council to provide a report and then for you, I would think, to ask those administrators to provide any such report to you so that the details may be made public?

Mr PAYNE: We can seek information.

Ms SYLVIA HALE: If you would, that would be very useful. Minister, there has been recent publicity concerning the Holdmark building in Auburn. You were a member of the council and were so at the time the Holdmark development application was approved. I understand that during 2002 and 2005 the New South Wales Labor Party received \$126,300 in donations from Holdmark. As the recent publicity is about the fact the building does not conform to the building code of Australia—in fact, it is an enormous firetrap—and that the council seems to have been somewhat negligent in approving the development application and in its oversight of the process, will you be investigating that particular issue?

Mrs BARBARA PERRY: The recommendations of the section 430 inquiry indicate or outline and address the issues of concern. Given that those recommendations address that concern, the council will need to reply to us about those recommendations and the section 430 report generally. I would have thought the recommendations address those major issues of concern in the report.

Ms SYLVIA HALE: When do you expect to receive that reply from council?

Mrs BARBARA PERRY: Technically the council has 40 days from the date of the report to reply, sometimes a little longer.

Mr PAYNE: I think it is very soon. Under the legislation the report has to be tabled at the first available council meeting and then they have 40 days to respond. I do not know when the next available council meeting was, so that is why I am not sure. I know when the 40 days is. It must be very close. I have not personally seen it yet. It must be basically within days, I suspect.

Ms SYLVIA HALE: Minister, my question relates to advice to councils on the need to declare non-pecuniary interests and to give consideration to refraining from voting on matters where there may be a pecuniary or non-pecuniary interest. Are you aware that at a recent Lane Cove Council development meeting a newly elected community Independent, Pam Palmer, was instructed by Lane Cove's general manager to leave the room when a development application was being considered? The grounds for requesting Ms Palmer to leave were that the person who was number two, or possibly number three, on her voting ticket at the recent elections was one of over 40 people who wrote a letter in April 2008 about a large development in her ward, about which that person was a community activist. The newly elected councillor was required by the general manager to remove herself because of this tenuous connection. However, the general manager also said that she had a pecuniary interest because of her council salary—presumably on being elected she became entitled to a salary but, obviously, that is wrong because it is a stipend. Therefore, there is this web of connection, which resulted in her excluding herself from the meeting. Will you investigate the circumstances of this? Will you be issuing more explicit directions to councillors as to whether they are obliged to consider excluding themselves from meetings?

Mrs BARBARA PERRY: Firstly, the matter of pecuniary or non-pecuniary interest ultimately is a matter for the council's conscience. Secondly, general managers can give some general advice, but it is my understanding that ultimately it is a matter for the council. Thirdly, we have issued guidelines recently in relation to the model code of conduct, which I believe are very explicit about matters around pecuniary and non-pecuniary interests, and give good guidance to council and staff generally about those matters.

Ms SYLVIA HALE: It seems to me that we had an instance here of a new councillor, possibly attending her first development committee meeting, being told by the general manager that she should excuse herself from consideration of that issue. Will you look into it?

Mr PAYNE: I am happy to ask the question of the general manager of Lane Cove council because, as the Minister said, I think the guidelines are very explicit and clear. I will just make sure why the general manager does not feel they are because at the end of the day, as the Minister said, it is up to the individual councillor to decide whether there is a pecuniary interest or a conflict of interest. Nobody else can decide that other than the councillor.

Ms SYLVIA HALE: Okay. The other issue that arises is whether councillors have a significant non-pecuniary interest when someone who has worked for a councillor and on their behalf on a booth during the election is also a person who has lodged an objection to a proposal that later comes before the council. This is clearly causing some consternation among the ranks of councillors. Would you take steps to clarify the position?

Mrs BARBARA PERRY: Mr Payne has already indicated he is prepared to make some inquiries.

Ms SYLVIA HALE: In terms of the requirements to disclose a pecuniary or a significant non-pecuniary interest, clearly an invidious position is developing in councils whereby Labor councillors, whose party receives very substantial donations that do not go to the councillors directly, are under no obligation to reveal a pecuniary or non-pecuniary interest. However, an Independent councillor who receives donations from a group and does not have a party apparatus to receive donations is deemed to have a significant non-pecuniary interest and is obliged to disqualify themselves from debating the particular issue or voting on it. Do you think this is an unsatisfactory outcome from the point of local government?

Mrs BARBARA PERRY: The model code of conduct in that regard is quite clear. What it says specifically in relation to those matters is that councillors must take all reasonable steps, no matter what party they represent or whether they are independent or otherwise, to ascertain whence that donation originated. If they have been satisfied that they have a conflict arising from that donation, then the rules are again clear: They should disclose it at the meeting and excuse themselves from voting on the matter.

Ms SYLVIA HALE: Yes. But you see the great difficulty is that a developer, who is now anyone who submits a development application, must make a statement saying, "I have donated XYZ to the ALP", for example, but the Labor councillors can say, "I did not receive directly any of that money. I have no pecuniary or non-pecuniary interest, even though my party at head office has received an amount of money." The Independent councillors who have received a direct donation, say, from a community group or a group in opposition, and who do not have party apparatus in relation to the very issue that may have led to their being elected to council, are the ones who will have to recuse themselves and absent themselves from the discussion and voting. Do you not feel that that is not really dealing with the situation?

Mrs BARBARA PERRY: First of all I take umbrage with the fact that the Labor Party is the one that you are referring to.

Ms SYLVIA HALE: We can take the Liberals, for example—but not the Greens.

Mrs BARBARA PERRY: I take great umbrage at that. You do receive donations. The Greens receive donations.

Ms SYLVIA HALE: We receive personal donations.

Mrs BARBARA PERRY: You receive donations; yes, you do.

Ms SYLVIA HALE: We do not receive donations from developer, corporate, hotel or gambling interests.

CHAIR: Order!

Mrs BARBARA PERRY: And you disclose those donations, as you are required to, and as every other person is required to does that, whether you are an MP or you are a councillor. But in the main, the difficulty with your question is this: There is disclosure by the party apparatus, or party machinery, of who donates to them. The fact that you have been so effective in fighting it is because there is disclosure. It is open to the public to see it. It is on the record. It is there as to who is donating to whom, full stop.

The Hon. IAN WEST: How is the Government working with the local government sector to improve access to council services for different communities?

Mrs BARBARA PERRY: The Government is working to ensure all ratepayers have access to government services, regardless of cultural or linguistic background. Coming from an electorate such as mine, Auburn, where there is a high diversity in the community, that is something that all councils need to pay attention to. To assist councils to better engage with, for example, local Aboriginal communities, the former Minister for Local Government, Mr Lynch, launched "Engaging with Local Aboriginal Communities: A Resource Kit for Local Government in New South Wales", at the Local Government Aboriginal Network Conference held in Coffs Harbour last year.

The kit has been developed in conjunction with the Local Government and Shires Associations and aims to develop common ground to facilitate productive partnerships between councils and Aboriginal

communities that will unlock the potential for Aboriginal people to be involved in the development of sustainable communities and to assist councils to better meet the needs of Aboriginal people in their areas. The kit complements the recently updated "Local Government in New South Wales: Issues and Information for Aboriginal Communities".

This publication provides New South Wales Aboriginal communities with important information about the role of local government and how they can become involved in council activities, including standing for this year's New South Wales local council elections. The publication gave information about how to stand for this year's New South Wales local council elections. Another way in which we are providing information to diverse communities is through "Implementing the Principles of Multiculturalism Locally: A planning framework for councils". We have been working hard to help local councils better engage with culturally diverse communities.

On 23 July this year, the New South Wales Government launched "Implementing the Principles of Multiculturalism Locally: A planning framework for councils", which is a resource for all New South Wales councils. It will assist them to implement strategies that promote multiculturalism in a way that is best suited to the needs of local communities. That kit was also developed by the Department of Local Government, but I am also pleased to note that the Community Relations Commission, which was part of my former portfolio, also played a part. Importantly, the Local Governments and Shires Association also provided assistance.

The kit encourages councils to use the local council's multicultural planning framework to identify and plan strategies and initiatives for culturally and linguistically diverse communities. Councils may also use the framework to regularly monitor their progress in implementing multicultural strategies and promoting the benefits of multiculturalism within their communities over time. In New South Wales, the principles of multiculturalism are enshrined in legislation and provide guidance to all public authorities, including councils, on recognising and promoting the benefits of cultural diversity within our society. These principles promote leadership, community harmony, access and equity, and economic and cultural opportunities for all people in New South Wales.

Councils in New South Wales play a leading role in identifying, planning and delivering initiatives for culturally and linguistically diverse communities. The kit provides advice and practical resources to all New South Wales councils to assist them to implement the principles of multiculturalism in a way that is best suited to the needs of the local communities and suited as well to their existing planning and reporting processes. It does this by guiding councils in the development and evaluation of multicultural strategies for their diverse communities across a broad range of activity areas, including planning and evaluation, programs and service delivery, staffing, communication and funded services.

The Hon. HELEN WESTWOOD: Minister, what initiatives has the Government introduced to ensure that councillors and council administrators act in accordance with community expectations?

Mrs BARBARA PERRY: The Local Government Act 1993 requires councils to adopt a code of conduct that incorporates the provisions of the model code of conduct for local councils in New South Wales as prescribed by the regulations. The code of conduct is a key mechanism to assist councillors, council staff and council delegates to act honestly, ethically, responsibly and with accountability. The model code sets standards of behaviour that the community expects of persons both in leadership positions and who are working for councils.

As I indicated in some of my previous answers, the Department of Local Government recently completed a review of the model code of conduct and recommended changes arising from the review. The revised model code of conduct took effect from 27 June 2008. The following are the main changes to the model code. Firstly, the code has been organised in three parts: Context, Standards of Conduct, and Procedures. That will make it easier for people to find things. Secondly, additional sections have been added on complaint handling, complaint assessment criteria and operational guidelines for conduct review committees or reviewers. These sections are contained in Part 3, Procedures. Thirdly, aspirational language is now only contained in Part 1 of the model code. The provisions in Part 2, Standards of Conduct, are now phrased in operational language.

Fourthly, and importantly, the guide to ethical decision making has been moved into the context section of the model code. Finally, administrators have been added to the provisions that apply to councillors and are included in the definition of "council officials". Only last week I released the revised guidelines, and they should be available on the website. I am also advised that the department will soon be releasing the facilitation kit. That will further assist councils in delivering the ongoing training associated with the code of conduct.

The Hon. IAN WEST: Can you provide the Committee with some advice on how the Government is supporting councils working cooperatively through strategic partnerships?

Mrs BARBARA PERRY: The New South Wales Government continues to implement initiatives to encourage councils to enter into strategic alliances or other forms of collaborative arrangements where they can achieve better service outcomes and more efficient service delivery for their communities by working closely together. There are now 21 alliances complementing the work of the Regional Organisations of Councils [ROCs] and other forms of collaboration around New South Wales. Strategic alliances of councils have advised that they are helping councils to achieve a range of financial savings. Councils have also advised that they are able to improve their service standards and complete projects that would not otherwise have been achievable. The Strategic Alliance Network was established following a Strategic Alliance Conference, which was the first such conference in May 2007. A second conference was held in September 2007.

The network has developed and now consists of 50 councils committed to developing and sharing initiatives in council collaboration. The network is supported by an executive committee consisting of representatives from the Local Government and Shires Association, the Local Government Managers Association, Cabonne Shire Council, Coffs Harbour City Council, Fairfield City Council, Hunters Hill council, Lithgow City Council, Wellington Council, Holroyd City Council, representatives of ROCs and Rous Water County Council. The emphasis of the executive committee during 2007-08 has been on continuing the development of a strategic framework for council collaboration.

This culminated in the release by the then Minister at the 2007 Strategic Alliance Conference of "Collaboration and Partnerships between Councils: A Guidance Paper". Following this conference the membership of the network has been refreshed. During the 2008-09 financial year the network is preparing additional resources in the areas of workforce relations and benefits realisation. Existing partnerships continue to grow and explore new ways of building capacity in the local government sector. Examples of these partnerships include the Central Tablelands Strategic Alliance. This partnership between Lithgow city, Oberon and mid-western regional councils aims to maximise the use of resources available through joint purchasing and leasing, common IT systems, common employment arrangements, sharing of staff and skills exchange.

The alliance is also undertaking joint regional planning in areas such as land use planning, tourism and economic development. The Wellington-Blayney-Cabonne strategic alliance has recently employed a project officer to identify and drive further joint capacity building initiatives. The Goulburn Mulwaree Palerang and Upper Lachlan councils' strategic alliance is working to reduce duplication in back office services. The New England strategic alliance continues to build expertise through specialisation in key council business areas. The Bathurst, Dubbo and Orange councils' strategic alliance is addressing a range of issues, including joint internal audit services and joint environmental planning. As we can see, councils are continuing to share resources and work collaboratively on a range of specific projects.

Other councils doing that include the Georges River Combined Councils Committee, which includes Wollondilly, Campbelltown, Liverpool, Fairfield, Bankstown, Kogarah, Rockdale, Hurstville and Sutherland councils. They have a joint-venture with New South Wales Maritime that is concerned with monitoring the health of the important Georges River, halting pollution and regulating boat users. The Regional Illegal Dumping Squad is an alliance of Penrith, Bankstown, Baulkham Hills, Fairfield, Holroyd and Liverpool councils and the Department of Environment and Climate Change. That speaks for itself. We all know about the difficulties with illegal dumping in our local communities. The Central West Salinity and Water Quality Alliance is an alliance between Bathurst, Bogan, Cabonne, Coonamble, Dubbo, Gilgandra, Narromine, Orange, Warren, Warrumbungle and Wellington councils and the Central West Catchment Management Authority.

The Cooks River Foreshore Working Party group includes Bankstown, Burwood, Canterbury, city of Sydney, Marrickville, Rockdale and Strathfield councils, the New South Wales Department of Planning, the Sydney Metropolitan Catchment Management Authority, Sydney Water and RailCorp. It is good that these alliances are also forming alliances with the relevant agencies and working together on these issues. The Coffs Coast Waste Service involves Coffs Harbour, Bellingen and Nambucca councils. Ashfield, Canada Bay and Strathfield councils have a road maintenance service level agreement. The Northern Regional Food Surveillance Group includes Moree Plains, Narrabri, Gunnedah, Gwydir, Tamworth regional, Inverell, Uralla, Walcha, Armidale Dumaresq, Guyra, Glen Innes, Severn and Tenterfield councils. Wingecarribee and Shellharbour councils have a joint payroll service.

City-rural relationships are becoming an increasingly common form of partnership between councils. That is a great thing happening in local government. There are now more than 24 of these partnerships. Many are now reviewing the way they work with each other, and they are moving well beyond the original concept of cultural exchange into areas aimed at building expertise in governance and core aspects of council business. Some councils have more than one partnership, and a number of regional councils are forming partnerships with smaller rural councils. This is about the city and the bush working together to deliver results for their communities.

Some of the partnerships include places such as Coffs Harbour with Kyogle, Shoalhaven with Coolamon, Hornsby with Leeton and Tumut, Ryde city with Central Darling Shire Council, and Penrith with Blue Mountains council and Lachlan Shire Council. The department has been collecting information from councils on resource sharing initiatives in which they are currently involved. All councils in New South Wales are involved in at least one type of collaborative agreement, that is, county council, Regional Organisation of Councils, strategic alliance or some other type of arrangement. The department intends to update this database in 2009, and is working with the Local Government and Shires Association, the Local Government Managers Association and the Strategic Alliance Network to develop ways to share this information, build relevant skills and promote further council collaboration.

The Hon. HELEN WESTWOOD: I was pleased to hear how often you mentioned Bankstown as one of the better performing councils. What is the Government doing to help promote pet safety and keeping kids safe around dogs?

Mrs BARBARA PERRY: We can all agree that the safety and protection of our children is and should be a top public safety priority for any government. Councils are required to report all dog attacks to the Department of Local Government. The information provided by councils assists in compiling profiles on the nature of dog attacks in New South Wales, and in the formulation of policy responses in relation to responsible dog management. Changes to the Companion Animals Act 1998, which commenced on 1 January 2007 requires all councils to provide a detailed statement in their annual reports of their activities during the year relating to enforcing and ensuring compliance with the Act.

A specific requirement is that councils report the lodgement of data relating to dog attacks with the department. To assist councils in providing timely and accurate dog attack reports, the department is developing a dog attack reporting module on the Companion Animals Register. The module will be available to councils later this month and will provide an easy tool for councils to record details of dog attacks and provide the department with real-time data for analysis and reporting. Increasing community safety when it comes to animals is a priority for the Government. While many of us enjoy having a pet at home, young children sometimes are unaware of how to behave safely around pets, especially dogs, and can often be put at risk.

One way in which the Government is working to protect children around dogs is through the Safe Pets Out There [SPOT] Program. That is a great name—I remember my first reading book was Spot. This fantastic program taught in New South Wales schools focuses on helping children learn about safe behaviour around dogs, animal welfare and responsible pet ownership. The program covers four components: pets in the community, safe behaviour around dogs, basic care of pets, health and welfare which is equally as important; and kindness and cruelty. The program is targeted at schoolchildren in classes kindergarten to year 2, and aims to educate them on how to safely deal with a family or a stray dog, how to keep their pets healthy and, most importantly, to create empathy and encourage kindness for animals.

This is of high importance given the number of incidents raised in the media about the mistreatment of animals. The program's focus on safe behaviour around dogs will hopefully lead to a measurable reduction in the incidence of dog bites or dog attacks in relation to children. The SPOT program has now entered its second year and so far, incredibly, 4,482 schools have been visited and it has reached more than 96,000 students in the 2007-08 financial year. From those numbers it is very clear that the program is well on its way to meet its initial target of reaching 250,000 school students in New South Wales by the end of its initial funding by June 2009.

The program is working as a collaborative effort between the Department of Local Government, the Australian Companion Animal Council by the Animal Welfare League, the Australian Veterinary Association, Delta Society Australia and the RSPCA. The program's age appropriate safety presentations are run by accredited volunteers including representatives from partner organisations and local councils. While the program is currently focussed on children in grades kindergarten to year 2, it may be expanded in the future to cover students in pre-school as well as primary school students in grades three to six. The SPOT program is a

great platform for children to learn more about pets, increase their respect and appreciation for animals and knowledge on how to stay safe around dogs.

The program has been allocated funding of \$600,000 per annum from the Companion Animals Fund. The program was initially funded for a three-year period. The program is a unique initiative that continues to provide vital education to young people, giving them more confidence around animals and a greater awareness of potential dangers. I acknowledge the outstanding work of the department and other partner organisations and volunteers that administer this extremely valuable program.

The Hon. HELEN WESTWOOD: What is the Government doing to acknowledge the contribution of women to the local government sector?

Mrs BARBARA PERRY: As a former councillor, like the Hon. Helen Westwood, I am sure that committee members agree that it is absolutely important for women to be appropriately represented at the local government level. It is sad to say that in New South Wales women are heavily under-represented with only 14 per cent as mayors and 26 per cent as councillors. A career in local government can be one that is quite fruitful. While the Government is keen to attract more women into the local government sector, it is always aware of the need to recognise the fantastic contributions that women make in local government already. One of the ways the Government is trying to boost the role of women in local government is through the Minister's Awards for Local Government.

The aims of the awards are threefold: to recognise the contribution in local government by women; to encourage more women to take on leadership roles in local government; and to increase the public awareness of women to local government in New South Wales. This was the inaugural year of these awards, established by the Minister for Local Government and the Minister for Women. I understand the awards were well attended this year and the recipients were announced at an International Women's Day function at Parliament House earlier this year. The winners included: elected representative, rural council, Councillor Denise Osborne, Greater Hume Shire Council; elected representative, urban council, Councillor Joyce Wheatley, Kiama Municipal Council; senior staff, rural council, Mrs Vas Roberts, Narromine Shire Council; and senior staff, urban council, Ms Candy Nay, Marrickville Council. I acknowledge their achievements. I look forward to working closely with my colleague, the Minister for Women, in pursuit of boosting the participation of women in local government.

CHAIR: I propose to divide the remaining 20 minutes between the Opposition and the crossbench.

The Hon. JOHN AJAKA: Given the limited time, please take any of these questions on notice if you think it is more appropriate. Is the Minister aware of the Cole report or the Review of New South Wales Local Government Investments report?

Mrs BARBARA PERRY: Yes, I am.

The Hon. JOHN AJAKA: Of the eight recommendations in the Cole report, how many have been implemented by your department to date?

Mrs BARBARA PERRY: We accepted all of the recommendations in that report and this is what we have done. Subsequent to the Cole report a Ministerial order was issued. The recommendations included amendments to the Ministerial Investment Order. There was grandfathering existing investments that are excluded by the proposed changes to the Ministerial Investment Order. The recommendations also included excluding the manufacturers and distributors of investment products from acting as investment advisers to councils. Also suspending investments with specific credit ratings until December 2009. Ensuring councils are more fully aware of their obligations under the Local Government Act 1993 and the New South Wales Trustee Act 1925 and issuing investment policy guidelines for councils.

We issued a revised Ministerial Investment Order pursuant to section 25 of the Local Government Act which was subsequently gazetted. The department is currently preparing investment guidelines for all councils. Those investment guidelines will be prepared in consultation with local government stakeholders. Ultimately, of course, as you would be aware, each council is responsible for its investment decisions, but can I take the time to say that they should ensure that, no matter what type of investment, they get good independent financial advice about investments. They should have independent advisers giving them advice. While the State Government is responsible for the overall legal framework in which councils operate, it is not responsible for the decisions councils make within that framework. Councils have been clearly advised over the years in

relation to the Cole report that they should, when seeking to look at what investments they are going into, diversify their portfolios; they should protect their capital; and also they should always get independent financial advice. We have taken those recommendations on board and accepted those recommendations.

The Hon. JOHN AJAKA: I take it you have implemented all eight recommendations, or six out of eight? I counted six, but I might be wrong.

Mrs BARBARA PERRY: The guidelines are yet to issue; they are being developed. That is the only one that is outstanding.

The Hon. JOHN AJAKA: Can you tell me when the guidelines will come out?

Mr PAYNE: There are guidelines written. We are in the process of consultation with the industry and with Treasury and so on. I would not like to put a time limit on it, but they are very close—I will not say "soon", but very close.

The Hon. JOHN AJAKA: We are well aware of financial stability in the market today; we are well aware of how concerned everybody is. I would have thought you would be getting these guidelines out as quickly as possible. Is there any chance of them coming out before Christmas?

Mr PAYNE: Yes, I would—

Mrs BARBARA PERRY: First of all, could I say that the Cole report came out earlier this year? We have already done a number of things. Guidelines do not work unless you work in collaboration with other stakeholders around this, and that is partly what you have to do. To say you can do that overnight is unrealistic, but there are already things in place to prevent councils from investing in the types of investments that they had in the past that have now led to this situation. The global economy has not helped that situation and where we find ourselves.

The Hon. JOHN AJAKA: Can you provide a list of all of the councils' outstanding debt obligations as at 30 June 2008 or as of now? I am happy for you to take this on notice.

Mrs BARBARA PERRY: I do not know about outstanding debt obligations. Are you talking about their debts?

The Hon. JOHN AJAKA: Yes, all debt obligations of each individual council.

Mrs BARBARA PERRY: You mean collateralised debt obligations?

The Hon. JOHN AJAKA: I am talking about moneys they have to pay—debts.

Mrs BARBARA PERRY: That would be in each of their annual reports. You could look that up.

The Hon. JOHN AJAKA: Do you have a list of those?

Mrs BARBARA PERRY: I have, like you, access to each of their annual reports.

The Hon. JOHN AJAKA: Once you access their annual reports and you look at the various debt levels, have you any concerns with any of the councils' debt levels?

Mrs BARBARA PERRY: Annual reports I think are due very soon; they are not all out.

Mr PAYNE: They are due in early November.

Mrs BARBARA PERRY: And we always look closely at all aspects of those annual reports. It is incumbent upon and about good management to manage your councils appropriately. We have guidelines in place. This is what all the asset management and strategic focus is about, it is what the promoting better practice reviews are all about, so we have things in place to look at that. I would like to think—and I hope you are not suggesting otherwise, and I think councils would take umbrage with your implication that they cannot manage their own affairs, if that is what you are suggesting, but there have been some situations where that might occur

and we have seen some of those situations. In fact we have taken action pursuant to inquiries, and Port Macquarie is one of those.

The Hon. DON HARWIN: Do you have a complete list of all the outstanding collateralised debt obligations that councils have?

Mrs BARBARA PERRY: No, I do not have a complete list.

The Hon. DON HARWIN: Why not?

Mrs BARBARA PERRY: We have taken steps, as you would appreciate.

The Hon. DON HARWIN: Have you asked the councils?

Mrs BARBARA PERRY: Yes, I have asked the councils to talk to us and provide us with information regarding their exposure in these collateralised debt obligations [CDOs]. Exposure is a very different thing. They have to get that together. These CDOs, as you would know Mr Harwin, are quite complex in their very nature and they are actually sometimes not made up of one financial body, they are made up of different investments in one, so they need to seek some advice, many of them, in relation to providing us with that information and that information is coming in.

The Hon. DON HARWIN: When was the request for the information made?

Mrs BARBARA PERRY: The request for that information was several weeks ago.

The Hon. DON HARWIN: Can you be more specific than several weeks and also, Mr Payne, could you outline when the requested date for reply was?

Mr PAYNE: We will try to find it.

Mrs BARBARA PERRY: The date of the circular was about 16 September 2008, and it followed the collapse of Lehman Brothers, one particular body that councils invested in, so there was a circular. What was the other part of your question?

Mr PAYNE: The end date. An end date was specifically not put on it because of the complexity. Returns are coming in slowly, and we did ask them to seek professional advice.

The Hon. DON HARWIN: What has your department done in response to the Fiscal Star report titled "Financial Sustainability of Existing Financial Infrastructure Policies of New South Wales Councils" that was released in July this year?

Mrs BARBARA PERRY: As you know, New South Wales maintains a policy of rate pegging to protect families from uncontrolled rate rises. The system in my view is flexible enough to allow those councils with a genuine need to lift their rates above the rate cap to apply to the State Government. We also have in place the ability for councils to apply for special rate variations and they can do that by presenting to us a business case. They need to secure the support of their communities for a rise in rates. This year 28 of the councils applied for special rate variations and only two applications were rejected.

We are working with local councils on a range of measures to promote financial sustainability. This includes what we talked about earlier today with greater resource sharing and strategic alliances and also the reforms around integrated planning and reporting and asset management. I think that these reforms will assist councils to better manage their assets and infrastructure and plan strategically for the future. The department does monitor all councils across New South Wales and it has done so for many years, and we do undertake comprehensive assessments of councils.

The Hon. DON HARWIN: In the Fiscal Star report it says that 35 per cent of councils are financially unsatisfactory and a further 19 per cent are vulnerable whereas according to the budget papers your department says that only 20 per cent of councils are financially unsatisfactory. Obviously there is a difference in methodology between the two. Why is there a difference and why is it that you feel that only 20 per cent are

financially unsatisfactory whereas the Fiscal Star report is raising concerns about a much larger number of councils in terms of their viability?

Mrs BARBARA PERRY: The thing is that Fiscal Star does take a different approach in their methodology. Let's go back to how the Fiscal Star report happened.

The Hon. DON HARWIN: Perhaps you would like to comment on why you think the department's methodology is therefore preferable to what Fiscal Star has done?

Mrs BARBARA PERRY: I might ask Mr Gibbs, who has proficiency in this area given his background, to comment on that.

Mr GIBBS: FiscalStar looks at a council's situation from the perspective of the ratepayer and takes into account a much broader perspective of things than the State Government's assessment, our assessment. Our assessment is based on the audited financial statements of councils and FiscalStar takes into account a statement of the condition of public works, which is not an audited statement; it is an unaudited schedule. While it is a useful document it is not one we consider to be appropriate to look at a council's financial situation as it is at the moment.

The Hon. DON HARWIN: It might be a better reflection of how viable the councils are.

Mr GIBBS: I think it is another way of looking at council viability, but as I said FiscalStar looks at it from the point of view of the ratepayer. That is not the perspective that the department looks at in terms of audited financial statements.

CHAIR: We will now go to crossbench members' questions. Mr Smith, do you have any questions?

The Hon. ROY SMITH: No, thank you.

Ms SYLVIA HALE: Minister, I well recall the former Treasurer berating councils because they had invested in collateralised debt obligations [CDOs] despite their having a triple-A rating and saying that the New South Wales Treasury had not done so. Can you explain the variation in the ministerial investment order dated 1 July 2005, which permitted investment in securities issued by a controlled parent entity with the appropriate credit rating?

Mrs BARBARA PERRY: That ministerial investment order has been around for a long time.

Ms SYLVIA HALE: But it was varied in 2005.

Mr PAYNE: It has been in place all the time.

Mrs BARBARA PERRY: It permitted councils to invest in triple-A credit rated products. No-one could have predicted what was coming and that investment banks like Lehman Brothers would crash. I do not think it helps in this case—I know what you are going to say next—to play the blame game. Everyone has invested in triple-A products, not just councils.

Ms SYLVIA HALE: The point that the former Treasurer was making was that the Treasury had not done so and he castigated councils for being so foolish, but you have just said that Treasury has done so. Who is correct, the former Treasurer or you?

Mrs BARBARA PERRY: I do not know whether Treasury invested in triple-A products. I have no knowledge of that. I think you should refer that to the Treasurer. We should not get into the blame game. We have to take stock and look at what the exposure is to councils and what the impacts are.

Ms SYLVIA HALE: Earlier you referred approvingly to the New South Wales general secretary of the Labor Party writing to Labor councillors and advising them that they were not to caucus, a direction that Wollongong and Shellharbour councils, for example, singularly failed to heed. In the interests of transparency and a level playing field for local councillors, will you be urging the New South Wales general secretary to write to Labor councillors requiring them to declare a clear conflict of interest when an applicant for a

development approval has made a statement that they have donated more than \$1,000 to the ALP in the preceding two years?

Mrs BARBARA PERRY: Firstly, I think I said it was in the party rules that you cannot caucus.

Ms SYLVIA HALE: Will you be seeking to change the party rules?

Mrs BARBARA PERRY: Clearly the code of conduct and the conflict of interest provisions in the code of conduct outline that councils must declare conflicts of interest arising from donations. Indeed, general managers have to keep a register of that. Secondly—you will have to refer this to the Minister for Planning—as I understand it the new planning legislation incorporates those matters you are talking about, which is disclosure of donations over the previous two years in relation to a development matter.

Ms SYLVIA HALE: So you are saying it is incumbent upon Labor Party councillors to declare a conflict of interest if there has been a donation to the ALP by a developer who has a development application before council?

Mrs BARBARA PERRY: A donation to their campaign?

Ms SYLVIA HALE: That is the nub of the problem, is it not?

Mrs BARBARA PERRY: It is a donation to their campaign. I am not sure what donations to the ALP they would be aware of, if they were aware of any. Again, the ALP, like the Liberal Party and the Greens and everyone else in this State, is still required under the current laws of New South Wales to make disclosures every six months as to who is donating.

Ms SYLVIA HALE: Moving on to a different issue, what percentage of hybrid vehicles is there in the department's car fleet? If you do not know, presumably there are standards that the Government requires to be met.

Mr PAYNE: Our car fleet consists of about three cars, I think, so none.

Ms SYLVIA HALE: So there are no hybrids. Is there any mechanism in your department to reward staff who choose not to exercise an entitlement to the fleet vehicle as part of their package but to use public transport instead?

Mr PAYNE: There are two SES officers in the department. The department is based in Nowra so public transport to get to Sydney is a little problematic. It is not an issue we have addressed.

Mrs BARBARA PERRY: I have visited the department and many of the hard-working staff in my office at Nowra—it is a great department—live locally.

Ms SYLVIA HALE: So, one assumes they would walk to work or catch public transport.

Mrs BARBARA PERRY: Or bike to work.

Mr GIBBS: I have in fact walked to work.

Ms SYLVIA HALE: Thank you. Mr Payne, can you inform the committee as to the type of car you drive, which is provided to you as part of your package?

Mr PAYNE: I knew I would get this question. The answer is yes, I have two cars. I am entitled to two.

Ms SYLVIA HALE: So you have two of the three departmental cars that you referred to?

Mr PAYNE: No. Under the rules as a CEO I am entitled to a business/private car and also a secondary car that is totally private. In a sense I pay 100 per cent of the private. That is a black 1.8 litre Toyota Corolla. I have a Statesman, a V8, which is black as well.

Ms SYLVIA HALE: Mr Payne, are you aware the Government has a fleet policy with regard to government departments achieving a goal or a level of environmentally responsible behaviour and adopting actions that contribute to that?

Mr PAYNE: I certainly do. I am very aware of it and I thank you for the question. The target is an average fleet environment score of 12 out of 20 and we meet the Government's target of 11.

Ms SYLVIA HALE: How do you meet that if you do not have hybrids and whatever?

Mr PAYNE: That is what I am told.

Ms SYLVIA HALE: Would you mind taking it on notice and inform the committee what measures you undertake to meet that goal?

Mr PAYNE: Yes, I can do that. I assume there is a formula for it.

Ms SYLVIA HALE: Thank you. Minister, can you inform the committee of the numbers of food inspections undertaken by each council over the last 12 months?

Mrs BARBARA PERRY: Food inspections of course are an operational matter for each of the councils. The authority that governs that is the New South Wales Food Authority. Any causes for concern—

Ms SYLVIA HALE: But local councils are required to undertake the inspections.

Mrs BARBARA PERRY: They have the power to do that.

Ms SYLVIA HALE: That is why I am asking you whether you are aware of how many inspections have been undertaken in the last 12 months. Can you inform the committee?

Mrs BARBARA PERRY: No, but I am sure if you asked each individual council or the Food Authority they would be able to tell you.

CHAIR: We have now come to the end of the time allocated for this portion of the budget estimates dealing with Local Government. I would like to thank Mr Payne and Mr Gibbs for their evidence today, and also the Minister for Local Government.

(The witnesses withdrew)

The Committee proceeded to deliberate.

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