

CORRECTED PROOF

GENERAL PURPOSE STANDING COMMITTEE No. 4

Thursday 18 November 2010

Examination of proposed expenditure for the portfolio areas

FAIR TRADING, ARTS

The Committee met at 2.30 p.m.

MEMBERS

The Hon. J. A. Gardiner (Chair)

The Hon. K. F. Griffin
The Hon. D. T. Harwin
Dr J. Kaye

The Hon. P. G. Sharpe
The Hon. L. J. Voltz

PRESENT

Department of Services, Technology and Administration
Mr P. Duncan, *Director General*
Ms A. Kerr, *Assistant Director General (Policy)*
Mr S. Griffin, *Deputy Commissioner, Fair Trading Operations*
Mr R. Stowe, *Deputy Commissioner, National Reform Agenda*
Mr W. Murphy, *Director, Policy*
Mr M. Silk, *Executive Director, Fair Trading Services*

Communities NSW
Ms C. Mills, *Director General*

Arts NSW
Ms M. Darwell, *Executive Director*

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 2010-11 open to the public. I thank witnesses who have returned to this supplementary hearing. Today the Committee will examine the proposed expenditure for the Fair Trading and Arts portfolios. I refer witnesses, the audience and members of the media to my earlier statement about procedural matters, such as broadcasting of proceedings and the delivery of messages. I remind everyone to turn off their mobile telephones.

The Committee has agreed to the following format for the hearing. The Fair Trading and Arts portfolios will be examined concurrently. The sequence of questions will alternate between the Opposition, the crossbench and Government members in that order. The House has resolved that answers to questions on notice must be provided within 21 days. The transcript of this hearing will be available on the web from tomorrow morning. All witnesses will be sworn or affirmed prior to giving evidence. Mr Duncan, Mr Griffin, Mr Stowe, Mr Silk, Mr Murphy, Ms Mills and Ms Darwell, as you were sworn or affirmed at the initial budget estimates hearing you will give evidence today under your previous oath or affirmation. Ms Kerr, as you did not appear at the initial hearing, I will ask you to in turn state your full name, job title and agency, and then take an oath or affirmation.

ANTHEA KERR, Assistant Director General (Policy), Department of Services, Technology and Administration, affirmed and examined:

CHAIR: I declare the proposed expenditure for the Fair Trading and Arts portfolios open for examination. I will commence with questions on Fair Trading. As you know, we asked some questions on notice and we have received some answers. My question is about the item "employee-related expenses". Can you advise the Committee why the department has resisted providing the payout figures for the 33 staff redundancies about which we asked?

Mr DUNCAN: I am sorry, I did not get the first bit.

CHAIR: Can you advise why there has been resistance in providing the payout figures for the 33 staff redundancies, as the Committee requested?

Mr SILK: The response we provided indicated that the voluntary redundancies were provided in accordance with government policy—that is, each staff member with up to 13 years' service received three weeks' recognition for each year, plus one year for over 45, plus the Job Search leave allowance of six weeks. We did not quantify that at the time, but if that is required we can provide that figure. I will have to take that on notice.

CHAIR: You are happy to provide the figures on notice?

Mr SILK: Yes.

CHAIR: Can you advise the Committee why you did not provide them in the first place?

Mr SILK: Well, simply that we provided information in response to the questions asked.

CHAIR: We have had to ask the question again. We look forward to receiving more detail on notice.

The Hon. DON HARWIN: You do not have the dollar figure for the whole 33 positions with you?

Mr SILK: I do not have those dollar figures with me. I would have to get those figures from the human resources area to get an accurate figure in total.

CHAIR: We look forward to that. Can you advise how many of those redundancies were due to a departmental restructure and how many were due to the National Reform Agenda?

Mr SILK: I would have to provide those statistics to give you an accurate number in terms of breaking it down between National Reform Agenda and any structural realignments.

CHAIR: You do not have a rough split in your mind at the moment?

Mr SILK: I would only be giving a guesstimate. I would prefer to give a response to the question on notice to give accurate details.

The Hon. DON HARWIN: The problem is that we have asked for that information once already on notice and we did not get a response. Now we are being told that you need to take the question again on notice. If I could just express frustration at the fact that even though we have asked the question once and have convened a supplementary hearing to deal with this issue, we still do not have a response. That is not satisfactory.

CHAIR: Mr Silk, can you advise whether the internal departmental restructure is completed.

Mr SILK: In terms of Fair Trading, there was no formal restructure. There was a small realignment in a number of management positions. That work had been completed in early 2009.

CHAIR: That small realignment was completed last year?

Mr SILK: Yes.

CHAIR: How many people were involved in that realignment?

Mr SILK: In early 2009 there were some four or five staff affected by that realignment.

CHAIR: Are they still in those positions?

Mr SILK: No, those staff actually exited through the voluntary redundancy program.

CHAIR: They were part of that?

Mr SILK: Yes.

The Hon. DON HARWIN: I might have missed something. If 25 accepted a redundancy payment in total, but four to five were related to the departmental restructure, can we assume that all the others were to do with the National Reform Agenda?

Mr SILK: You could, but I would prefer to provide an accurate figure, if we could, on notice to give you an accurate statement.

CHAIR: At the previous hearing there was some discussion about administrative fees in relation to the management of rental bond money. Can you advise the Committee how the administrative fees are calculated?

Mr SILK: In terms of the Rental Bond Board administration—in fact, in terms of all Fair Trading operations, every six months we review the level of work that is performed across the agency. This has been a proven process over the last 15 years and has been subject to review by the Audit Office in terms of verification of the accounts. In particular, in the case of the Rental Bond Board, the way that work reflects the work performed across Fair Trading that is related to tenancy, it is applied to the Rental Bond Board administrative responsibilities and the Landlord and Tenant Act.

In terms of Corporate Services there is a proportion that is applied to meet the corporate support requirements to support the board's functions that are delivered by both Fair Trading and other parts of the Department of Services, Technology and Administration, including policy, legal, ministerial, et cetera. That process is subject to a rigorous review by the Audit Office in attesting to the veracity of the annual financial statements of the board. Also the board gives consideration to the expenditure that is incurred by it in relation to those activities.

CHAIR: Can you give us a run-down on the breakdown? You mentioned, for example, legal, ministerial, policy. What proportion of the fee relates to each of those areas?

Mr SILK: I cannot give that specific level of detail but I can run through a breakdown of the 2009-10 costs. In terms of the administrative charges it is a total of \$21.5 million. That would include elements of legal and policy and our functional responsibilities in terms of administering rental bonds and legislative review.

There is also an element that covers the administration of the Consumer, Trader and Tenancy Tribunal in terms of \$10.9 million. There is also related capital service charge, which is any works, fit-outs or technology base that relate to the board's activities.

In 2009-10 the board went through a process of upgrading the rental bond system. The total cost of that over a three-year period was in the order of \$5 million. That is mostly reflected in that figure. In addition there are other costs such as the auditors remuneration that is paid out in the order of \$54,000, which is a charge applied by the Audit Office of New South Wales in conducting its statutory responsibilities. There is also interest on bonds to bond holders in the order of \$109,000 that was paid out that year, plus bank charges of \$61,000. The breakdown of the figures that I have mentioned is provided in detail in the audited annual financial statements of the Rental Bond Board, which would be available through the annual reporting process as well.

CHAIR: I want to ask a question about private certifiers. Can you advise the Committee how many private certifiers have been investigated by Fair Trading since 1 July 2008?

Mr GRIFFIN: NSW Fair Trading is not responsible for regulating building certifiers. That is the Building Professionals Board, which is part of the Department of Planning.

The Hon. DON HARWIN: My question could be directed to either Ms Mills or Ms Darwell. I will direct it to Ms Mills. Director General, are you aware of the recent Auditor-General's report on the Australian Museum entitled "Knowing the Collections"? I presume you are?

Ms MILLS: Yes.

The Hon. DON HARWIN: Are you also aware of the 2003 Independent Commission Against Corruption [ICAC] report into the theft of thousands of zoological specimens from the museum between 1997 and 2002?

Ms MILLS: Yes, I am.

The Hon. DON HARWIN: At that time the ICAC report noted that the museum had an incomplete inventory and that as a consequence the museum could not be sure as to the exact extent of theft that took place. In the latest report the Auditor-General found that the museum holds approximately 18 million items, yet only approximately 15 per cent of those items today have a location specified beyond a gallery or area level. Director General, do you wish to comment as to why this is the case in 2010, given the findings of the ICAC report in 2003?

Ms MILLS: It is important to recognise, and it was recognised in my discussions with the Auditor-General as part of that process, that a lot of work has been achieved in the intervening years. As you stated, we have over 18 million specimens in the Australian Museum. They range from large, easily identified and, indeed, valuable specimens down to really very small, microscopic parts of the collection. We have instituted a process since the first of prioritising our categorisation, and our work is continuing in that area. As part of a formal response to the recent report, the museum undertook to in the next few months further improve privatisation of its collection management practices, further tighten its inventory control procedures and develop a strategic plan for dealing with the backlog of collection and the requirements for digitalisation.

The Hon. DON HARWIN: The recent Auditor-General finding nevertheless said that most items in the museum cannot be easily found without the help of the curator or specialist staff in the particular area of the museum. The conclusion of the 2003 ICAC report was that if a corrupt curator or other corrupt specialist staff member was to, for example, steal items, it would be near impossible for the museum to track the exact extent of the theft. Why has nothing really changed in the seven years since the ICAC report, for the Auditor-General to be able to make that observation?

Ms MILLS: It is my view that a lot has changed since that time. There are a lot tighter controls and many of the things identified by the ICAC have been dealt with through the trust. But the core issue identified recently and in the original report is the huge number of records that have not yet been digitised. It is a legacy of the sheer age and size of the collection. Most of the collection was accumulated before the development of modern management techniques and before computerised records were available. As a consequence, it is true that there are a large number of backlog items. As they are still paper-based, we are reliant on the management of those specific areas to handle them.

However, we are working as fast as resources will allow and on a prioritised basis to clear that backlog, to digitalise our catalogue and to ensure that the wider community can access that. If you look also at projects that we are doing on a national basis, these issues are not unique to the Australian Museum. The scale of the Australian Museum is unusual but when you have very old collections that have come from disparate sources, it is a challenge for contemporary museums to bring modern management techniques throughout the collection.

The Hon. DON HARWIN: Yes, I can see that. Given your answer and bearing in mind what the Auditor-General stated in his findings, would you not agree it was quite misleading for the museum in its 2005 report to state that the ICAC recommendations had been "implemented", when obviously this was not the case?

Ms MILLS: I am not familiar with the wording from the 2005 report. I can only report, I suppose, on the period that I have been actively involved this year in reviewing the recommendations of the Auditor-General. I believe we have a substantive process in place to further improve our collection management.

CHAIR: With respect to the Arts portfolio, can you give an update on the planning and development of regional conservatoriums? Specifically, could you give us an indication of how many or whether any were completed in the period 1 July 2009 to 30 June this year?

Ms DARWELL: The regional conservatorium program is run by the Department of Education and Training. The admission of new regional conservatoriums to its program is a matter for it. Arts New South Wales runs a modest grant program for regional conservatoriums. An allocation of \$2.1 million was provided in this year's budget for regional conservatoriums. A component of that, about \$1.4 million, is directly transferred to the Department of Education and Training for the conservatoriums' operations, and approximately \$700,000 is allocated through a competitive grant process to regional conservatoriums. The grant process for regional conservatoriums for the calendar year 2011 has now been completed. Regional conservatoriums have been advised of the outcome.

CHAIR: With respect to the \$1.4 million that went from you across to Education, was that for any particular project?

Ms DARWELL: No. That is to be disbursed according to the Department of Education and Training's formula in relation to funding regional conservatoriums, which was reviewed as part of the regional conservatoriums review undertaken under the auspices of the Department of Education and Training.

CHAIR: Likewise with the small grants, were they disbursed to a variety of projects?

Ms DARWELL: All regional conservatoriums received funding under the 2010 grant process, and in the 2011 process it is my expectation that all regional conservatoriums will receive funding.

The Hon. DON HARWIN: I have a question for Ms Mills on an Arts portfolio matter. Director General, the Sydney Opera House operating grant for 2003-04 was \$21.7 million, but in 2008-09 it was \$14.4 million and at the same level as the previous financial year. Could you outline the effect that that 34 per cent budget cut in that period has had on the services provided by the Opera House?

Ms MILLS: The recurrent funding that the Opera House receives towards its operating is determined as only being a portion of the overall funds available to the Opera House each year. Approximately 80 per cent last year were garnered through its commercial activities—its rental space and its leases with other businesses on the site. We continue to operate the Opera House to virtually full capacity. There has been no reduction whatsoever in the number of events; in fact, the number of events each year and the number of patrons each year continue to increase. We look at its funding and operating capacity as a total picture of income earned as well as government grants. In that way there has been no reduction in the overall resources available to the Opera House.

The Hon. DON HARWIN: Do philanthropic donations cover this shortfall in funds for operating cost?

Ms MILLS: I cannot quote the number, but there are relatively small levels of philanthropic donations to the Opera House. They tend to be for specific purposes, such as the education program, and in no way are seen as replacements for any government funding.

The Hon. DON HARWIN: Should I direct questions on film and television projects to you, or is that out of State Development?

Ms MILLS: We cover a shared responsibility. To be honest, it depends on the question.

The Hon. DON HARWIN: How many film or television projects were secured for New South Wales, and at what cost to the New South Wales Government in the last financial year?

Ms MILLS: I am sorry, that is when you have to refer on.

The Hon. DON HARWIN: Okay. This might be a challenging one minute. Maybe we might just take our one minute and come back to it at the end of the crossbench or government questions. If it is all right, we might move on.

The Hon. PENNY SHARPE: As long as it is a minute.

Dr JOHN KAYE: I wish to ask a few questions about the new Australian consumer law. I presume that falls under Fair Trading. I presume it replaces the previous consumer Acts in New South Wales. I think I know that because I was in the Chamber when we did that. What steps has the Office of Fair Trading taken to monitor the implementation of the new laws?

Mr STOWE: One of the things that it is important to recognise about the new Australian consumer law is that it will be jointly administered by the Commonwealth, State and Territory jurisdictions. We have been very concerned to make sure that we measure the effectiveness of the new legislation. Collectively we have worked on implementing a major survey prior to the commencement of the legislation. This is based very much on a similar arrangement that occurred in New Zealand before their major consumer protection changes.

This survey will be looking at the experience and knowledge of business and consumers in terms of consumer protection legislation. It is intended to develop a base level of knowledge. We will conduct another survey subsequent to the commencement of the Australian consumer law. We are very concerned that the aims that have been espoused in terms of what the Australian consumer law [ACL] will do can be measured. In fact, there is a requirement in the Australian consumer law intergovernmental agreement that the law will be reviewed in five years time, so we want to make sure that that data is available.

Dr JOHN KAYE: At the moment you are collecting baseline data on consumer knowledge of existing laws and provider knowledge of existing laws.

Mr STOWE: Correct.

Dr JOHN KAYE: When do you switch to the ACL?

Mr STOWE: On 1 January 2011.

Dr JOHN KAYE: What steps has the office taken to ensure that consumers know that there is a change coming and that their rights under the law will change?

Mr STOWE: That is a very good inquiry. It is one thing, of course, to achieve a nationally consistent piece of legislation, but to ensure that consumers and traders are actually aware of what it is about and what their rights and responsibilities are is another question. I am pleased to say, though, that—again collectively—the States and Territories have developed a comprehensive communication plan which is intended to address those very issues. That comprises things like plain English guides to the main provisions of the legislation. That information is currently available on a dedicated website. It is called "Consumer Law".

The intention is that business, legal practitioners and consumers will be able to understand where they sit as far as the changes to the legislation are concerned. In addition to that, members of the public and business can sign up to a service that enables them to get regular bulletins and briefs on the legislation. We have also been conducting a number of seminars. These seminars have been broadcast as webinars across the site so that no matter where you are in Australia you will be able to sit down and have a presentation on product safety, or some of the key provisions that relate to the new consumer guarantee provisions and the new provisions that relate to unfair contract terms.

Dr JOHN KAYE: Mr Stowe, as you would be well aware, the majority of people who rub up against consumer issues are non-experts. In fact, they do not even know they are going to do it until they buy a dodgy piece of equipment or they have had an unsatisfactory interaction with a trader in some form or another. What plans does the Office of Fair Trading and its sister organisations in other States have to reach those sorts of people—that is, the average person who does not even know yet that they are going to have a fair trading or consumer issue?

Mr STOWE: Just as we tackle all areas where we want to get a consumer message across, we have a plan to make sure that we use all of the broadcast mechanisms we currently employ to get messages across to consumers. This has meant a major update of our website. We have developed fact sheets. Our staff will actually be going into the communities doing trader walks. I think we start one in Blacktown in December as a bit of a trial. We will be going into that particular community with both compliance and fair trading staff to make both business and consumers aware of what the new law requires.

Only today I was discussing a new fact sheet we have developed that identifies the key changes. It is quite easy to identify what these new requirements are. There are changes that consumers need to be aware of. We will be making every effort in opportunities we have through the regular media. As you probably know, I do a radio segment every Monday afternoon on commercial radio. I will certainly be using that opportunity relentlessly in the new year to make sure that consumers know about the new requirements in relation to consumer guarantees and some of the other really important changes that the legislation provides.

Dr JOHN KAYE: What is the communications budget for the Office of Fair Trading in respect of promoting the new Australian consumer law?

Mr STOWE: I suppose there are two parts to answering that question. Again, as I said before, this is a joint task of States and Territories and a joint global budget has been developed for the implementation of the ACL, which includes a communication component—I do not have the data in front of me at the moment but I would be happy to provide the total. As far as New South Wales Fair Trading is concerned, apart from our contribution to that particular budget we will be using the usual resources that are available to us for education and information services in the course of the next 12 months.

Dr JOHN KAYE: If I might just unpack that answer a bit. You are saying that there is a nationwide effort?

Mr STOWE: Correct.

Dr JOHN KAYE: Has New South Wales contributed to the cost of that nationwide effort?

Mr STOWE: We certainly have.

Dr JOHN KAYE: And you are going to get back to us with what our forward budget is on that contribution?

Mr STOWE: I can give you the total and I can give you the contribution in New South Wales.

Dr JOHN KAYE: That would be useful. In terms of what the Office of Fair Trading is doing specific to New South Wales, you are saying there is no additional expenditure?

Mr STOWE: No, apart from our contribution to the national efforts, which is not inconsiderable. Other than that we are using the normal resources that are available to us for education and information type activities.

Dr JOHN KAYE: Can we just drill that into the new Australian consumer law a little bit? One of the issues that have attracted some attention has been the information standards that we apply to goods and services, which I understand is significantly more sophisticated than the law that the ACL will replace, is that correct?

Mr STOWE: Are we talking about production information and standards?

Dr JOHN KAYE: No, these are information standards. I understand those to mean things like if I declare, as an example, a carton of eggs to be free-range, then there are greater standards on that information under the new laws, is that correct?

Mr STOWE: No, I think that is incorrect.

Dr JOHN KAYE: So the standards on the declaration of a carton of eggs to be free-range would be the same as they always have been?

Mr STOWE: Yes. There is not a huge change when it comes to false and misleading representations in relation to goods and services. The Australian consumer law is based upon the consumer protection provisions of the Trade Practices Act essentially.

Dr JOHN KAYE: Which of course is now the Competition and Consumer Act, is that correct?

Mr STOWE: It will be from 1 January.

Dr JOHN KAYE: That is more or less the same Act. It is still section 52, or whatever it is—

Mr STOWE: No, it is a different section in the ACL. The ACL is a schedule to what is, but will become the Australian Consumer—

Dr JOHN KAYE: But it is the same provision?

Mr STOWE: Essentially so, yes.

Dr JOHN KAYE: So nothing has changed there. Are you aware of the case in Western Australia where a provider of supposedly free-range eggs was taken to court and lost the action in court over the issue of whether the eggs were free-range or not?

Mr STOWE: I am not aware of that particular case, no.

Dr JOHN KAYE: Are you satisfied that those provisions are adequate to protect consumers in cases such as free-range eggs where it is not immediately measurable whether a product lives up to that information or not; it is to do with, if you like, the non-tangible content of a product—for example, a consumer has a preference for free-range or a green product and cannot necessarily measure that at the point of sale? Are you satisfied that the laws as they are currently written provide adequate protection?

Mr STOWE: Those issues were considered by the Productivity Commission when it undertook a review of the consumer protection framework and it was satisfied that the current provisions of the Trade Practices Act, particularly in relation to false and misleading representations, generally covered that area. When I said that there are no changes, there is a minor variation throughout the legislation. So you will not find provisions that are necessarily always identical to the Commonwealth Trade Practices Act. As you can imagine, in drafting there have been some tweaks along the line, but generally speaking the Productivity Commission recommended that the legislation was quite adequate in terms of those general provisions that relate to misrepresentation by businesses.

Dr JOHN KAYE: Even in the case where the misrepresentation relates to a quality of the product that is not measurable?

Mr STOWE: It is hard for me to comment on a case that I do not have details of.

Dr JOHN KAYE: Can we talk a little bit about the issue of door-to-door trading? How many complaints have you had in respect of door-to-door trading in the last 12 months?

Mr STOWE: We would have to take that on notice. We do not have that information currently before us.

Dr JOHN KAYE: Could you provide us with information about the number of complaints? Can you also provide us with information as to what happened with those complaints: how many of those complaints

were followed up, how many of those complaints resulted in prosecutions and, if possible, could you break those complaints down by product type? I know that it is a hard call, but do you have a sense of what kind of product types being sold door-to-door are causing the majority of complaints or an unusually large number of complaints?

Mr STOWE: I am sure we could give you that information, yes.

Dr JOHN KAYE: Are you aware of complaints that were raised in respect of the sales tactics used by the former company Jackgreen?

Mr STOWE: This is in relation to the retail energy—

Dr JOHN KAYE: It was in relation to retailing energy and particularly in relation to their supposedly green energy products.

Mr STOWE: My only understanding of that was that that was really a matter being dealt with by the Ombudsman. I am not aware of any role that Fair Trading had in that particular case.

Dr JOHN KAYE: Why would Fair Trading have not had a role in that?

Mr STOWE: You asked me whether I was familiar with a particular issue. I am, and that was only through a conversation with the relevant Ombudsman.

Dr JOHN KAYE: I understand that but is there a reason why Fair Trading was not involved in that matter?

Mr STOWE: Only because I think the Ombudsman was able to adequately deal with the complaints that were levelled there. I think there were issues in relation to debt collectors, which is an area that we do not regulate. That is not one of the areas that come within our responsibilities.

Dr JOHN KAYE: Who does regulate debt collectors?

Mr STOWE: That comes under the police administration.

Dr JOHN KAYE: With respect to, for example, the Jackgreen complaints, would any of those come to you and you would forward them on to the Ombudsman? How did it end up on the desk of the Ombudsman and not on the desk of the Office of Fair Trading?

Mr STOWE: Again, I can only relate to a conversation I had with Claire Petrie in general terms about that particular case. I have got no knowledge of how many complaints we may have received or not received or how they were handled. If they related to issues that we could deal with, we would have passed them on to the responsible areas.

Dr JOHN KAYE: I presume that you are taking that question on notice and you will get back to us with more details on that?

Mr STOWE: Yes, certainly.

Dr JOHN KAYE: Can I ask you about shop trading hours. I understand that is a Fair Trading issue, is that correct?

Mr DUNCAN: It is an industrial relations issue, the New South Wales Industrial Relations Office.

Dr JOHN KAYE: What about public holidays?

Mr DUNCAN: That is in the same area.

The Hon. LYNDIA VOLTZ: They are both industrial relations.

Dr JOHN KAYE: I will not ask about those topics then. Can I ask about the ongoing issue of high-fronted gutters? I can see Mr Griffin relishing the question I am about to ask. Can you tell the committee how many complaints you have had in the last 12 months in respect of high-fronted gutters?

Mr GRIFFIN: I think it was six.

Dr JOHN KAYE: Did each of those result in an Office of Fair Trading officer actually inspecting the situation?

Mr GRIFFIN: I could not be sure about that. Quite a number of them involved an inspector going and inspecting those issues. But I would have to take it on notice in terms of did we visit all six or whether all six were dealt with in a different way.

Dr JOHN KAYE: In your answer to that question on notice could you indicate what the outcome of each of those inspections was?

Mr GRIFFIN: Absolutely.

Dr JOHN KAYE: Could you also indicate in the case of those that did not result in a physical inspection why that did not result in a physical inspection?

Mr GRIFFIN: I certainly can; absolutely.

Dr JOHN KAYE: Can you also indicate the quantity of other complaints in respect of guttering? Apart from high-fronted guttering were there other guttering complaints you received?

Mr GRIFFIN: Yes, there were.

Dr JOHN KAYE: How many of those did you receive?

Mr GRIFFIN: I do not have that number to hand.

Dr JOHN KAYE: Could you get back to us?

Mr GRIFFIN: I certainly can.

Dr JOHN KAYE: Were they largely to do with overflow issues?

Mr GRIFFIN: No, from my understanding they were to do with flashing and other aesthetic issues, not overflow issues.

Dr JOHN KAYE: Were any of them to do with overflow issues?

Mr GRIFFIN: I would have to take that on notice.

Dr JOHN KAYE: Again, you will get back to us on how many of those were inspected?

Mr GRIFFIN: Absolutely.

Dr JOHN KAYE: I am only interested in the ones with respect to overflow.

Mr GRIFFIN: Sure.

Dr JOHN KAYE: What was the outcome of those inspections in each of those cases?

Mr GRIFFIN: Happy to do that.

The Hon. DON HARWIN: Ms Mills, 60.8 per cent of all grants given by Arts NSW take the form of negotiated funding given to arts organisations without them needing to compete for the funds available. Is there an argument that the lack of competition for funds makes for a closed shop for major arts funding in favour of

established organisations? Could it be argued that this has the effect of discouraging major new investments in the arts and perhaps leading to a lack of diversity and innovation in the arts in New South Wales?

Ms MILLS: No. I believe that the model we have creates an appropriate balance between giving some certainty of funding over a period of time for large organisations that have significant infrastructure and investment and need to plan well in advance for their programming, together with funding available to generate both one-off and potentially recurring innovation in both large and small arts companies. The negotiated funding falls into a couple of categories. We have a number of particular programs, such as the Sydney Festival, which are designated high-priority programs from the State, and we also have a number of pre-commitments through our partnership with the Australia Council for programs such as the Visual Arts and Craft Strategy [VACS], the major performing arts companies where we are for an annual basis or on a tripartite basis working to a formula nationally agreed for funding our major companies. Approximately \$12 million goes towards that and others in the negotiated, as I said, to State significant projects. We have secured additional funding in this year and the majority of that has been targeted to small projects and to innovation.

The Hon. DON HARWIN: Following up the issue of potential new entrants—obviously the desirability of some stability for major organisations is understood—are you satisfied that the way the program operates does not lead to a lack of diversity or perhaps discourage new entrants, new players?

Ms MILLS: We have worked very hard in reformulating the program over the past three years to provide an appropriate balance and to provide clear opportunities for new entrants into the system, as I said, both as organisations securing core funding but also for one-off initiatives. We have extensive publicity about the programs and we do quite wide-ranging briefing sessions for new organisations, as well as existing, to understand how to apply, what the criteria are. We also have, I suppose, a staggered system of opportunity for shorter-term funding for new so that the risk can be managed by both the Government and the organisation, and there are opportunities for organisations to secure longer-term funding when they have a proven track record.

(The witnesses withdrew)

The Committee proceeded to deliberate.
