

# LEGISLATIVE COUNCIL

Thursday 26 March 2009

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**The President (The Hon. Peter Thomas Primrose)** took the chair at 11.00 a.m.

**The President** read the Prayers.

## OFFICE OF THE INSPECTOR OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION

### Report

**The President** tabled, pursuant to the Independent Commission Against Corruption Act, the report of the Inspector of the Independent Commission Against Corruption entitled "Report of an Audit of Applications for and Execution of Search Warrants by the Inspector of the Independent Commission Against Corruption", dated March 2009.

**The President** announced that, pursuant to the Act, it had been authorised that the report be made public.

**Ordered to be printed on motion by the Hon. Tony Kelly.**

## BUSINESS OF THE HOUSE

### Formal Business Notices of Motions

**Private Members' Business item No. 168 outside the order of Precedence objected to as being taken as formal business.**

**Private Members' Business item No. 190 outside the order of Precedence objected to as being taken as formal business.**

## BUSINESS OF THE HOUSE

### Withdrawal of Business

**Private Members' Business items Nos 3, 16 and 57 outside the Order of Precedence withdrawn by the Hon. Michael Gallacher.**

## BUSINESS OF THE HOUSE

### Routine of Business

*[During the giving of notices of motions.]*

**The PRESIDENT:** Order! The Hon. Charlie Lynn will continue to give notice of his motion without giving attention to interjections.

## GENERAL PURPOSE STANDING COMMITTEE NO. 5

### Government Response to Report

**The Hon. John Della Bosca** tabled the Government's response to report No. 28, entitled "The Former Uranium Smelter Site at Hunters Hill", tabled 30 September 2008.

**Ordered to be printed on motion by the Hon. John Della Bosca.**

**BUSINESS OF THE HOUSE****Postponement of Business**

**Business of the House Notices of Motions Nos 1 to 4 postponed on motion by the Hon. Tony Kelly.**

**DISTINGUISHED VISITORS**

**The PRESIDENT:** Order! I take this opportunity to welcome into the President's Gallery members of the Legislative Council of Victoria: John Lenders, David Davis, Matt Viney, Richard Dalla-Riva and Sue Pennicuik. As members of the Standing Orders Committee of the Legislative Council of Victoria they are here to examine the operations of the committee system in our Legislative Council. The members are accompanied by the Clerk of the Legislative Council of Victoria, Mr Wayne Tunnicliffe.

**MID NORTH COAST HEALTH SERVICES**

**Debate resumed from 12 March 2009.**

**The Hon. MELINDA PAVEY** [11.08 a.m.]: The 64- to 75-year age group is making an enormous contribution to society, which will be affected by any push by Nathan Rees and his Government to drive up workforce participation amongst grandparents. Instead of vague assertions about grandparents having to give up their retirement to keep the State afloat, the Rees Government should have in place concrete plans to counter our ageing population and keep the New South Wales economy moving forward. The New South Wales Liberals-Nationals Coalition has called for the implementation of a whole-of-government agency strategy to meet the challenges of an ageing population. The Labor Government needs to follow that approach.

The fourth part of my motion deals with the Government's underfunding of the mid North Coast region. That must be addressed in response to this trend so that health infrastructure is able to cope with increasing demands and that must be secured through allocating the North Coast Area Health Service its fair share of health funding under the resource distribution formula.

Earlier this week I asked the Minister for Health to reinstate two front-line positions that he has axed as part of the restructure of the North Coast Area Health Service. Those two positions care for the local Aboriginal population and young pregnant mothers. I was given no acknowledgement that those positions have been cut or of the impact and effect that cut will have on health services in the region. In not answering my question, the Minister for Health referred to the resource distribution formula [RDF], a very worthy application and a very worthy formula, to provide health funding where it is needed. The only comment by the Minister in respect of the North Coast and the mid North Coast was that we are moving towards our share of the resource distribution formula funding.

**The Hon. Greg Donnelly:** We are heading in the right direction.

**The Hon. MELINDA PAVEY:** You may say you are heading in the right direction, but the whole of New South Wales knows that the State is heading in the wrong direction. We are taking this State and this country into recession, because of the incompetence of your lot on that side of the House.

**The Hon. Greg Donnelly:** All Nathan's fault!

**The Hon. MELINDA PAVEY:** Thank you, I acknowledge the interjection, "All Nathan's fault". For once we are at one. I just cannot believe the honesty of the Hon. Greg Donnelly in this debate today.

**The Hon. Greg Donnelly:** Yes, put it on the record.

**The Hon. MELINDA PAVEY:** Yes, we are at one: it is Nathan's fault. Before that it was Morris's fault, and before that it was Bob's fault.

**The Hon. Lynda Voltz:** Is it not Carmel Tebbutt's fault?

**The Hon. MELINDA PAVEY:** Not Carmel's fault.

**The Hon. Greg Donnelly:** Everyone's fault.

**The Hon. MELINDA PAVEY:** I thank the Hon. Greg Donnelly for his honesty today; it is very much appreciated. This debate is about the failure of the Department of Health, the Minister for Health and the Labor Government to give the region its fair share. The latest estimates suggest that the Labor Government is underfunding the area health service by \$54.5 million as a result of not adhering to its own resource distribution formula. It is interesting to note that the Minister said, "We are moving closer to that target". I do not know how close he thinks is closer, because he will not reveal the Government's estimates. I am relying on publicly available documentation in coming to that estimate. The Minister has not said that I am wrong, and I am sure that he would have if I were wrong. In fact, the underfunding could be more than \$54.4 million—that is the figure on the publicly available documentation.

Through the budget estimates process the Minister was asked to give further details of that funding, but all we got was this very limp line that the Government is moving towards reaching that target. As I said, the resource distribution formula is population-based funding that attempts to ensure that there is equitable access to health services. It is based upon a needs measure, which is the primary component of the resource distribution formula; that is, the larger the population, the greater the need. However, it considers also factors such as age, sex, mortality and socioeconomic indicators in determining the resource distribution formula for various area health services. Therefore, as the resource distribution formula is population based it can be argued that changing population trends must be reflected in changing the funding allocations. Therefore, in the case of the mid North Coast the Government has evidently failed to adhere to the fundamental criteria for the formula by failing to increase funding in the locality whose population is both growing and ageing.

The evidence for this lies in the statistics from the North Coast Area Health Service Annual Report 2005-06, which stated that the North Coast has the fastest-growing population of any area health service in New South Wales. The report stated also that the North Coast Area Health Service has the highest proportion of people aged 65 years and over, at 19 per cent of the population, compared with the New South Wales average of 14 per cent. Thus, health funding is paramount. The report stated also that the North Coast has the highest proportion of population on disability and sickness benefits, at a rate of 8.3 per cent, compared with the New South Wales average of 4.4 per cent. Again, that highlights the pressure demands that exist in health services on the North Coast.

Access to quality health services is by far the number one issue at the forefront of people's minds, and the funding shortage is evidently having an impact upon the mid North Coast: more and more people who live locally are directly affected by the inadequacies of the system. The failure to adequately fund health infrastructure is having a serious impact on local hospitals. For example, 50 per cent of triage category 3 patients are not treated in the specified time at Port Macquarie Base Hospital, making it the lowest performer in this category of every hospital on the North Coast. The funding shortfall has been made worse by the State Labor Government threat that it may not deliver the Port Macquarie Base Hospital long-awaited fourth pod, as a consequence of its failed financial mismanagement.

The fourth pod infrastructure project, as I have said, was not even listed on the mid North Coast growth strategy. Furthermore, the failure to plan properly for the massive population of retirees on the mid North Coast has been exacerbated by the Government's recent decision to amend the Retirement Villages Bill that would have seen retirees pay for capital works costs, which is completely absurd. The campaign—driven by the then shadow Minister for Consumer Affairs, the Hon. Catherine Cusack, who visited Port Macquarie three times to discuss with retirees the effects these changes would have as the bill was too complex, leaving many residents and operators confounded and unnecessarily stressed—worked to a certain extent. Changes were made to the bill that made it fairer regarding capital works, but that was only achieved through the campaign by the Opposition to highlight those problems; neither the Labor Party nor the New South Wales Government listened to the concerns of the residents of the mid North Coast.

The bottom line remains that Premier Rees and Treasurer Roozendaal have failed to plan for an ageing population through irresponsible budget settings within our region. In the next decade, and for the first time in New South Wales history, there will be more people aged 65 years and over than there are under 14 years. Soon it will be too late to act. Historically, the North Coast area has been underfunded, which reflects how Labor puts political considerations ahead of saving people's lives. I ask members to consider this motion worthy of support. It is important to highlight the population growth in the region and the demand it is placing on services. I hope members will vote in support of the motion when debate is concluded.

**The Hon. LYNDIA VOLTZ** [11.16 a.m.]: Mr President—

**The Hon. Catherine Cusack:** Are you going to add to what the Hon. Greg Donnelly said?

**The Hon. LYNDIA VOLTZ:** I am going to add quite a bit. Thank you for the opportunity. The Hon. Melinda Pavey expressed concern about the lack of planning in the mid North Coast region and how the Government is to accommodate an emerging demographic change from 297,000 to 387,000 people by 2036. Obviously, the Hon. Melinda Pavey is not aware of the extensive work that the Department of Planning has undertaken with the eight mid North Coast councils to support future growth of the mid North Coast region. The department has prepared a strategy to guide growth until 2031. Everyone has had an opportunity to have their say on the strategy and together we have developed a regional strategy that will guide the Government's land use planning and infrastructure investment policies up to 2031.

The draft Mid North Coast Regional Strategy was released for public exhibition between 17 January and 16 March 2007. A second exhibition phase took place between 26 November 2007 and 8 February 2008 when draft growth area maps were exhibited. Those maps identified potential areas where housing and employment lands will occur in the region over the next 25 years. The growth area maps now form part of the final Mid North Coast Regional Strategy, which was released on 6 March 2009. The strategy was prepared on the basis of an additional 94,000 people, 59,600 new homes and 48,500 new jobs. As the Hon. Melinda Pavey has noted, the proportion of seniors will increase.

The strategy provides for a greater diversity in housing styles to accommodate the changing needs of families as they age. A great deal of the housing development will be by means of infill. This ensures that people can live close to where they work, or where the services they need are located. Additional housing will include both detached and multi-unit development, again to allow for the changed needs of seniors, and to ensure they can choose to live within easy reach of where they shop, or near recreational and other services. The department has used a planning approach that ties together economic, social and environmental concerns to produce a strategy that ensures the quality of life that makes the mid North Coast such a popular retirement destination is supported and developed.

The strategy is based on practicality. The Government has understood the need to spend infrastructure investment where it is needed, when it is needed. To ensure this happens the strategy is linked to the State Infrastructure Strategy. This means that when we are planning for future schools, police and health care needs there is a clear link between agency strategies and the changing population of the region. Progress on implementation of the strategy will be monitored yearly. This will ensure that planning stays on track and relevant.

The final Mid North Coast Regional Strategy is the seventh regional strategy released by the New South Wales Government over the past three years, completing a full set of 25-year planning strategies for the New South Wales coast and other high-growth areas. Under the strategy, growth will occur in the four major regional centres of Coffs Harbour, Port Macquarie, Grafton and Taree. Focusing growth in these major centres utilises existing services and infrastructure while protecting sensitive natural environments. It also gives a solid basis for the encouragement of public and private sector investment. To ensure that we are not taken by surprise by any changes in trends and that the land supply remains optimal, the department will prepare the Mid North Coast Housing and Land Monitor. It will be updated annually. This will keep track of land for not only housing but also industrial development.

The employment growth areas mapped in the final strategy include much more land than is likely to be needed by 2031. This is to ensure that economic development is not hampered by either a shortage of land or the ability to locate new employment opportunities. The region is well placed to take advantage of ample employment land. Some of the inland towns like Taree, Grafton and Kempsey have significant potential based on their access to the North Coast rail line to move raw supplies and completed goods. These towns also have a good supply of suitable land and of both labour and training facilities to ensure that a trained workforce is readily available.

Not only does the strategy cater to the need for housing and land for employment, but also the region will continue to be a great place to live. This direct result of forward thinking and careful planning will ensure the values of the coastal towns and villages are maintained and supported by good forward planning. Honourable members will find that far from "a lack of planning" in the region, as Hon. Melinda Pavey would

have us believe, they will be impressed by the quality and comprehensiveness of the planning that has been undertaken via the Government's Mid North Coast Regional Strategy. The mid North Coast really is a region of opportunity and the strategy will allow that to be realised.

**The Hon. CATHERINE CUSACK** [11.22 a.m.]: I will speak briefly in support of my colleague the Hon. Melinda Pavey and in so doing congratulate her on bringing forward this very important motion. Although I live on the Far North Coast and my colleague is located on the mid North Coast, much of what she has said certainly applies to my region. I know there is great empathy between our two regions and I thank her for highlighting this problem. The Hon. Lynda Voltz highlighted the fact that a couple of weeks ago, after many years of waiting, consultation, discussion and going in circles, a planning document was finally released. I note for the record that the release of the planning document highlighted by the Hon. Lynda Voltz occurred a considerable time after my colleague gave notice of this motion.

Indeed, the Government's response has really confirmed much of the information that the Hon. Melinda Pavey has placed on the record—that is, massive population growth is occurring on the mid North Coast, as it is indeed on the Far North Coast, and the demography is changing. The population is ageing. This means that the demand for government services being driven by these changes in population is disproportionately great relative to their numbers. I recall hearing sometime that women over the age of 65 are accessing something like 60 per cent of all health services in New South Wales. That is a fairly specific group of people, so if there is a large increase in the number of women over 65 the demand for health services will increase exponentially.

I do not intend to focus on health issues: my colleague has highlighted many matters very well. I point out that we are desperate to have other areas of infrastructure upgraded, completed and maintained properly. This Government, whilst acknowledging the massive growth in the region, has been axing funding for the Pacific Highway, Australia's most tragic road. The Treasurer committed an unbelievable act of vandalism when he brought down the mini-budget last year. I note that New South Wales has since suffered very substantial financial penalties imposed by the Commonwealth Government. On many occasions I have heard the Prime Minister, Kevin Rudd, warn all State Governments, but in particular New South Wales, that if they substitute Federal funding for their own funding—if an allocation is made to a road such as the Pacific Highway and the State then opportunistically tries to withdraw its own funding from the road program—he will penalise the State.

Tragically for our communities on the mid North Coast and the Far North Coast, the Rees Government tried to do exactly that. It played silly games with the funding for the Pacific Highway, withdrew its funding and has now been penalised \$30 million by the Commonwealth. What an absolute disgrace and what a terrible outcome for our community. I note that the mini-budget also extended the waste levy to the North Coast region, which means that more money will come out of the North Coast and go into Government coffers with no hypothecation of that money back to our area.

We are approaching another anniversary of the shameful closure of the Casino to Murwillumbah rail line, which is in the Far North Coast region. Honourable members should understand that many people in our region are linked into health services that were networked. Specialists in Coffs Harbour are the only specialists in the entire northern part of New South Wales and people use the rail system extensively to access such services in the region. If we could reopen our line and extend it by 23 kilometres everybody on the mid North Coast would be linked directly to Brisbane. It would be a very logical thing to do. Queensland plans to extend its rail line to Coolangatta. Certainly Queensland is doing the planning and enhancing its regional infrastructure whereas the New South Wales Government, far from planning for and funding infrastructure properly, has shamefully dismantled infrastructure that has stood for nearly 100 years. We are actually going backwards on the North Coast. This impacts the mid North Coast and everybody along that railway line.

The Government can talk about this planning document, but the lack of costal management and hazard planning is terrible. The planning guidelines have been woefully inadequate to guide councils in dealing with all the development and growth that is occurring on the North Coast. Planning is not being coordinated. The Hon. Lynda Voltz referred to infill housing, which I think basically means jamming people more tightly together in increased density to cater specifically for older citizens. At Evans Head the council is in the process of approving a retirement village that is practically being built on the runway of the Evans Head aerodrome. I know members opposite will be interested in this. A massive retirement village is being planned that is nowhere near Evans Head, a hospital or any public transport.

This huge development, which is basically on Crown land given to the council, will be built practically on the aerodrome's runway. It staggers me that Government members can say poker-faced, "We know what we

are doing. All this planning is happening and it will all proceed in such a way that the infrastructure will be in place", as though the housing will fit into some sort of jigsaw puzzle. It will not fit. It is not happening on the ground. The Government's neglect will lead to a social disaster, particularly for older people on the mid North Coast and Far North Coast. I condemn the Government very strongly for its neglect in that regard. The Government has referred to the planning that has been undertaken. As I said, it is belated and inadequate. It has done nothing to answer the key issue raised by my colleague the Hon. Melinda Pavey, which is not so much about having a plan and a strategy but about having the funding to turn the plan and the strategy into a reality.

That is what is at the heart of this motion. With our percentage of the population and the additional demographic factors, this Government's underfunding of the mid North Coast and the Far North Coast is scandalous. Richmond and Page are two of the three poorest Federal electorates in Australia, making that region income poor but lifestyle rich. Many of Australia's most needy people live in that region and the second largest aged population lives at Lismore. Many people with disabilities have moved from Victoria and from the cities, creating a huge demand for services in that region, but it is not getting its fair share of per capita funding.

All members recognise that, as things change, there will be some kind of a lag in funding. However, when the Government is building more infrastructure it has an opportunity to do that more efficiently. Communities in the region are not expecting exact parity, but this Government has not made any commitment to do any sort of catch-up. No plans are in place to increase the level of funding for training and infrastructure, and funding for the Pacific Highway has been cut. Without this money the population in that region is disadvantaged in comparison with the population in the rest of the State. Because of this Government's inaction communities on the mid North Coast are falling behind daily. I feel sorry for the citizens who are suffering unfairly due to this Government's funding neglect.

I draw the attention of members to the public servants who are working in that region. In many cases departmental officers are trying to provide services when their caseloads are double that of their colleagues, whether it be in community services, health, TAFE, training, or in other areas, resulting in services being provided only through the blood, sweat and tears of departmental staff. What a disgraceful abuse of our public servants! They have double the work and they are inadequately funded to provide those services. I am in awe of and admire people in the region who do a brilliant job in the provision of wonderful services. At the end of the day they are bearing the full brunt of this lack of funding in these areas of growing demand. I lend support to the motion moved by my colleague the Hon. Melinda Pavey, which is germane to many of our problems—systemic disadvantage and this Government's chronic neglect of the mid North Coast and the Far North Coast. I urge all members to support the motion.

**The Hon. KAYEE GRIFFIN** [11.32 a.m.]: The Government does not support the motion moved by the Hon. Melinda Pavey that there is lack of planning or underfunding for the mid North Coast region in response to the changing demographics of the region. The Hon. Melinda Pavey called on the Government to respond to a trend towards ageing in the growing population of the mid North Coast by planning, in particular, for health infrastructure. The Government, through the Department of Planning, continually monitors both growth and the composition of the population, and it plans accordingly. The ageing population is an issue of concern right across Australia and New South Wales. This issue was addressed in the New South Wales Long-Term Fiscal Pressures report in Budget Paper No. 6 2006-07 and in the State Plan. The ageing population issue is highlighted in that report.

In coastal areas such as the mid North Coast, retirement migration adds to the pressures created by the ageing population. Over past years the Government has undertaken major initiatives in planning, with the preparation and release of seven regional strategies to ensure that funding and development are best targeted to areas of need. The Mid North Coast Regional Strategy is but one of those strategies. The strategy, which was released on 6 March, nominates four major regional centres for growth—Coffs Harbour, Port Macquarie, Grafton and Taree. Those centres will be the focus for the provision of infrastructure and much of the growth. There will be a greater diversity in housing styles to accommodate the changing needs of families as they age.

A great deal of the housing development will be by means of infill. Additional housing will include both detached and multi-unit development to allow for the changed needs of seniors and to enable them to live within easy reach of services. There has been an allowance for an excess of land to be developed to ensure affordability, and enough land is provided for at least 59,600 new homes. The region will be well able to compete for both jobs and housing development. The Government is aware that part of the planning for growth lies in ensuring the economic future of the region. To achieve that end the department has focussed on the provision of the necessary conditions to promote job growth and it has provided the basis for an additional 48,500 new jobs by the year 2031.

About 75 per cent of those jobs will be in the service industries, which will directly support and be supported by the expected population growth. The other 25 per cent will be in export industries. To meet this potential the Government has identified a need for a minimum of 232 hectares of additional industrial land and 210 hectares of commercial land. The growth area maps in the final strategy have ample capacity to meet these minimum employment land targets. In fact, the strategy supplies well in excess of the forecast needed. This is deliberate and will ensure that innovative new industries are not hindered by shortages of suitable land, and it also allows a land bank for development beyond the 25-year planning horizon in the strategy.

Job growth will attract younger people who will ensure a balance in the population growth of the area. The Mid North Coast Regional Strategy is tied to infrastructure funding through the State Infrastructure Strategy. This will ensure that money is available as needed to allow for new and upgraded facilities in advance of need. They will be located so as to benefit the greatest number of people. Far from underfunding the development of the region, the Government has taken a proactive approach to future needs by coordination of planning and funding through the integration of the State Infrastructure Strategy 2006-07 with the Mid North Coast Regional Strategy to 2015-16.

The strategy will continue to inform future infrastructure investment priorities for the mid North Coast. It also complements and informs other planning documents and represents an agreed New South Wales position on the future of the region. Land supply will be monitored annually and the implementation of the strategy will be reviewed at five-yearly intervals to ensure that the intent of the strategy is achieved. Such regular oversight will ensure that the strategy remains up to date and relevant. Far from ignoring planning, the Government has prepared up-to-date and progressive strategies for the management of the State.

**The Hon. MELINDA PAVEY** [11.37 a.m.], in reply: I thank all members for their contributions to debate on the motion and I thank the Hon. Lynda Voltz and the Hon. Kayee Griffin for providing us with some worthwhile information. This motion does not attack the Department of Planning for preparing the Mid North Coast Regional Strategy; rather, it makes the point that the strategy highlights the shortcomings in health, transport and road funding in the region. The Hon. Kayee Griffin said that the State Infrastructure Strategy forms a part of this strategy. However, the Port Macquarie fourth pod is not even mentioned in the State Infrastructure Strategy, despite Premier Nathan Rees visiting Port Macquarie, being part of a briefing with the local community, and saying that it was a priority.

The fourth pod is not on the State Infrastructure Strategy list. Coffs Harbour and Taree are on the list but Port Macquarie is not, which is not good enough. The Premier said that he was listening and taking on board what people in the community were saying. He has been asked questions in the Legislative Assembly about the Port Macquarie fourth pod but that has not been included in the State Infrastructure Strategy. Health funding and the resource distribution formula are extremely important issues, but this Government will not tell the community whether our region will receive a fair and equitable share of funding. The Minister and the department have only said, "We are moving towards it." A \$54 million funding shortfall every financial year is not moving towards it.

Earlier the Hon. Catherine Cusack made the important point that this places enormous pressure on public servants throughout the region who are dealing with people from lower socioeconomic groups. Pressure in this region is huge but this Government is not providing the funding. A timeline is not included in the State Infrastructure Strategy for the duplication of the Pacific Highway between Port Macquarie and Grafton—a dangerous section of road traversing the communities of Macksville, Kempsey, Urunga and the middle of Coffs Harbour. Work on that stretch of road has progressed and more work on it is planned. Thanks to the former Howard Federal Government, within the next six months the road from Sydney to Port Macquarie will be dual carriageway all the way, which is sensational. But then people have to navigate their way from Port Macquarie to Grafton through some very dangerous sections of road. Yet in the mini-budget the State Government cut \$300 million in funding for the Pacific Highway. It is an outrage.

**The Hon. Greg Donnelly:** Still going.

**The Hon. MELINDA PAVEY:** Yes, I am still going. I know the Hon. Greg Donnelly stands by his comments, and I thank him for that. It is important to recognise the good work of the Department of Planning in its regional strategy. The motion highlights that the median age on the mid North Coast is expected to increase from 44 years in 2006 to 55 years in 2031, and the population aged 65 years and over will more than double. The point of this motion is to highlight that the Government is not meeting its commitments in health, roads, transport and other important services. It has no direction or forward planning to meet future targets. The

Department of Planning has made it very clear what will happen in the region. It is up to the Government to meet those demands. This motion highlights that the Government has not met those demands and, as I see it, it has no intention of doing so. I ask members to consider that when they vote on the motion.

**Question—That the motion be agreed to—put and resolved in the negative.**

**Motion negatived.**

### **HIGH-FRONT ROOF GUTTERS**

**Ms SYLVIA HALE** [11.41 a.m.]: I move:

1. That this House notes that:

- (a) many professional and trade organisations such as Archicentre, the Timber Development Association, and the Master Plumbers Association have warned of the damage that can result from the penetration of water from gutters into ceilings and framework of buildings and undermining of footings,
- (b) as the Master Builders Association of the Australian Capital Territory commented in June 2008: "Water damage inside the structure of the building from overflowing gutters can go undetected for several months and by then the fabric of the building can be severely compromised. An example of the extent of damage may be bowed or sagging ceilings or rotting framing members.",
- (c) the Building Code of Australia [BCA] specifically requires that buildings be constructed so as to prevent water penetration into the building. To this end, Australian Standards AS3500 Plumbing and Drainage and Part 5 Domestic Installations requires that eaves gutters are installed with continuous overflow measures that prevent water from overflowing gutters flowing back into the building,
- (d) it is irrelevant for the purposes of the Building Code of Australia, the New South Wales Plumbing Code of Practice or the Australian Standards whether the overflow is a result of an abnormally heavy deluge, insufficient downpipes, or gutters or downpipes being blocked by items such as leaves, tennis balls or hailstones; a continuous overflow provision is necessary so that, if the gutter is blocked at any point, water will still not flow back into the building,
- (e) manufacturers have been phasing out the manufacture and supply of traditional "lowerfront" gutters, with almost all new guttering installed on residential and commercial buildings being of the "high-front" design that does not provide continuous overflow but rather encourages water to overflow from the back and not the front of the gutter,
- (f) the provision of "slots" in the front of high-front gutters is not recognised by the Building Code of Australia as an acceptable or adequate means of providing for overflow, because in a heavy downpour a slotted gutter may be inadequate to deal with the overflow,
- (g) Australian Standards AS3500 Plumbing and Drainage Part 3 Stormwater Drainage and Part 5 Domestic Installations provides diagrams indicating that, in the case of high-front gutters, flashing may be inserted between the fascia and the back of the gutter or a gap may be left between the gutter and the fascia and gutters may also be attached lower on the fascia,
- (h) the method of attaching high-front gutters to metal fascia stipulated by the major manufacturers is the use of spring clips that affix the gutter directly to the top of the fascia, and that manufacturers do not provide any means of fixing gutter to metal fascia other than spring clips,
- (i) the use of the spring clips does not permit either the insertion of flashing, the provision of a gap, or the lower positioning of the gutter,
- (j) a failure to install high-front gutters according to the method stipulated by the manufacturer results in the manufacturers' warranty being voided,
- (k) installation in accordance with manufacturers' instructions makes compliance with the Building Code of Australia, the New South Wales Plumbing Code of Practice or the Australian Standards impossible and thereby renders void householder and other insurance policies that require installation to comply with the Building Code of Australia, and
- (l) a report by an inspector of the Office of Fair Trading noted in relation to one house that "the guttering system, as installed, may currently be allowing water to enter the cavity, cause mould and cause structural instability in the long term if unaddressed" and that "It is my opinion that the overflow provisions to the guttering as installed are ineffectual and unfit for purpose."

2. That this House calls on the Department of Fair Trading to:

- (a) produce a circular advising all relevant building industry personnel of the necessity to comply with the Building Code of Australia and that the provision of "slots" in high-front guttering is not sufficient to ensure compliance,



- (b) illustrate the circular with diagrams indicating methods of installation that do comply,
- (c) distribute it to all industry associations and ask them to distribute it to all their members,
- (d) give a copy to all relevant licence holders, not solely plumbers, when their licences come up for renewal,
- (e) approach the manufacturers and require them to place a warning on their websites about the need for compliance with the Building Code of Australia,
- (f) require manufacturers to provide all purchasers of high-front guttering with a copy of the warning and diagrams that illustrate compliant methods of installation,
- (g) vet the wording of these warnings so that the nature of the problem is made absolutely clear,
- (h) encourage manufacturers to modify their installation systems where required so that they are fit for purpose and comply with the Building Code of Australia, and
- (i) ensure that manufacturers and suppliers of gutters remove any false and misleading information from their websites, advertising and brochures.

This motion seeks to expose and address a serious problem with household high-front gutters that is causing significant distress in the community. The Office of Fair Trading can no longer ignore the calls for action by industry experts and besieged homeowners to address the litany of problems with gutter installation and design. Improperly designed and installed gutters can have dire impacts in both the short and long term. As the Australian Capital Territory Master Builders Association told its members in June 2008:

Water damage inside the structure of the building from overflowing gutters can go undetected for several months and by then the fabric of the building can be severely compromised. An example of the extent of damage may be bowed or sagging ceilings or rotting framing members.

Archicentre and the Timber Development Association echoed these concerns, noting the vulnerability of timber to prolonged moisture exposure. For this reason the Building Code of Australia always has required continuous provision for water overflow from a gutter so that regardless of where overflow occurs, water will not flow back and penetrate a building. Since its introduction in the early 1990s the high-front gutter system, whereby the gutter is attached flush to the fascia by spring clips, has become increasingly popular and now represents about 90 per cent of all guttering installed in this State. The usual configuration is that the back of the gutter is 60 millimetres high and the front is about 80 millimetres high. About 90 million metres of high-front gutter systems are installed in Australia each year at an approximate annual cost of \$1 billion—so, it is not chickenfeed. But there are overwhelming disadvantages to the high-front gutter system. An email I received recently outlines the disadvantages:

Remedial work on houses following a spate of heavy storms down the east coast of Australia in the past 12 months has revealed internal stud and ceiling saturation as a result of water being forced back into roof and wall cavities.

The primary culprits are high fronted gutters that are fixed flush on to the fascia. These gutters have gained popularity over the past 10 years because they hide the ends of roof sheet and tiles from view.

Unfortunately, when the downpipes block, or the gutter reaches its carrying capacity, the overflow point is at the back of the gutter and can result in the excess water being pushed back into the roof.

None of this is rocket science. I have here some examples of the traditional form of a high-front and low-front gutter. Members should examine them. The fronts of the gutters are so high that any water would be forced out the back. The *Sydney Morning Herald* reported last month that in years to come homeowners may face huge repair costs as a result of high-front gutter installations, leading to fights between insurers, builders and plumbers over who should pay the repair costs. Angus Kell, the New South Wales State Manager of Archicentre, the industry body representing more than 1,000 architects across the country, told the Herald that the problem has been lying dormant for years. He said:

We've had years of drought, so the extent of this problem has been hidden. The Bureau of Meteorology will tell you our rainfall isn't any higher on annual averages than it was 10 years ago, but the pattern is changing. The rainfall is short but intense, and it's inevitable that you're going to get a backflow into these houses without eaves when using this form of guttering.

The water will flow behind the brick veneer and into the cavity. The soft timber frame will begin to rot, the plasterboard will crack, the skirting boards will soften, the wiring will become dangerous, the sustainability of the house will be reduced because the water-logged insulation will become effectively worthless. Yet the first visible sign might be something as drastic as the ceiling starting to bow or even cave in.

The purpose of this motion is to get the Office of Fair Trading to do its job—that is, to warn consumers about dangerous products or procedures, to ensure that the installers of such products are adequately informed of what

is required, to prosecute those who wilfully ignore the requirements of the Building Code of Australia, and to advise and warn manufacturers when their products are unfit for the purpose. The task of the Office of Fair Trading is to protect the community from shoddy and life-threatening goods. I say life threatening advisedly because as a result of water entering roof cavities and ceilings, those ceilings may collapse with calamitous results for occupants. I know of one case in Sydney where that is happening now. Heavy lumps of lath and plaster have fallen from the bedroom ceiling onto the bed.

When most people become aware of damp or mould in their ceilings or walls they assume that the problem is a blocked gutter, undetected leak in the roof or, perhaps on the advice of the plumber, they believe they have insufficient downpipes to deal with heavy downpours. But they are not told, often because the plumber is ignorant of the possibility, that the problem may be a result of the gutters being high fronted and installed using spring clips but without continuous overflow provision. The building code requires that buildings be constructed to prevent water penetration. Australian Standard 3500—Plumbing and Drainage Part 3 and Domestic Installations Part 5—specifies that eaves gutters are to be installed with continuous overflow measures that will prevent water from flowing back into a building regardless of the cause of the backflow. It is irrelevant for the purpose of the code and the standard whether the overflow is caused by leaves, hail, balls blocking gutters, inadequate downpipes or an unusually heavy downpour of rain.

Whatever the cause, even without downpipes, the excess water should not flow back into ceilings, eaves or wall cavities. There are two methods to prevent this. One is to ensure there is a minimum 10-millimetre gap between the gutter and the fascia. The second is to install flashing. But here is the catch: using a spring clip, which is integral to the gutter system and which attaches the gutter tightly to the fascia, makes it impossible to leave such a gap or install flashing. Gutter manufacturers with the de facto acquiescence of the Office of Fair Trading contend that the use of slots allows excess water to escape from gutters. However, the standard slots in high-front gutters are small and incapable of disposing of large volumes of water, and are easily blocked by leaves and other debris.

Independent research by Dr Sean Manning of the University of Newcastle Research Associates compared the performance of slotted gutters from four major manufacturers to the Australia and New Zealand Standards requirements, the New South Wales Plumbing and Drainage Code of Practice, and the Building Code of Australia. His report concluded:

The flowrates through the slots in each gutter system are significantly lower (well less than 10%) than the predicted flowrate of water flow over a 10 mm gap as required by the Standards. For the conditions simulated in this study, the slots in the front face of the gutters are shown to be ineffective in discharging rainfall overflow when compared to the 10 mm gap at the rear of the gutter specified in the Standards.

Dr Manning was commissioned to undertake these tests by Jason Higgins, a plumber who has tried repeatedly to raise the issue with the Office of Fair Trading. The response by the department has been to impugn Dr Manning's findings. So incensed was Dr Manning by that suggestion and by the slur of the reputation of the University of Newcastle that he has had his findings independently verified. He wrote to the Minister on 28 February 2009:

Dear Minister

I believe that your department has been dismissive of my earlier reports. For completeness, I have performed a number of further calculations that clearly demonstrate the ineffectiveness of slotted high front gutters to adequately release water if there is exceptionally heavy rain or blockage of roof drainage, e.g. hail or debris. Such a deficiency puts many houses at risk of damage and reinforces the view that slotted gutters are not compliant with the intent of the BCA, or associated standards, where the imperative is to ensure that overtopping gutters does not present a hazard to buildings and do not permit water to enter a building. My calculations and assessments have been reviewed and accepted as valid by an independent Engineer, Dr Robert Jeffrey, who is the director of Pacific Testing Pty Ltd.

Dr Manning is not the only person to have tried in vain to have something done to rectify this seriously misleading information. On 16 February I received an email from an installer in response to a letter I had written to the major installers and manufacturers of high-front gutter systems. His complaints have been consistently ignored. He does not want to be identified because he fears that manufacturers either will refuse to supply him with materials, or will do so at prohibitively high cost. His email states in part:

I have over the years completed several reports for insurance companies on exactly the same issue due to damage to their policy holders property, but it has taken till last year when the story first hit the press in the Herald that people started taking notice of this enormous extremely costly problem.

One might ask why construction firms, builders, plumbers and homeowners continue to install gutters that can have such an adverse impact if the only benefit is anaesthetic in that they hide the ends of roof sheets and tiles

from view. Herein lies the real problem. The major manufacturers and roll formers—for example, Ace Gutters, Stratco, Stramit, Metroll, Bluescope Steel/Lysaght—each sell and promote their own non-interchangeable gutter systems, which consist of a high-front gutter, proprietary spring clip and metal fascia. These systems are relatively quick and easy to install. It is far easier to clip the gutter tight onto the fascia than to have to attach brackets and other devices to fix the gutter in place, and speed means cost savings—no matter if those costs are not saved but merely are transferred down the track to the luckless building owner who ends up with water flowing back into the dwelling or has to pay for the extraordinarily time-consuming process of lifting tiles or roof sheeting to get to the spring clips and remove them to be able to replace the gutter.

I met with representatives of several gutter manufacturers and the Australian Steel Institute a few weeks ago. I asked why they persisted with a guttering system that was, not only in my opinion, inherently unfit for the purpose. The answer I received was, "That's what everyone wants", and one can see why. The spring clips system is quick and easy. Any tradesperson who uses more traditional installation methods has little hope of winning a competitive quote. But then the same justifications—simplicity, ease of use and cheapness—were used by manufacturers of asbestos sheeting. For those same reasons, James Hardie continued to manufacture and promote asbestos sheeting for decades after knowing just how lethal it was.

Let me make it perfectly clear: There is no question that the individual components of a guttering system—the gutter, the spring clip and the fascia—may comply with Australian standards when taken in isolation. The problem arises when the components are used in conjunction with each other to produce a system. These systems are promoted by the manufacturers with installation recommendations, which, they insist, must be observed in order to obtain the manufacturer's warranty. Members should, for example, go to the Bluescope Steel/Lysaght website and read the Lysaght roofing and rainwater warranty instructions where they will find the words:

Bluescope Steel warrants that the LYSAGHT products used in your home and installed as specified in our documentation will, as a minimum, perform as set out below.

The website provides details of warranties against corrosion, perforation, flaking and peeling. The page entitled "How to install LYSAGHT gutters to Lysaght Novaline Fascia" refers to the five installation steps. It contains various warnings, including the need to maintain a minimum fall of 1 in 500, as recommended by Australian standard 2180-1986. What the site does not state is that, even if that fall is maintained, at no stage will the front of the gutter be lower than the back, and that therefore it will always be more likely that water will flow over the back of the gutter and into the eaves and cavities than it is to flow over the front, and free of the building.

But what happens if a person complies with the manufacturer's instructions? For example, the GIO states on page 125 of its information booklet that its home insurance policy does not cover loss, damage liability, "caused or contributed to because your home did not comply with building laws or regulations". QBE Insurance has similar provisions. Clearly, owners of buildings with high-front gutter systems are damned if they do, and damned if they do not. If they do not comply with installation instructions they lose the manufacturer's warranty. If they do comply they put their entire home building insurance at risk.

What has the Office of Fair Trading done? I acknowledge the work of the Hon. Catherine Cusack, who was instrumental in alerting the general public to the problem in an article that appeared in the *Sydney Morning Herald* in February 2008. The response of the then Minister for Fair Trading, Linda Burney, on 25 February 2008 was to issue a media release entitled "Guttering Issue a Beat Up" and to convene a meeting of industry "experts"—those who have a vested interest in maintaining the status quo, such as plumbers who might be held liable for installing non-compliant gutters, and manufacturers who might be held responsible for promoting a system that is not fit for the purpose. After the meeting on 6 March 2008 Ms Burney followed up with another press release titled "Dodgy guttering claims disputed by industry". In that the Minister stated:

... there is virtually no evidence to support recent claims of a widespread guttering problem in NSW.

And—

... there are many solutions to deal with overflowing water such as the number, location and size of downpipes, slots in the guttering, flashing and a gap between the gutter and wall.

On 7 October 2008 the Office of Fair Trading sent an inspector to the residence of Ms Catherine Reynolds in Leichhardt. The inspector's report noted:

... inspected the abovementioned property and assessed the complainant's concerns relating to mould, damp & cracks evident in the majority of the dwelling, and the gutter & downpipe system installed by the contractor.

The report goes on to state:

- It is my opinion that the guttering system has not been provided with an adequate number of downpipes.
- It is my opinion that the overflow provisions to the guttering as installed are ineffectual and **unfit for purpose**.
- I am unable to form an opinion as to the cause of the cracks to the masonry, however, the guttering system, as installed, may currently be allowing water to enter the cavity, cause mould, & cause structural instability in the long term if unaddressed.

Having identified the problem resulting from the guttering as installed, the Office of Fair Trading then proceeded to wash its hands of the matter. The report goes on to state:

- The complainant understands & accepts that the residential building work was completed more than 7 years ago & that therefore the statutory warranty period has expired which in turn prevents orders from being able to be issued to the Contractor.
- The complainant understands and accepts that in the event the contractor is not willing to address the complainant's concerns then the Office of Fair Trading will be unable to assist the complainant further.

But it is relevant to remind the office of the provisions of the Fair Trading Act. Section 44 deals with false representations and states:

A person shall not ... represent that goods or services have ... performance characteristics ... uses or benefits they do not have ...

Section 40U outlines actions that can be taken in respect of unsuitable goods. It suggests that you may take action if "the goods are not reasonably fit for that purpose, whether or not that is a purpose for which such goods are commonly supplied." But what was the response of the manufacturer, Ace Gutters, to the report of the Office of Fair Trading? It simply sent a preferred installer to inspect the guttering system. He declared that there were no problems with the guttering installation and that any damage was not Ace's fault. I have since received a structural engineer's report and a report by an architect from Archicentre on the Reynolds house. I seek leave to have those reports incorporated in *Hansard*.

**The PRESIDENT:** The member has sought leave to incorporate two reports in *Hansard*. However, as the member is now consulting with other members on the matter, I will not put the question to the House until and unless the member renews her request to have the documents incorporated in *Hansard*.

**Pursuant to sessional orders business interrupted and set down as an order of the day for a later hour.**

## QUESTIONS WITHOUT NOTICE

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### SYDNEY AIRPORT GANG VIOLENCE

#### SYDNEY AIRPORT POLICING

**The Hon. MICHAEL GALLACHER:** My question without notice is addressed to the Minister for Police. Is the Minister aware that it is now four days since the killing of a man at Sydney airport? In that time what inquiries has the Minister made regarding the secondment of New South Wales police to the Australian Federal Police to work at the Sydney airport precinct, which includes both the international and domestic terminals? Will the Minister inform the House of how many New South Wales police are currently deployed to work in this capacity and how many sworn police were rostered to work, and were actually on duty, at the airport on Sunday 22 March at the time of the violent attack?

**The Hon. TONY KELLY:** There is a standard contingent of police officers seconded from the New South Wales Police Force to the Australian Federal Police to protect Sydney airport. I am advised that currently 55 officers are seconded under these arrangements. These officers provide an immediate response to policing matters within the airport precinct and support the Australian Federal Police counter-terrorist first response teams by providing a community policing presence at the airport. I am advised that Australian Federal Police and New South Wales police were on the scene within three minutes. My understanding is that these 55 police officers wear Federal Police uniforms, are employed under the direction of the Federal Police, operate under Federal laws and are paid by the Federal Government.

**The Hon. MICHAEL GALLACHER:** I ask a supplementary question. Can the Minister indicate how many of the police who attended the scene within three minutes were rostered to work at the airport and were on duty on 22 March?

**The Hon. TONY KELLY:** I do not intend to go into the details of what happened at the airport the other day. These matters are still under police investigation, and I will not make public any details that might be involved in that investigation.

#### LYNE ISLAND LOOKOUT DEVELOPMENT

**The Hon. DUNCAN GAY:** My question is directed to the Minister for Lands, and Minister for Rural Affairs. Is the Minister aware that Wellington Council has not received a development application from the Lake Burrendong State Park Trust for the area known as Lyne Island lookout? As the development has already commenced, did the Minister for Lands or the Minister for Planning authorise the development?

**The Hon. TONY KELLY:** In response to a recent inquiry, Wellington Council and the Lake Burrendong State Park Trust recently held discussions on issues concerning the administration of the park. I am advised that trust representatives met with the Mayor and the General Manager of Wellington Council to discuss the establishment of new sites on the park. The local Regional Manager of the Department of Lands also attended this meeting. I understand that the parties have agreed that a plan of management will be progressed by the trust, in consultation with Wellington Council's director of environmental, planning and community services division. No further development work at the park will be done until the plan of management is finalised and the trust provides sufficient assurances to council regarding recent works at the park, which were alluded to by the Deputy Leader of the Opposition. I assure the House that as the Minister for Lands I am determined to ensure that the management of Lake Burrendong State Park by the trust is in the best interests of the tenants and the public.

#### GO FOR 2 AND 5 CAMPAIGN

**The Hon. CHRISTINE ROBERTSON:** My question is directed to the Minister for Health. What is the latest information on Government action to support research into the health and financial benefits of eating healthy food rather than junk food?

**The Hon. JOHN DELLA BOSCA:** Many people think fast food is the cheapest way to grab a snack or have a quick bite to eat. Put simply, that is a myth. The Real Cost of Healthy Food Report Card, released as part of the New South Wales Government's Go for 2 and 5 campaign, found that junk food is neither cheap nor healthy. Eating healthy food is good not only for your waist but also for your wallet. Indeed, healthy food was, on average, less than one-third of the price of junk food alternatives, and in these tough economic times that is an important factor for families across the State when planning meals. While the cost of fruit and vegetables is subject to variation, they still work out to be a more cost-effective option when considered on a kilogram-by-kilogram basis, even in the current climate where fruit and vegetable prices have increased in response to a spate of natural disasters.

The report card reveals that rather than eating something like banana muffins, chocolate, fruit bars and potato chips, going instead to healthy alternatives such as bananas, sultanas and apples, the savings can add up to about \$3,500 a year for a family of four. So by eating healthier, families are not only preventing obesity but saving money as well. Many snack foods tend to be higher in kilojoules and fat and contain fewer nutrients, which is a dangerous recipe when combined with our increasingly sedentary lifestyles. With 50 per cent of adults either overweight or obese and the increase in childhood obesity in recent years, it is important that we keep our weight under control to avoid chronic diseases, such as type 2 diabetes and heart disease.

Preventing chronic disease keeps people out of hospital emergency departments and helps alleviate pressure on our hardworking hospital staff, which is vital as we plan for the challenges ahead in dealing with an ageing and growing population. Many of these challenges will be addressed by the Government next week, when it releases its response to the Garling report's 139 recommendations, "Caring Together: The Health Action Plan for NSW". Maintaining a healthy daily diet that experts say should comprise two serves of fruit and five serves of vegetables is an easy way to tackle this problem without blowing the family budget, which is a real concern for New South Wales families. The Go for 2 and 5 campaign provides a range of practical solutions to help people incorporate more fruit and vegetables into their diet, including tips on how to make sensible savings along the way. The report card can be accessed online at [www.gofor2and5.com.au](http://www.gofor2and5.com.au).

#### WATERMARK AREA COAL EXPLORATION

**Ms LEE RHIANNON:** My question is addressed to the Minister for Mineral Resources. Given that the Government granted the China Shenhua Energy Company a coal exploration licence for the Watermark area

in return for about \$600 million in fees, and given that there are reports that China Shenhua is already buying local properties, what steps has the Government taken to ensure that affected residents are given appropriate advice and assistance so that they can make an informed decision that will benefit local farming interests and protect water reserves and not the interests of a China multinational? Further, given that Shenhua Energy is offering farmers \$500 each to help with the legal costs associated with the exploration, and that company representatives are meeting today with local residents, what will the Government do to ensure that the interests of the local community and of New South Wales are to the fore in these negotiations?

**The Hon. IAN MACDONALD:** I point out to Ms Lee Rhiannon that when the Shenhua exploration licence was determined last year I announced at that time that a community consultative committee would be established to assist the community in discussions with the proponent, Shenhua. I appointed the Hon. Ian Armstrong as the chair of that committee.

**The Hon. Rick Colless:** You haven't got any good ones on your side; you've got to use all of ours.

**The Hon. IAN MACDONALD:** No, we have some very good ones on it. If the Hon. Rick Colless wants me to list them, I am happy to do so. Mr Armstrong will do a good job in helping the community work through these issues. In terms of the activities of this company and other companies, I have no role whatsoever. If they want to meet with local residents to discuss the issues, that is their business.

**Ms LEE RHIANNON:** I ask a supplementary question. Will the Minister elucidate his answer with regard to community consultation? How often have community consultations been undertaken? Who was involved in those meetings? What is the Government's involvement in ensuring the work is undertaken thoroughly?

**The Hon. IAN MACDONALD:** I do not have the details of when that consultative committee met. I leave that very much in the hands of the Chair, as I have done in other cases involving people as diverse as Terrence Healey, Milton Morris, Gary West and others in relation to the conduct of consultative committees. I suggest that the member write to the Hon. Ian Armstrong who I am sure will reply in due course.

#### **FEDERAL GUARANTEE OF STATE GOVERNMENT BORROWINGS**

**The Hon. HENRY TSANG:** My question is addressed to the Treasurer. Will the Treasurer provide the House with the latest information regarding State borrowing?

**The Hon. ERIC ROOZENDAAL:** Yesterday I attended the Ministerial Council and Loan Council meetings in Canberra with Treasurer Wayne Swan and other State Treasurers, including the Treasurer of Western Australia, Troy Buswell. Treasurer Swan announced after the meetings that the Commonwealth will extend a guarantee to State Government borrowings. New South Wales welcomes this announcement—it is an appropriate response to the current dislocation in capital markets. While this year's State borrowings have largely been fulfilled, New South Wales will consider how it will take up the Commonwealth guarantee for all borrowings. The Commonwealth will charge a fee for the use of the guarantee. The fee has been set according to historical experience of borrowing spreads, and at a level that provides an incentive for states to cease utilising the guarantee when market conditions normalise.

States with a triple-A credit rating, such as New South Wales, will pay 15 basis points for existing stock and 30 basis points for new debt. States with a double-A+ credit rating will pay 20 basis points for existing stock and 35 points for new debt. While the Commonwealth's guarantee is welcome and will provide New South Wales with assistance in accessing borrowings to fund its record \$56.9 billion infrastructure program, the New South Wales Government remains committed to defending its triple-A credit rating. In the current economic climate, maintaining a strong balance sheet and matching expenses growth to trend revenue growth is more important than ever. Now is not the time to discard fiscal prudence. The current economic environment poses uncertainties and will continue to raise significant challenges, but we have demonstrated we will take tough decisions as required.

The job of responsible Governments is to provide the community with stability and certainty in the areas it controls. For this Government, that means providing certainty and stability in frontline services. The Government took some difficult, tough decisions but they were the decisions needed in difficult times to secure frontline services. Moody's credit rating agency recently re-affirmed New South Wales's triple-A credit rating,

confirming the affordability of our record \$56.9 billion infrastructure program and stated the New South Wales Government is displaying strong governance and management. In addition, the *Australian* newspaper reports today that ratings agency Standard and Poor's has delivered a ringing endorsement of the States saying that:

The credit qualities of the Australian States are strong, and among the highest for State Governments in the world.

The Government has made decisions that will align its spending with its income over the long term, which is a key measure the ratings agencies look at when assessing the triple-A credit rating. This continues Labor's record of sound fiscal management, which has given New South Wales a strong balance sheet to see through the economic crisis. This has put us in a position to fund the largest four-year capital program of any Government in Australia—\$56.9 billion over the next four years, supporting more than 150,000 jobs a year at a time when it is most needed. The job of responsible governments is to provide the community with stability and certainty in the areas that it has under its influence. For this Government, that means providing certainty and stability in front-line services and defending our triple-A credit rating and ensuring we have the building blocks for future economic growth.

### GOVERNMENT ASSET SALES

**Dr JOHN KAYE:** My question is directed to the Treasurer. What consideration will be given to protecting the quality of services in selecting the bidders for the privatisation of public service and undertakings in New South Wales? In particular, will the Government rule out selling the State's electricity retailers to AGL and Origin, given that they came last and second-last respectively in the recent survey of *Choice* of 11 electricity retailers' customer satisfaction? Will the Government rule out selling NSW Lotteries to supermarket chains, given the opportunities that would create for opportunistic marketing in check-out queues?

**The Hon. ERIC ROOZENDAAL:** That was a wide-ranging question. I do not understand why the honourable member wishes to attack Woolworths and Coles, two major employers right around Australia.

**Dr John Kaye:** Point of order: Not only was the Treasurer's remark incorrect and inaccurate but it was also debating the question.

**The PRESIDENT:** Order! I ask the Minister to be generally relevant.

**The Hon. ERIC ROOZENDAAL:** The Government is investigating options for the sale of Government-owned businesses and assets, including NSW Lotteries, WSN, Pillar and the personalised numberplate business of the Roads and Traffic Authority. There are other assets that the Government is looking at including leases on the Australian Technology Park, commercial assets controlled by the Sydney Harbour Foreshore Authority and others that have been previously alluded to in the House. The honourable member's suggestion that the Government should restrict the market testing of its power or other assets and discriminate against particular potential market interests is rather unhelpful to the process.

Clearly, if the Government is committed to a process through due diligence and appropriate probity to market test the sale of assets, its power assets in particular, it will not discriminate against potential interests in any of those assets or business. The Government wants to see appropriate market tension as it goes forward in the sale of various assets and that is exactly how it will proceed. The Government will proceed in the absolute best interests of the taxpayers of New South Wales and in the best interests for the future of New South Wales.

**Dr JOHN KAYE:** I ask a supplementary question. Will the Treasurer elucidate on the expression "the best interests of the taxpayers of New South Wales"? Does that include the best interests of consumers of services currently being provided by public sector providers?

**The Hon. ERIC ROOZENDAAL:** This question is from a party that is currently opposing the Sydney Metro.

**Dr John Kaye:** Point of order: Once again the Treasurer is flouting your ruling that he was not to debate the question.

**The PRESIDENT:** Order! The Treasurer was not debating the question; he was debating the policies of another party.

**The Hon. ERIC ROOZENDAAL:** The Government is talking about consumers it wants to support with public transport initiatives like the Sydney Metro. The Greens, led by the so-called Green mayor of

Leichhardt, are actively campaigning against the Sydney Metro, one of the largest public transport initiatives seen in this State. The Greens in Leichhardt are campaigning against a metro, which shows their concern about consumers. The metro will cut greenhouse gases, take cars off the road and improve public transport. That is the Greens initiative in supporting consumers in this State.

### STATE PROPERTY AUTHORITY LAND SALE ADVERTISING

**The Hon. GREG PEARCE:** My question is directed to the Minister for Lands, and Minister for Rural Affairs. Is it standard practice for the State Property Authority and Department of Lands to place a tiny advertisement in a local newspaper advising "after 14 days of publication of this notice the State Property Authority, on behalf of the Minister for Police, intends selling, leasing or exchanging land" when that land is currently being used by police? Is it usual that such an advertisement does not contain any logo or banner indicating it is a State Government advertisement, and is placed amongst garage sales, lost and found, and pets and plants advertisements? Why was such an advertisement placed with respect to the Mosman police station at 96 Bradleys Head Road, which is currently the so-called home of the Highway Patrol and a very welcome local police presence? Why were the local council, the local community and the local member of Parliament not consulted about this proposal? Here it is, an ad amongst the lost and founds!

**The Hon. TONY KELLY:** For the member to have found the advertisement and highlighted it in the House shows that the Government did not waste any excess money on advertising.

### DOMESTIC VIOLENCE VICTIMS SUPPORT

**The Hon. LYNDIA VOLTZ:** My question without notice is addressed to the Minister for Police. What is the latest information on Government action to support and protect victims of domestic violence across the State?

**The Hon. TONY KELLY:** The Government is committed to tackling domestic violence in the community so that women and children can be safe in their own homes. Domestic violence is a crime and the New South Wales Police Force plays a vital role in the Government's approach to stopping it. It is our front-line police who are faced with the immediate effects of domestic violence when they attend the homes of families where domestic violence occurs. It is police who are responsible for ensuring that the perpetrators of domestic violence are arrested and charged and it is police who support victims by attending court and applying for apprehended violence orders on their behalf and by enforcing those orders to ensure the ongoing protection of victims.

If we are to have a serious impact on domestic violence rates in this State we need to ensure that our police force has specialist staff trained to deal with domestic violence victims and offenders. That is why this Government made a commitment to provide 35 additional domestic violence officers to target known hot spots. In the past three months 12 new domestic violence officers have started work across the State in communities such as Blacktown, Walgett and Coonamble, Bourke and Cobar, Macquarie Fields, Tamworth and Richmond. It is no mistake that the first of the new domestic violence officers has started in those communities. Those areas have some of the highest domestic violence rates, as well as communities where police intelligence indicates a significant under-reporting of domestic violence incidents. The extra 12 domestic violence officers are already on the ground, another eight will come this year, and 15 more officers will start early next year.

All those positions are new. They are part of the Government's commitment to provide 750 new police officers by December 2011. The additional 35 domestic violence officers will work in communities across New South Wales, supported by a new Central Domestic and Family Violence Unit within the New South Wales Police Force. That central unit, supported by five police officers, provides expert advice and direction to operational police by helping them to drive down repeat incidents of domestic and family violence. Making sure that women and children are safe in their homes is not just a matter of increasing police numbers. The New South Wales Police Force has also developed improved operational guidelines, better training and additional resources to help police investigate and prosecute domestic violence offences.

The Government has also delivered on its commitment to equip all front-line police cars with special evidence kits to assist officers when they are responding to domestic violence incidents. Those kits and the associated training have been delivered across the State. The Government takes very seriously the commitments it made to tackle domestic violence. And we are delivering on those commitments to better equip our police force to deal with this disgraceful crime.



### SYDNEY AIRPORT SECURITY

**Reverend the Hon. Dr GORDON MOYES:** My question without notice is directed to the Minister for Police. Is the Minister aware that the fatal incident at Sydney Airport highlighted the problem of outsourcing security? Is the Minister aware that during last weekend's brawl between motorcycle gangs, private security officers employed by the Sydney Airport Corporation Ltd were unable to contact their Australian Federal Police counterparts by radio directly? In particular, is the Minister aware of the statement by Tony Sheldon, the Federal Secretary of the Transport Workers Union, in which he said:

Privately contracted security guards are given totally inadequate training and there is little or no coordination. There is no clear chain of command or breakdown of responsibilities. About 25 per cent of the security workforce and other labour-hire employees working in the airport are not screened by ASIO.

Given that special constables from the New South Wales Police Force patrol the corridors of Parliament House and Governor Macquarie Tower, will the Minister consider the deployment of special constables to protect passengers at Sydney Airport?

**The Hon. TONY KELLY:** Policing at Sydney Airport falls under the jurisdiction of the Australian Federal Police. The details of policing arrangements on a day-to-day basis at the airport should be directed to the Australian Federal Police.

### GUYRA MEDICAL SERVICES

**The Hon. RICK COLLESS:** My question without notice is directed to the Minister for Health. What efforts have been made to recruit a general practitioner visiting medical officer to Guyra in light of the recent resignation of the town's sole resident general practitioner, Dr Martin Danke, owing to the continued failure of the Government to recruit a second local doctor to share the workload? Will the Minister advise what interim provisions are in place to service the medical needs of the more than 4,000 residents of the Guyra Local Government Area? When can local residents expect the appointment of a full-time doctor and visiting medical officer?

**The Hon. JOHN DELLA BOSCA:** I will obtain an answer to the question and provide it to the Hon. Rick Colless as quickly as possible.

### INDUSTRIAL RELATIONS REFORM

**The Hon. PENNY SHARPE:** My question is addressed to the Minister for Industrial Relations. What is the latest information on industrial relations reform?

**The Hon. JOHN HATZISTERGOS:** I thank the Hon. Penny Sharpe for this important question. The Fair Work Bill passed the Senate on Friday 20 March 2009. The passage of that bill is central to ridding Australia of the insidious WorkChoices laws, laws wholeheartedly supported by the Opposition. The bill was the subject of an extensive Senate inquiry process, a process in which the New South Wales Government actively participated. It is worth noting that the minority report issued by Coalition Senators stated:

The right of the Government to abandon much of the WorkChoices architecture, based on its commitments in the lead up to the 2007 Federal election, is clear and beyond challenge.

This appeared to be a clear acceptance of the will of the Australian electorate. After all, as Malcolm Turnbull himself said in September last year:

As far as the Coalition is concerned WorkChoices is dead.

But, despite those assurances, the Coalition failed to keep its word. The passage of the bill through the Senate was far from easy as the Coalition continually voted to retain WorkChoices. In the lead-up to the Senate vote, we saw a whole host of Liberal members of Parliament desperately seeking to retain WorkChoices. For example, Peter Slipper, the member for Fisher, said that Australia needs the rollback of WorkChoices "like a hole in the head". Don Randall, the member for Canning, reacted to Mr Turnbull's leadership on this issue by saying:

It's not just for us to fall into line.

Against that barrage, any desire to accept the will of the Australian people, as earlier acknowledged by Malcolm Turnbull, melted away and we saw the true nature of the Liberal Party, a party addicted to WorkChoices. I come now to the members of this House who, prior to the last election, were more than happy to sign away the industrial relations jurisdiction to the WorkChoices regime. The former Leader of the Opposition said that the bulk of New South Wales industrial relations powers should go to Canberra. The Coalition in this State could not wait to force New South Wales workers onto the WorkChoices scrapheap. Interestingly, the shadow Minister, the Hon. Greg Pearce, issued a media release on 6 September 2007, in which he referred to the "strength of the Howard Government's WorkChoices".

The Fair Work Bill is part of a suite of legislation that will restore fairness and balance to the majority of workers in New South Wales. When we see the next tranche of reforms put forward by the Commonwealth we will be able to fully determine its impact on workers and businesses. We will then have the opportunity to work with the Commonwealth on the interaction between the New South Wales system and the Federal system.

### ALCOHOL-RELATED VIOLENCE

**Reverend the Hon. FRED NILE:** I ask the Minister for Police a question without notice. Is the New South Wales Police Force facing increasing alcohol-related violence in New South Wales, particularly in Sydney streets and suburbs? Have the no-alcohol zones in Sydney increased by 46 per cent to 73, particularly in The Rocks and around Hyde Park, to prevent alcohol consumption on roads and footpaths so as to reduce alcohol-related violence? What action is the Government taking to co-ordinate those important no-alcohol zones and pub lockouts to ensure efficiency, security and safety for New South Wales residents?

**The Hon. TONY KELLY:** I thank the honourable member for his question. The Government has made clear its determination to tackle this growing problem. The community is fed up with alcohol-related violence. That is why we have imposed a set of tough new conditions on the State's top alcohol violence hot spots, which came into effect in December last year. Those conditions include a mandatory lockout from 2.00 a.m., a requirement that alcohol be served out of non-glass containers after midnight, a requirement that venues cease serving alcohol half an hour before closing, bans on shots and drink limits after midnight, and a 10-minute sales time-out every hour. The Police Force will continue to contribute to these initiatives with targeted and high-visibility policing in alcohol violence hot spots and the New South Wales Government will conduct targeted advertising campaigns.

I am advised that great results have been achieved since this initiative was introduced, particularly on New Year's Eve in the central business district, with a marked reduction in assaults reported to police. I am also advised that there have been very positive indications in Newcastle and Newcastle West. Alcohol-free zones obviously contributed to that improvement. As far as I am aware the establishment of alcohol-free zones is the responsibility of the relevant local council. Alcohol-free zones are an effective tool in the fight against alcohol-related violence. That was obvious in the New Year period. Local police have an ongoing knowledge of where and when violence occurs in a particular area. As such, councils give police proposals very serious consideration. However, the decision to establish an alcohol-free zone is a council decision, not a police decision. The police obviously cooperate with councils in that regard.

### FEDERAL GUARANTEE OF STATE GOVERNMENT BORROWINGS

**The Hon. MATTHEW MASON-COX:** My question without notice is directed to the Treasurer. Does the Treasurer recall the Treasury estimates hearing of 14 October 2008 when I asked him whether there was a potential risk that the New South Wales Government "may need to go cap in hand to the Commonwealth Government to seek their guarantee, just as the banks are receiving it, to ensure access to funds"? Does the Treasurer recall that he could not answer the question and passed it to the Treasury Secretary, who responded, "I cannot see that happening"? Given that yesterday the Commonwealth, at the request of this Government, extended its guarantee to State Government funding of critical infrastructure, can the Treasurer please explain why it has taken him over five months to act to ensure access to this critical funding?

**The Hon. ERIC ROOZENDAAL:** Anyone who reads a newspaper or follows in a vague way—

**The Hon. John Della Bosca:** That is not the Hon. Matthew Mason-Cox.

**The Hon. ERIC ROOZENDAAL:** Clearly not. They would understand there has been a dramatic change in the world financial situation since November last year.

**The Hon. Duncan Gay:** But you knew it was coming.

**The Hon. ERIC ROOZENDAAL:** Hold on. In November last year we released the mini-budget. The International Monetary Fund revised its numbers after November. The World Bank and the Reserve Bank have revised their forecasts. The European Union revised its forecasts, as did the United States, United Kingdom, Japan—countries right around the world. Of course, the Hon. Matthew Mason-Cox believes he is a prophet of the financial future when we all know he is a heretic.

**The Hon. Matthew Mason-Cox:** It is as obvious as the nose on your face, Eric.

**The Hon. ERIC ROOZENDAAL:** Maybe you think you are smarter than everybody else in the world but none of your colleagues does.

**The Hon. Matthew Mason-Cox:** How would you know?

**The Hon. ERIC ROOZENDAAL:** They all talk about you behind your back.

**The Hon. Marie Ficarra:** You should hear what they say about you.

**The Hon. ERIC ROOZENDAAL:** Don't let me start on you. Clearly there has been a massive freezing up of capital markets right around the world. The action by the Federal Government has been strong and pre-emptive, whether it be in relation to its fiscal stimulus package, which of course the Opposition in Canberra has opposed, or extending the guarantee to the States. We welcome that because it helps to free up capital markets and helps us to access funds overseas at better rates. We support the Commonwealth Government in its initiative for this guarantee just as we have supported its financial stimulus packages—as did Troy Buswell, the Western Australian Liberal Treasurer—because it is in the interests of the nation, unlike members opposite who do not understand what is in the best interests of the nation. I will make another observation. We have been able to successfully meet our borrowing requirements right through this year. We have almost completed this year's borrowing requirements. We welcome the support of the Federal Government through its guarantee because it helps us to access offshore capital more easily.

### FOOD SAFETY STANDARDS

**The Hon. HELEN WESTWOOD:** My question without notice is addressed to the Minister For Primary Industries. What is the latest information on Government action to improve food safety standards in New South Wales restaurants and food outlets?

**The Hon. IAN MACDONALD:** I thank the honourable member for her question. This is an important initiative. Members may have read in the *Daily Telegraph* this morning about the latest addition to the New South Wales Government's food safety arsenal.

**The Hon. Duncan Gay:** I read the editorial. It was hardly glowing.

**The Hon. IAN MACDONALD:** New South Wales has a proud track record of maintaining some of the highest food safety standards of anywhere in the world. The article was brilliant, wasn't it?

**The Hon. Duncan Gay:** The editorial was hardly glowing.

**The Hon. IAN MACDONALD:** Who reads editorials! We have some of the highest food safety standards in the world but we are always reaching higher. Every year the Government, through the New South Wales Food Authority, develops new initiatives to further increase the food safety of New South Wales consumers. In 2007 New South Wales initiated the development of food safety schemes, which are targeted sets of initiatives designed to manage high-risk food sectors such as seafood, dairy and egg products. In 2008 New South Wales led the nation with the development of the Name and Shame website, an invaluable tool that exposes—

**The Hon. Duncan Gay:** More regulation, Macca.

**The Hon. IAN MACDONALD:** You told me last night it was alright. The website exposes substandard operators and gives consumers the ability to boycott unsafe or unhygienic venues. Today I am pleased to inform the House about a new initiative designed to raise the standard of food safety across the State—namely, food handler training for the hospitality sector.

It may surprise the House to hear that each year food-borne illness costs the State more than \$400 million, with roughly 36 per cent of this amount attributable to hospitality businesses. That is roughly \$144 million a year in lost productivity and costs to our health system, not to mention the toll that any illness can have on families. Hospitality businesses are currently regulated with stringent hygiene and procedural requirements that are enforced by local councils backed by the New South Wales Food Authority. Failure to meet these requirements can trigger a range of consequences from improvement notices to fines, court cases and listing on the Name and Shame website. While these punitive measures are important and extremely effective, the New South Wales Government believes a more proactive approach would greatly enhance food safety in hospitality businesses.

The food handler training initiative will require every hospitality business to nominate a food safety supervisor—not an extra staff member but someone who is currently on staff. This supervisor must have been trained in how to properly store, prepare and handle food so that he or she can oversee food safety procedures and performance in the business. Food handler training would be linked to national competencies and an established, accredited curriculum under the Australian Qualifications Framework. Training will be delivered by a registered training organisation, and participants will be issued with a statement of attainment that satisfies the requirements of the food handler training regulation.

I am extremely pleased to report that the scheme has been developed in close collaboration with industry. In developing this initiative I convened a hospitality sector co-regulatory working group consisting of Restaurant and Catering NSW; Clubs NSW; the Australian Hotels Association; Australian National Retailers Association; National Retail Association; and the Baking Industry Association. The working group has indicated strong support for the initiative. This demonstrates that industry not only sees the importance of reducing hospitality related food-borne illness, but also endorses the Government's regulatory response.

The new requirements are a win for everyone involved. For businesses, they will invariably increase the food safety standards in the workplace, greatly reducing the chance that business will endanger consumers and risk their business reputation. This will boost safety and business stability. Consumers can walk into any hospitality business in New South Wales and know that there will be a fully trained food safety supervisor on shift overseeing safety. This will boost consumer confidence. Employees will know that this qualification, should they choose to receive it, will increase their employability and their performance in their role. This will boost jobs. Safety, stability, confidence and jobs—these are things that build a State, and they are the things that we are committed to delivering through this initiative. It is intended that we will introduce it sometime in the first half of 2010.

## AIR QUALITY

**Ms LEE RHIANNON:** I direct my question without notice to the Minister for Health. I draw his attention to the draft Action for Air 2009—the Government's air quality strategy—which reveals the Government's continued failure to meet air pollution standards. The report states:

Continued exposure to common air pollutants ... like ozone ... and particulate matter can result in serious health impacts, including premature death and cardiovascular respiratory illness.

The document notes that poor air quality will be exacerbated by climate change and states:

An increasing range of adverse health effects has been linked to air pollution, especially particulate matter.

The document also states that air pollution currently causes between 640 and 1,400 deaths a year. Can the Minister inform the House whether the health department has done any modelling to determine expected health outcomes for the community in future years, in particular, for vulnerable groups identified in the report, such as the very young and elderly and those with pre-existing health conditions, as a result of the failure of this Government to tackle the problem?

**The Hon. JOHN DELLA BOSCA:** Some of the details for which the member has asked in her question are under the advisement of the Public Health Officer. I will obtain information from the Public Health Officer about those matters and advise the member and the House of it as soon as practicable. I refer to the member's general framing of her question and to some of the matters that are canvassed within it. Over a long period this Government and preceding governments have been successful in reducing particulate pollution in the Sydney Basin. Let us look at the long heritage of Labor's contribution to this matter, going back to the mid-1980s and the late 1980s. Some of those policy settings were continued substantially during the time of the Greiner and Fahey governments.

We tend to dwell on those things that have not gone as well as we would have liked them to. However, we should also be aware there have been remarkable successes in the reduction of air pollution. That is not just the case for air pollution; it applies also to pollution in our rivers and our waterways around the coast. The member's general sentiments are a challenge to public health. We need to do more. We are always challenged to do better and we can do better. For environmental and health reasons this Government is committed to doing better in the area of air pollution.

It is worthwhile for members to note that, in the context of a question such as the one asked by the member, we have a long generational record of success in reducing particulate and environmental pollution in the Sydney Basin, notwithstanding the new challenges created by some of the issues about which the member is concerned, such as exhaust fumes from underground tunnels and the like. In that context I note that it has been achieved by a focus on hard policy work—not necessarily the actions with which the member and her party associate themselves, but work on technical and policy issues to achieve those outcomes. This Government has a lot to be proud of. The member knows as well as most that there are problems in the Sydney Basin. Atmospheric conversion creates unique difficulties for managing air pollution, in particular, pollution in the Sydney Basin.

As I said, in a policy sense, and in light of public expectations about pollution control initiatives, this Government and preceding governments have done a good job. They have managed that situation quite well, notwithstanding the unique challenges of the Sydney Basin. I take on board what the member has said. We are always faced with the challenge to do better and we could do better. I will obtain advice about the next stage of possible decisions that we as a community could take to improve air pollution from a health perspective.

**Ms LEE RHIANNON:** I wish to ask a supplementary question and ask the Minister to elucidate his question. The Minister said that particulate pollution had improved, that is, that the levels had gone down. Action for Air 2009 identifies two areas. The Minister was correct when he said there had been improvements in four areas. However, in two areas—particulate matter and ozone—pollution is getting worse. Was the Minister referring in his response to my question to other matters or was he mistaken?

**The Hon. JOHN DELLA BOSCA:** I think that matter will become evident when I provide the member with the further information that I have already undertaken to give her.

#### **QUAKERS HILL POLICING**

**The Hon. DAVID CLARKE:** My question without notice is directed to the Minister for Police, Minister for Lands, and Minister for Rural Affairs. Is the Minister aware that the police station at Quakers Hill was closed in the early hours of this morning due to a lack of police officers to meet first response agreements? Is the Minister also aware that Quakers Hill police station was the closest station to Beaumont Hills, where a shooting took place late yesterday evening? Will he explain why police resources in this region are stretched so thin that they cannot maintain a presence at this station? What action has the Minister taken to ensure that a 24-hour police presence at Quakers Hill police station is maintained?

**The Hon. TONY KELLY:** At the outset I congratulate the Hon. David Clarke and the Hon. Marie Ficarra on the work that they are doing in the Sutherland area and I congratulate them on their successes.

**The Hon. Don Harwin:** Point of order: The Minister, who is not being relevant, is going off on a tangent. Arguably he is debating the question.

**The PRESIDENT:** Order! I remind all members not to debate the question. Because I was trying to listen to the member's point of order I could not hear what the Minister was beginning to say. Consequently, I cannot rule on the point of order. However, I remind the Minister that in answering the question he must be generally relevant.

**The Hon. TONY KELLY:** Matters of operational policing are the responsibility of the Commissioner of Police. The New South Wales Government has massively increased police numbers right across New South Wales—by 2,399 since the Coalition was in office. Individual operational and staffing matters are entirely up to the Commissioner of Police, who is aware of what is required in particular areas from time to time.

#### **RETIREMENT OF GRAEME EGGLESTON**

**The Hon. DUNCAN GAY:** My question without notice is directed to the Minister for Primary Industries. Why was the Minister missing from the House last night? Is it correct that he was in attendance at a meeting where many citizens spoke with great emotion on the loss from public life of Mr Graeme Eggleston,

one of the finest officers in the Department of Primary Industries, and another great officer to leave the department on the Minister's watch? Is there any truth in the rumour that the Minister might be creating a new position of "Commissioner for finding the big black cat"? Will the Minister guarantee that he will not be considering any former National Party Ministers for that position?

**The Hon. IAN MACDONALD:** That question proves that in life one thing we should never do is give our opponents a free kick. The Deputy Leader of the Opposition has messed with that question something shocking! Last night was an evening of considerable bipartisanship with the retirement of Graeme Eggleston, our drought coordinator for many years. Since 22 February 1972 Graeme has been both directly and indirectly associated with the New South Wales Department of Primary Industries. An experienced field veterinarian who has moved through many roles, Graeme established himself in more recent times as a respected authority on emergency response and planning. He spent 14 years as a district veterinarian at Moree and Tamworth, where he is widely respected by farmers.

Graeme has always boasted a tireless work ethic. Following the 1973 floods at Moree, Graeme, with the assistance of a board ranger and farmer, vaccinated 11,000 cattle on one property against anthrax in a weekend. They must really have worked! Graham formally joined the Department of Agriculture in 1986 as Director, Veterinary Services, in Orange. This signalled the beginning of a distinguished career characterised by coordinating government responses to flood, fire, famine, locusts and exotic diseases, to name just a few. Graeme has held a variety of roles—Director, Disease Control; Program Manager, Agriculture Protection; State Drought Coordinator; Director, Emergency and Strategic Response; Plague Locust Commissioner; and Director, Emergency Weeds and Pest Animals. Each of these positions has required of Graeme a very public profile. His ability to communicate with the public and the media has yielded great results for rural New South Wales.

Few people get to celebrate a career where they have helped so many people over so many years. In Graeme's case, not so recent examples include the Crookwell fires in 1977, the Walgett floods in 1998, and the Sydney fires in 2001. Graeme has led teams that have received great praise and recognition from the Government. Examples include the Public Service Medal on Australia Day 2006 for outstanding service to the people of New South Wales in natural disaster preparedness and response, and the Premier's Award for eradication of Newcastle Disease at Mangrove Mountain in 1999. He has held positions on a long list of committees, most notable of which include as alternate member on the State Emergency Management Committee, Chairman of the Noxious Weeds Advisory Committee, Chairman of the National Vertebrate Pest Committee, and Chairman of the National Rabbit Calicivirus Management Group. Through these positions he has made a major contribution to farmers and rural communities.

Graeme epitomises the concept of public service and he is a credit to the Department of Primary Industries. His skills and expertise in so many areas are lauded not only here in New South Wales; they have also been recognised overseas. Nowhere were these skills more on display than during the recent equine influenza crisis. During this crisis he was available 24 hours a day, seven days a week. His advice was always first rate and on the mark. Many of the areas in which he has worked have been extremely important to the lives and, indeed, livelihoods of our farming communities. It could even be said that their futures depended on the work done by Graeme and his colleagues. I particularly note Graeme's efforts in assisting communities racked by the debilitating effects of drought.

As New South Wales Drought Coordinator, Graeme has been in the front line of this vital fight. Since he became drought coordinator in early 2004 Graeme has overseen the distribution of \$360 million to farmers in need. Graeme's guidance and support was instrumental in the Department of Primary Industries receiving two Premier's Public Sector Awards, including the main award in 2008 for Farm Family Gatherings and associated Drought Support Worker Program. Graeme has been just as effective in his role as New South Wales Locusts Commissioner on the Australian Plague Locust Commission. Graeme has been an absolutely fantastic credit to the department. Yes, he has played a role in looking for the black cat. Perhaps in the future, if there were a need to create such a position, he would be ideally suited to it. However, should that happen, I suggest he be joined in that endeavour by the Hon. Duncan Gay!

#### **PROGRAM OF APPLIANCES FOR DISABLED PEOPLE INFORMATION SYSTEM**

**Mr IAN COHEN:** My question is directed to the Minister for Health. Can the Minister advise whether the new information system for the Program of Appliances for Disabled People [PADP] has been implemented this month? If not, why not? Can the Minister advise whether Enable NSW has ensured that access to information about the Program of Appliances for Disabled People has been made available to people with

sensory impairments? Again, if not, why not? Can the Minister update the House on whether the Department of Health is on track to complete stage one of reforms to the Program of Appliances for Disabled People before the end of 2009?

**The Hon. JOHN DELLA BOSCA:** The Program of Appliances for Disabled People, or PADP as it is commonly referred to, provides equipment to assist people in handling their disabilities in the areas of mobility, self-care and communication. This year the New South Wales Government will spend about \$26 million on the Program of Appliances for Disabled People; that is double the allocation in the 2001 budget. However, demand for this program is high as the Program of Appliances for Disabled People provides essential equipment to assist people to live in the community. That is why the New South Wales Government in a joint initiative with the Commonwealth has allocated around an additional \$11 million to clear the waiting list for equipment and aids this year.

We are seeking also to improve the efficiency of the program by implementing the recommendations from the independent review of the Program of Appliances for Disabled People conducted recently by PricewaterhouseCoopers. The New South Wales Government is committed to making the Program of Appliances for Disabled People easier to access for people with a disability and their families, and more efficient for health professionals prescribing equipment. The review was completed in 2006 and implementation of the key recommendations is progressing well. The changes to the Program of Appliances for Disabled People will mean that people with disabilities will get the essential equipment they need with less red tape and better assistance to live and work in the community.

#### SHOALHAVEN HOSPITAL PARKING

**The Hon. DON HARWIN:** My question without notice is directed to the Minister for Health. Does the Government have plans to increase the car parking space available at Shoalhaven District Memorial Hospital? If so, when is work on expanding the available parking space due to commence, and when is it expected to be completed? Can the Minister explain to the House why the area health service last year declined the council's offer to assist in an expansion of parking space at the hospital through a proposed funding arrangement, especially since the area health service has stated that it views the provision of parking at the facility as its shared responsibility with the council?

**The Hon. JOHN DELLA BOSCA:** It is an interesting question because car parks around hospitals are a perennial issue that needs to be grappled with. Of course, the concentration and focus should be on hospital resources in the provision of health care rather than on the provision of car parking. It is important that I get the question in perspective. The member asked whether the area health service and the council have joint responsibility for the provision of car parking in the vicinity of the hospital, as he says the area health service claims. I do not have advice about that matter. I will seek advice on it and get back to him as soon as possible. He then asked about the specifics of the Shoalhaven hospital car park and its future planning. I will be able to get information for him quickly about that, but I do not have it at my disposal now. I will get back to him as quickly as I can with the information he requires.

#### SYDNEY CHILDREN'S HOSPITAL TRANSPLANT RESEARCH

**The Hon. EDDIE OBEID:** My question without notice is addressed to the Minister for Health. What is the latest information on Government action to support transplant research and surgery at Sydney Children's Hospital, Randwick?

**The Hon. JOHN DELLA BOSCA:** I thank the member for his question and interest in this matter. For more than three decades the Sydney Children's Hospital at Randwick has been recognised internationally as the leading paediatric transplant centre in Australia. The hospital performed Australia's first bone marrow transplant in March 1979 and the first umbilical cord blood transplant in 1991. It has performed more cord blood transplants than any other cancer centre in Australia, and it is a national leader in research, development and resources in transplants, as the only curative therapy for some high-risk cancers.

In the past decade alone Sydney Children's Hospital, Randwick, successfully completed 332 transplants of which 20 per cent used matched family donors while the bulk utilised unrelated, often mismatched, cord and bone marrow as the donor source. Complication rates are less than 10 per cent, which is better than national and international reported benchmarks. I was privileged to be invited by the Sydney Children's Hospital to help celebrate two amazing milestones in its cord and bone marrow transplant program. Also on the guest list were

two remarkable Australians who are alive today and living a normal life thanks to the wonderful work of the staff in the hospital's transplant program. Paul Abela, who is 11 years old, became the hospital's 700th cord and bone marrow transplant recipient. Sitting alongside Paul was Mark Young, who was the hospital's first and longest surviving bone marrow transplant recipient who underwent surgery 30 years ago.

The Government is proud to continue to support the Sydney Children's Hospital's cord and bone marrow transplant program. The hospital is not resting on its achievements; it is strongly committed to further research in the use of cord blood and bone marrow transplantation. Exciting research indicates that cord blood may also have the potential to regenerate cells outside the blood and immune system, including heart muscle and nerve cells, leading to its use in the treatment of heart disease, Parkinson's Disease and Alzheimer's. The staff not only are helping to save lives; they are also enabling young Australian transplant recipients to go on and live normal lives after their operations. I take this opportunity to thank the hospital staff for their great work and success. I again thank the member for his interest in this matter.

### **YASMAR SITE PROPOSAL**

**Ms SYLVIA HALE:** I address my question to the Minister for Lands. Has the Minister or the Department of Lands been approached about a proposal to transfer land from Haberfield Public School to the Yasmar site to meet the needs of the developer of a proposed private school on that site? If so, when did the Minister or the department become aware of the proposal?

**The Hon. TONY KELLY:** I am not aware of any such proposal. I remind members that part of the obsolete former Yasmar Juvenile Justice Centre has been leased to Co.As.It., which is not a developer.

**The Hon. Catherine Cusack:** The public schools want it for the Yasmar classrooms.

**The Hon. TONY KELLY:** I acknowledge the interjection by the Hon. Catherine Cusack. She said that the public school wants it. That is not true.

*[Interruption]*

Despite the unruly nature of the interjection by the member opposite, I will answer it.

**The PRESIDENT:** Order! The Hon. Catherine Cusack will cease interjecting.

**The Hon. TONY KELLY:** At the time I was the Minister for Lands, then the Minister for Justice and the Minister for Juvenile Justice, representing the three departments involved in the administration of Yasmar, and I personally approached the then Minister for Education and Training to find out whether the Department of Education and Training wanted or needed any extra land—not the local teachers, but the department. I received a negative answer.

**The Hon. Catherine Cusack:** Were you trying to sell them the land? Were you offering to sell them the land?

**The Hon. TONY KELLY:** I repeat: I asked the Department of Education and Training whether it was interested in it, and it said no. We did not get to a discussion about whether it was going to be given to the department, sold to the department or released to the department. I apologise to the House: I am continually being diverted from giving my answer by interruptions. I conclude by pointing out that, as I understand it, Co.As.It. is an Italian bi-lingual school that teaches the Italian language to not only young Italians but also to young Australians.

**The Hon. JOHN DELLA BOSCA:** I suggest that if members have further questions, they place them on notice.

### **DEPARTMENT OF CORRECTIVE SERVICES NEWCASTLE LAUNDRY ARRANGEMENTS**

**The Hon. JOHN ROBERTSON:** Yesterday I was asked a question by Ms Sylvia Hale, and in response to that question I advise further that soiled laundry is collected from Newcastle court cells three times a week, on Monday, Wednesday and Friday mornings, and delivered to St Heliers Correctional Centre twice a week, on Mondays and Wednesdays. Clean laundry from St Heliers Correctional Centre is collected twice a week, on Tuesday and Thursday afternoons, and returned to Newcastle court cells.



Soiled laundry from Tomago Periodic Detention Centre also is collected on the Monday journey and returned on the Thursday journey. Generally a commercial van is used, though occasionally with smaller loads the contractor uses a taxi in conjunction with other aspects of its business. Regardless of the vehicle used, the fee remains at the contracted rate of 70¢ a kilometre, which is a far cry from the figure nominated by Ms Sylvia Hale.

**Questions without notice concluded.**

*[The President left the chair at 1.02 p.m. The House resumed at 2.30 p.m.]*

**BUSINESS OF THE HOUSE**

**Suspension of Standing and Sessional Orders: Order of Business**

**Dr JOHN KAYE** [2.30 p.m.]: I move:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 168 outside the Order of Precedence, relating to TAFE employee conditions, be called on forthwith.

This matter is urgent because the motion relates to the imminent reduction in TAFE workplace conditions. If we do not act now it could be too late to protect TAFE workplace conditions. The New South Wales TAFE system faces massive adverse consequences from proposed reductions in workplace conditions. However, not only will TAFE teachers and the TAFE system suffer; the economy and society will be the victims of poor government policy. The House should at least have the opportunity to express its opposition to the downgrading of conditions for TAFE teachers. We cannot wait for the matter to proceed in the order of precedence. The issue will be resolved too rapidly for us to wait for that. Members should note that on two occasions I have attempted to bring on my motion as formal business under Standing Order 44, and on both occasions it was knocked out by the Government Whip. Indeed, on one occasion it was knocked out by the Government Whip saying, "I object with pleasure."

**The Hon. Greg Donnelly**: To you—put that on the record!

**Dr JOHN KAYE**: What do you want put on the record?

**The Hon. Greg Donnelly**: I objected to you.

**Dr JOHN KAYE**: So the Government Whip did not object to my motion; he objected to me personally. It is interesting that the Hon. Greg Donnelly gets pleasure out of objecting to me personally. Nonetheless, the matter is urgent, and I commend the motion for urgency to the House.

**The Hon. ROBYN PARKER** [2.32 p.m.]: On behalf of the Liberal-Nationals Coalition I support Dr John Kaye's contention that the motion is urgent. We need to discuss the future of TAFE teachers urgently because they hold the future of New South Wales and our future employees in their hands. In an economic climate in which we need trained people we need the best teaching practices so that employment opportunities are maximised. This motion is urgent because employment opportunities and the employment conditions for TAFE teachers are under threat. At a time when we need to support what TAFE teachers do with our future skilled or semi-skilled workforce the Government is undermining their conditions, although they have already made concessions. TAFE teachers have already negotiated some trade-offs with the Government, yet it seems determined to get at TAFE teachers and casual employees in particular.

It is urgent that we debate this issue. It is important to ensure that TAFE teachers have fair and just conditions. We need to ensure that they can do their job without worrying about their pay and conditions, because they are training young people in the sorts of skills we will need in the future. If the stimulus packages are rolled out we need to ensure that TAFE teachers can concentrate on training young people. TAFE teachers are important to us. This matter is urgent because we are at a point where we will lose many qualified TAFE teachers: it is getting too hard for them to do the job they need to do. They are highly qualified but their motivation is flagging. The Government is undermining their employment opportunities, and all for a small reduction in salary.

The Government fails to recognise the skills of TAFE teachers and that salary increases should be paid without further efficiency gains. TAFE teachers have already given a great deal of ground in terms of efficiency

trade-offs. Future educational outcomes should not be dependent on the stress levels of TAFE teachers. So let us have this discussion. Let us talk about the importance of TAFE today because, as I said, TAFE teachers hold the future of our skilled workforce in their hands, and we need to support them. The Liberal-Nationals Coalition supports the matter being debated urgently.

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [2.35 p.m.]: The Government opposes the motion being debated urgently for the same reasons that we oppose urgency on every other occasion. There is a full list of private members' business. It is not a coincidence that the Liberals and the Greens have managed to horse-trade their arrangements around urgency today so that honourable members will miss out on discussing something on the *Notice Paper* that they wish to discuss, that is, crime prevention. The Government does not believe that this matter is urgent. I urge honourable members to oppose the motion.

**Question—That the motion be agreed to—put.**

**The House divided.**

**Ayes, 23**

Mr Ajaka	Mr Gay	Ms Parker
Mr Brown	Ms Hale	Mrs Pavey
Mr Clarke	Dr Kaye	Mr Pearce
Mr Cohen	Mr Khan	Ms Rhiannon
Ms Cusack	Mr Lynn	Mr Smith
Ms Ficarra	Mr Mason-Cox	<i>Tellers,</i>
Mr Gallacher	Reverend Dr Moyes	Mr Colless
Miss Gardiner	Reverend Nile	Mr Harwin

**Noes, 18**

Mr Catanzariti	Mr Obeid	Mr West
Mr Della Bosca	Mr Robertson	Ms Westwood
Ms Fazio	Ms Robertson	
Ms Griffin	Mr Roozendaal	
Mr Hatzistergos	Ms Sharpe	<i>Tellers,</i>
Mr Kelly	Mr Tsang	Mr Donnelly
Mr Macdonald	Ms Voltz	Mr Veitch

**Question resolved in the affirmative.**

**Motion agreed to.**

**Order of Business**

**Motion of Dr John Kaye agreed to:**

That Private Member's Business item No. 168 outside the Order of Precedence be called on forthwith

**TAFE EMPLOYEE CONDITIONS**

**Dr JOHN KAYE** [2.43 p.m.]: I move:

1. That this House recognises the unique and crucial role played by TAFE as the public provider of vocational education and training to the economic, social and cultural well being of New South Wales, including:
  - (a) the development of skills to address the economic needs of the State,
  - (b) the provision of second chance education and training and opportunities for youth at risk,
  - (c) the important pathway for people from disadvantaged backgrounds to engage in the economic life of the State, and
  - (d) the enrichment of the life of the community.

2. That this House notes that the Rees Government and the New South Wales Teachers Federation have concluded a salary negotiation resulting in a 12.48 per cent cumulative increase for full time and temporary TAFE teachers over the next three years but that the Government is demanding further "employee-related cost savings" for TAFE pay rises over 2.5 per cent per annum, including:
  - (a) longer teaching hours,
  - (b) the removal of further time credits for teaching outside normal hours, and
  - (c) the loss of an hour a week of professional development (which had already been "paid" for by a forgoing a 3 per cent salary increase in a previous agreement).
3. That this House recognises that these cuts to TAFE employee conditions would:
  - (a) be unfair and unjustified,
  - (b) undermine the future of TAFE, including its ability to recruit high-quality, motivated staff,
  - (c) undermine employment opportunities for part-time and casual staff,
  - (d) unreasonably increase the stress on TAFE teachers, and
  - (e) cause some teachers to see a reduction in their total income.
4. That this House calls on the Rees Government to recognise the benefits of TAFE to New South Wales and pay the full salary increase without further efficiency gains achieved at the expense of the quality of educational outcomes and the stress levels of teachers.

This motion at heart recognises the enormous benefits delivered to New South Wales and Australian society by TAFE and by TAFE teachers. At the heart of the motion is the issue of the negotiations around teachers salaries in TAFE whereby a number of trade-offs are being forced onto TAFE teachers to offset the so-called costs of increasing their salaries. This motion recognises the consequences of these tradeoffs on TAFE and its employees and, by inference, on New South Wales society. This motion calls on the Government to pay the full salary increase without further so-called efficiency gains.

As the Hon. Robyn Parker said earlier, TAFE sits at the heart of a successful and just society. It is not just about the skills needed for a functioning economy, although without TAFE our economy would grind to a halt, but it is also about the education for working people to adapt in the face of perilous economic and environmental conditions. TAFE produces workers who are much more than just turnkey employees but players in the business of innovation and players in the business of adapting the society and our economy to the difficult conditions that are being imposed on us by the global financial crisis and by the needs to adapt to and reduce greenhouse gas emissions.

The "E" in TAFE is there by no mere accident. TAFE is more than just about skills acquisition; it is much more: it is about education, it is about ensuring that every Australian has access to education in the fullest sense of the word—education to improve their own skills, education to understand the context in which they live, work and recreate and education to be full citizens in the context of the economy, the environment and the political life of society. TAFE produces a society in which all citizens can be engaged in a political, social and economical life. But TAFE is more than just an economic benefit to our society. TAFE sits at the heart of social justice. Not only does it provide opportunities for working class Australians to improve their skills and to enter into the professions, but it is also a crucial provider, a second-chance education, particularly through the Certificate II for General and Vocational Education. TAFE is the expert provider of educational opportunities for young people who are at risk, young people who otherwise would be left behind by a society that is largely uncaring of their needs.

In relation to the tangible economic benefits alone that can be measured, the Allen Consulting Group estimated that for every \$1 invested in TAFE the return over the next 20 years is \$6.40—a 640 per cent return on investment in TAFE. It is a massive amount of wealth generation that flows from relatively small investments in the TAFE system. But that is not the real story. There are massive numbers of immeasurable and intangible benefits that are essential to our success as a society and as an economy. Despite the huge benefits that TAFE provides to our society, it has undergone a massive disinvestment over the past decade. The New South Wales Government has reduced its per student investment in TAFE by 30.5 per cent between 1997 and 2006 in inflation-adjusted terms. At the same time the Commonwealth reduced its investment by, roughly speaking, 23 per cent.

During that period of massive government withdrawal of funding from TAFE the average increase in student fees and charges was about 14.3 per cent. We are telling people who attend TAFE they should pay more

so that the Government can invest less in their future. The only way in which the shortfall has been made up, and quality education and training has continued to be delivered, has been by TAFE teachers putting their bodies, hearts and souls on the line for their students and society. But it has not come for free. The impact on teachers in terms of the additional commitments required to maintain outcome, the sacrifice required of teachers, has been enormous. We are demanding of our teachers that they sacrifice more than almost any other sector of society for social outcomes. That demand has reached its end.

We can no longer continue to operate a TAFE system on the basis of the goodwill and commitment of TAFE teachers. It is time we put money into TAFE to ensure that we do not burn out our teachers. Further, the New South Wales Government has engaged in wholesale casualisation of the TAFE system. About 70 per cent of employees in TAFE are casual employees. Before the member who will lead for the Government on this motion jumps down my throat and contradicts me, I make it clear that 70 per cent of employees—not 70 per cent of hours taught—are casuals.

It needs to be noted that there is a valid role for casuals in TAFE, an important role, one that allows TAFE to be relevant and TAFE students to have access to current practitioners in the field. The Government has gone beyond the valid role. It is pushing casualisation as a means of cost cutting. Where an entire section is casualised, or close to entirely casualised, that removes from TAFE the ability to have an ongoing understanding of the field and an ongoing collective memory of the undertaking. Put simply, casualisation has moved beyond an approach to ensuring that there are current practitioners as part of the teacher workforce to becoming a damaging and dangerous cost-cutting exercise.

In that environment the New South Wales Teachers Federation and the Government agreed to a salary increase for both TAFE teachers and schoolteachers. From 2009 to 2011 that increase will accumulate to about 12.48 per cent for permanent and temporary teachers. Part-time casual teachers are restricted to a 2.5 per cent per annum salary increase. The House is well aware that the Government policy is that only 2.5 per cent per annum will be funded out of general revenue, leaving everything else to be funded by the agency, largely through so-called efficiency gains. At the end of valid efficiency gains, that becomes nothing more than reducing employee conditions to gain economic benefit.

Over the three-year period a 2.5 per cent per annum increase amounts to a 7.69 per cent funding increase, which leaves 4.79 per cent unfunded. In order to reach that 4.79 per cent the New South Wales Teachers Federation made a number of concessions, including agreeing to part-time casual salaries increasing by only 2.5 per cent and time credit reductions for teaching outside normal time and overtime payments. Already the New South Wales Teachers Federation and teachers in TAFE colleges have gone a long way, if not the entire distance, towards meeting the demands of the Department of Education and Training and the Rees Government. Yet that is not enough for the Rees Government; it is demanding far more.

The Rees Government is demanding, from people who are already working extremely hard and delivering high-quality education and training outcomes at personal expense to their own health and stress levels, even longer teaching hours, further reductions in time credits and, most disgracefully of all, a loss of one hour per week in professional development. That latter demand is doubly galling for anyone who cares about the education profession or about the benefits that education and training delivers to Australian society. In the first instance, that one hour per week professional development was already "paid for" in a previous salary round, when a 3 per cent salary increase was forgone. Leaving that aside, taking away one hour per week of professional development undermines legitimate aspirations of TAFE teachers to improve not only their teaching skills but also their professional knowledge.

Yet again it is teachers who are standing up not for their own pay and conditions but for the benefit of society. The entire package demanded of teachers is grossly unfair. Teachers are already stretched and the demands will undermine their ability to upgrade their skills—at a time when the Government has taken away release time for teachers who want to upgrade their skills to a professional teaching qualification. The minimum teaching qualification in TAFE in New South Wales has been downgraded to a certificate IV, from a graduate diploma. Taking additional time from teachers, increasing their teaching time, will undermine the time they have to recover from the stress of teaching and the time they had to reflect on teaching.

Some teachers will see their take-home pay reduced, despite their teaching the same hours in the same pattern. It is appalling to expect teachers to undergo less professional development, have less time to reflect and end up with less money in their pocket. It is not only bad and unfair for teachers but also an appalling investment strategy. Every dollar taken away from TAFE teacher salaries takes \$6.40 in benefits—that is,

squandering \$6.40 of potential future economic benefit. Why would a government engage in that strategy? Yesterday it was two years until the next State election, and that \$6.40 will not be necessarily felt in that two years. So, in the great tradition of New South Wales governments of concentrating only on the short-term benefit, no consideration has been given to the benefit beyond 24 March 2011.

**Reverend the Hon. Dr Gordon Moyes:** You are cynical.

**Dr JOHN KAYE:** I am realistic. It is time for the Government to recognise that society and citizenry extend beyond March 2011 into the future, and they deserve investment in their future. The people deserve investment in TAFE teachers, they deserve investment in technical and further education in New South Wales. The TAFE teacher workforce is ageing rapidly. In one institute that was surveyed and reported on in the Auditor-General's report of February 2008, 22 per cent of permanent full-time teachers reported that they intended to retire in the next three to five years. Why would the Government contemplate cutting conditions for TAFE teachers at a time when we are facing a desperate shortage of TAFE teachers and a challenging demand to replace those who will retire? There is a wholly perverse outcome in this. TAFE teachers who are teaching in areas of high skills demand will be the hardest to replace, because they will have the highest ability to earn income and professional relevance outside the system.

At a time when we are facing skills shortages in selected areas, cutting back on pay and conditions for TAFE teachers, cutting back on the attractiveness of employment in TAFE for full-time teachers, is highly perverse. In fact, it is not only highly perverse; it is selling out the future of TAFE. It will make it extraordinarily difficult for those high-demand areas to reproduce the quality TAFE teachers who will retire over the next three to five years. It is time for the Rees Government to abandon its short-sighted, slash-and-burn approach to TAFE. The Government needs to recognise, firstly, that the Teachers Federation has already made a number of concessions that go the whole way to reaching the salary rises beyond 2.5 per cent. That is, it has gone the whole way to reaching the 4.79 per cent of so-called unfunded salary rises.

Secondly, the Government needs to recognise that teachers have already increased productivity massively—productivity in both the narrow economic sense of having more students and teaching a greater number of student contact hours and in the wider education sense. Teachers in the New South Wales TAFE system, and indeed around Australia, have gone a long way towards producing high-quality and ever higher quality educational and training outcomes. The teachers invest time, effort and commitment to ensure that all students who go through their classrooms, regardless of the diversity of their learning styles and of the difficulties of teaching them, come out with a quality education.

And the teachers have done so by improving their pedagogic practices, despite being sold out on the teacher qualification issue. They have done so by working harder and spending longer hours preparing for classes. There is simply nowhere for TAFE teachers to go in improving so-called efficiency without being subject to a far greater rate of burnout and a far greater rate of early retirement. It is an exceptionally poor investment in the greatest single asset that the TAFE system has, its teacher workforce, to try to squeeze out another drop of so-called efficiency. Thirdly, and most importantly, it is time for the New South Wales Government to realise that this is an appallingly bad time to place further constraints on the TAFE system.

At a time when we are confronting a global financial crisis and need not only to reduce greenhouse gas emissions but also to respond to the impacts of climate change, this is not in the public interest. It is not worth underfunding TAFE teachers to make short-term savings on a salary bill. Most importantly, it is not worth the damage that will be done simply to hold the line on a policy that was questionable in the first place.

It is time for the Rees Government to end its war on TAFE teachers. It is time to pay TAFE teachers a professional salary and provide them with the proper working conditions that the professionalism of the work they do demands. It is time the public sector professionals were recognised for the contribution they make to our society. It is time to recognise them as the people who hold the key to the economic, social, cultural and environmental success of the future of this State. I commend the motion to the House.

**The Hon. ROBYN PARKER** [3.00 p.m.]: On behalf of the Liberal-Nationals Coalition I support this motion, which relates to the pay and conditions of TAFE teachers. I commend Dr John Kaye for bringing this motion forward today because it seems to us that the Rees Government has something against TAFE. I cannot put my finger on what it is, but the Government is spending a great deal of time and energy for very small gains. It is dumping down TAFE and making it harder for quality teachers to maintain their employment with TAFE. The Government will make it harder to attract more quality teachers in the future. As Dr John Kaye has already

said, we know there will be a "bump" when the baby boomer teacher cohort leaves the education system. Who will fill that gap if it appears to any observer contemplating a TAFE career that this is a Government that does not really support TAFE teachers?

I say that this is a Government that does not support TAFE teachers with quite a bit of qualification. I taught at TAFE institutions for 13 years, first as a permanent full-time teacher, then as a permanent part-time teacher and finally as a casual teacher. I recall how, over that period, TAFE teaching was regarded as an attractive occupation for people with recent industry experience. We were getting the best of the best coming into TAFE to teach students a diverse range of courses. Over the years that situation has not been supported in the way that it should have been. We have now reached the point where the Government has downgraded the qualification one needs to be a TAFE teacher and the courses, which in the past provided diplomas, now provide something quite different. We have put pressure on TAFE teachers. TAFE teacher qualification was a 700-hour graduate diploma course at university level; it is now a 90-hour certificate IV course in training and assessment. There is a huge difference in the way we value and respect TAFE teachers. Indeed, there has been a huge attitudinal change right across the Government.

This latest proposal is yet another move by the Government against TAFE teachers. It has already delivered a slap in the face to teachers that I believe is causing many in the system to contemplate moving out. They must be wondering how much more they can give or sacrifice in terms of their goodwill and career outcomes. After all, they have families to feed. The Government does not seem to understand the importance of TAFE, despite a supposed environment of education revolution. It does not seem to understand that TAFE teachers train the skilled and semiskilled workforce that will deliver the sorts of infrastructure projects that stimulus packages are designed to produce for this nation. In that regard, however, I note that the New South Wales Government has not provided a stimulus package. If we do not provide a supportive and quality environment for teachers who are under incredible pressure to increase their commitment, how can we expect them to properly educate their students?

The attitude of this Government towards TAFE is reflected in increased student fees, for which I see no trade-off by way of better environments for students to work in. Nor do I see any trade-off by way of better infrastructure; TAFE buildings are crumbling and falling down around people's ears. I do not see any trade-offs, but I see massive increases in TAFE fees.

**The Hon. Christine Robertson:** There is massive investment.

**The Hon. ROBYN PARKER:** I do not see the investment in TAFE buildings that is required. I do not know how many TAFE facilities some members in this Chamber have visited lately, but I can say that some of those I have visited are crumbling. Furthermore, TAFE fees have been increased to a point where some students simply cannot afford to take up a TAFE course. Given the cost benefit of TAFE education the numbers just do not stack up, as Dr John Kaye said in his contribution. A survey conducted by Allen Consulting found that each dollar invested in TAFE New South Wales will generate benefits worth \$6.40, or 640 per cent, over the next 20 years. That is a huge benefit to the future of New South Wales and to maintaining the skill levels of workers—those who will provide the sorts of qualifications we need, and need quickly, during this period of economic downturn. These are the people we need to have up-skilled, trained and put out in the workforce. The Government's penny-pinching attitude towards TAFE teachers is just extraordinary.

What gains are to be made by casualisation of the workforce? A casual workforce is less likely than a permanent full-time workforce to be actively involved in the TAFE environment. Casual teachers will be flying in to teach course and flying out again very quickly, without being able to add to the overall TAFE environment to the same extent that permanent full-time teachers are able. It is not because they do not want to contribute; it is more likely that they cannot afford to do so. The increased demands made on them are not offset by improvements in conditions.

TAFE teachers have entered into the discussions about their wages in a spirit of goodwill. They have already made concessions. They have conceded some trade-offs in negotiations with the Government in terms of what they might deliver. But that is not enough for this Government, which now wants to take away release time for professional development. We know that a better outcome is achieved if teachers spend some time away from face-to-face teaching. The same applies to workers in other professions that involve face-to-face delivery of services. Teachers can then improve their skills, become more highly trained and deliver higher standards. But the Government wants to take away that opportunity. Despite the concessions already made by TAFE

teachers the Government seems to be demanding more. It just does not stack up. We know the advantages of having qualified and happy teachers. The TAFE environment is no different from a school environment. If TAFE teachers are provided with the right environment, better outcomes will be achieved.

I do not understand the attitude of this Government; its cost-benefit analysis does not stack up. What will be the likely drain of teachers from our TAFE institutions? Members would be aware that TAFE does more than educate, train and up-skill people; it delivers a workforce that is vital to the future economy of New South Wales. It makes no sense for the Government to put further pressure on TAFE teachers, who are delivering that training. When I compare the environment in which they are working with the environment in which I worked years ago I wonder how they keep doing it. They do it because they are committed to the TAFE ethos, to practical outcomes, and to the learning experiences of their students, who are working in all sorts of jobs to pay for the incredible TAFE fees imposed on them by this Government.

TAFE teachers are aware of the economic benefits to be derived from this practical mode of teaching—the single most wonderful outcome of a TAFE education. TAFE offers a mix of practical and theoretical education that is not achievable in many other environments. If we want the best from a system we have to put in the best, and that is not what this Government is doing. TAFE teachers do not have the support of this Government. How much more does the Government want to wring out of teachers, and what is its long-term agenda? It seems to me that the Government has a long-term agenda but it should meet its responsibilities to TAFE and fund it properly. The Government must ensure that the quality of teaching provided by teachers is not undermined by penny-pinching, putting further pressure on them, and putting more stress on an already stressed workforce. The Liberal-Nationals Coalition supports this motion, TAFE teachers and the TAFE environment. We want the best environment for our teachers and our students in TAFE. We wholeheartedly support our TAFE institutions.

**The Hon. ROBERT BROWN** [3.12 p.m.]: After discussing this matter with Dr John Kaye my colleague the Hon. Roy Smith and I support the motion. However, I note that the Government has indicated it will move an amendment to the motion to better reveal what should or should not occur. My colleague the Hon. Roy Smith and I will wait to see what the Government does before we make a decision on this motion. The Hon. Roy Smith and I, as representatives of the Shooters Party, have received a number of representations in relation to this issue. Members who heard our inaugural speeches would know that we both have a background in building and in the trades. We both undertook TAFE tertiary training and both of us undertook further training. We both highly value the TAFE system in New South Wales and the benefits that it bestows on the general community.

Not every child or every young person leaving school wants to become a doctor or a lawyer. Given the complexity of industrial society and the demand for various types of tradespeople or paraprofessionals, given the turmoil in which we find ourselves because of the global financial crisis and increasing demands, year to year and cycle to cycle, for people trained in various areas, if nothing else we have to maintain flexibility in the TAFE system. I do not believe that the university system is rigid, but science changes rapidly and the demands on paraprofessionals and technical people change on a daily basis.

At the conclusion of my involvement with my family businesses, and before I became a member of Parliament, I undertook further TAFE training because I wanted to revisit some of the skills that I had learnt and lost. I was quite prepared to pay for that training. I joined with mature apprentices and young apprentices who were commencing their careers in that valuable training course. I was disappointed that Meadowbank Technical College, which was formerly Meadowbank High School, where I did my high school years, was moving to downgrade or phase out the trade section of its establishment. It needed the space taken up by the trade section to accommodate computer training, courses on financial services and all that sort of stuff. Before the economic downturn, anyone reading the Sunday Herald would find pages of advertisements for welders, air-conditioning technicians, electricians, boilermakers and other tradespeople.

My colleague and I have received representations from petitioners about their treatment as TAFE teachers. People who teach these trades become TAFE teachers after they have worked in the trades. They undertake further training and commence casual work after hours, teaching specific courses or specific parts of courses. Sooner or later they move on to doing more of the same but in the end they probably become permanent part-time employees who work about 30 hours a week. However, teachers cannot work for 30 hours a week in a TAFE college and then work for 38 hours on a trade or something else; they have to make a decision about what they want to do. I applaud the motion moved by Dr John Kaye, who said all the right things. Opposition members also had a number of good things to say about this motion.

Without getting too hysterical about it all, the Government should pay attention to the content of this motion. It is not right or fair for the Government to take away the conditions of these people because of what it sees as further productivity gains. The Government is required to keep the system flexible in order to retain skilled teachers and prevent an exodus of baby boomer teachers. Given our current economic circumstances, some of those TAFE teachers might change their minds and remain teaching for a few extra years. I have been involved in the industry for 40 years or more and this is not the first time in recent history that this has occurred. Industry and training requirements are cyclical: they rise and fall, depending on economic conditions in Australia and throughout the world. TAFE teachers should be allowed to continue to teach and to develop their skills; they should not be forced to become part-time or casual teachers, and they should not be regarded as a take them if you can get them, and throw them away commodity.

I am not really a great fan of the teaching profession as it stands in New South Wales, and I am not criticising that profession. However, I agree that teachers—whether they are TAFE teachers, secondary teachers, or university lecturers—have a great deal of influence on the types of citizens that are turned out every day, and they keep those citizens well trained and able to exercise their full potential. If we do not have properly trained and satisfied teachers we cannot expect to achieve brilliant outcomes.

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [3.18 p.m.]: The Government opposes the motion moved by the Greens and supported by the Liberal Party and The Nationals. Once again, the Greens moved a motion that, in effect, is a speech. Once again they have book-ended a motion with statements of support for TAFE New South Wales in the vain hope that they can pretend that this Government does not support TAFE and will vote against their motion. That is nonsense. The New South Wales Government has been TAFE's greatest supporter, particularly in the face of hostility from the previous Coalition Government—an issue to which I will return later.

Let me state the Rees Government's position on TAFE NSW. TAFE NSW is the largest provider of vocational education and training in Australia, and it is also the best. In the 2008-09 financial year TAFE NSW has been provided with a record budget of more than \$1.73 billion. This is the practical way in which this Government shows its support for TAFE NSW. The TAFE budget has been increased to \$529 million since 1996-97. Funding for TAFE supports enrolments in over 1,200 qualifications offered at more than 130 TAFE campuses across New South Wales. TAFE qualifications increase people's employability, wages and chances of promotion.

TAFE provides people who need a second chance with their education. We all are aware of people who have used TAFE to launch their lives and careers after a shaky start. TAFE provides the skills that industry needs with training that is informed by current workplace practices. TAFE works in partnership with business to promote workforce development. TAFE NSW plays a role in tackling skills shortages by giving priority to areas where skills are in demand. TAFE NSW trains the apprentices and trainees we need across the State now and into the future.

Of all TAFE's vocational education and training graduates, 89.6 per cent said they were satisfied with the institution. Students know that TAFE works. No wonder the past decade has seen a big expansion in TAFE enrolments, which have increased by over 73,000 since 1997. A National Centre for Vocational Education Research report on employers found that TAFE NSW also has high levels of employer satisfaction, with 83.2 per cent of New South Wales employers satisfied with the quality of apprentice/traineeship training provided by TAFE NSW. This compares well with the national average of 78.6 per cent.

Recently the Deputy Prime Minister called on universities to provide greater equity in student enrolments—and TAFE NSW is one example of what can be done to assist students. TAFE NSW delivers 66.7 per cent of all New South Wales student places in vocational education and training. However, it is important that the House notes the equity figures. TAFE NSW trains 90.7 per cent of vocational education and training students with a disability, 80.8 per cent of students from non-English-speaking backgrounds, and 72.4 per cent of Aboriginal students.

According to the Allen Consulting review, TAFE NSW will contribute \$196 billion to the New South Wales economy over the next 20 years. This means that every dollar invested in TAFE NSW generates a benefit worth \$6.40. That represents a 640 per cent return on investment over 20 years—if only all of us could get that sort of return on our investments. Last year the Greens claimed that the Government planned to privatise TAFE. Members may recall a speech delivered by the Minister for Education and Training in the other place in which she stated that the Rees Government has no intention of privatising TAFE because we recognise the enormous value of this public provider.



With regard to salary negotiations for TAFE teachers, the Government opposes Dr John Kaye's motion, not because we do not support TAFE or do not value TAFE teachers, but because the Department of Education and Training and the New South Wales Teachers Federation agreed to accept a recommendation of the Industrial Relations Commission—the independent umpire. The irony is not lost on this side of the House that the Greens are working with the Opposition, whose Federal counterpart ripped more than \$500 million from TAFE NSW. The former Federal Coalition Government, through its WorkChoices legislation, would have been happy to throw out those same TAFE teachers about whom those opposite are now standing up and wringing their hands. A former Federal Coalition education Minister and former Federal Coalition leader, Brendan Nelson, was happy to completely privatise funding to make TAFE fully competitive. The members of the Opposition want to take a high and mighty stance—

**Dr John Kaye:** That is what Julia Gillard wants to do.

**The Hon. PENNY SHARPE:** It is not. Their hypocrisy is extraordinary. The process that is being followed is that which so many of us fought to save: to retain the Industrial Relations Commission and the independent umpire. The Director General of Education and Training has written to TAFE staff to explain the current situation. In January he announced that the Industrial Relations Commission had made a recommendation on the teachers awards that settled the matter. The Department of Education and Training accepted the commission's recommendation, which provided schoolteachers and permanent TAFE teachers with a cumulative pay rise of more than 12 per cent over three years, and that any pay rise above 2.5 per cent a year had to be accompanied by reforms to fund the increase.

Like all other recent public sector settlements, this meant that the department and the union had to negotiate a set of reforms. With the help of the commission the two parties reached an agreement, which I have been advised involved concessions on both sides. Since the settlement a joint working party has been established. The working party has been meeting regularly to identify and finalise further employee-related reform measures and cost savings to improve TAFE operational efficiency and competitiveness. The working party is considering a range of initiatives to fund the salary increases not already offset by the reforms agreed to date.

The New South Wales Teachers Federation agreed to this process and this is reflected in the award made recently by the commission. I advise the House that this work must be finalised by 3 April 2009. To ensure the progress of the working party, it has been agreed that it report back regularly to the Industrial Relations Commission. If the parties cannot agree on the employee-related reform measures and cost savings, the union and the department have agreed to let the commission decide on the matter through arbitration. As happened last year over a TAFE issue, the Greens, in cahoots with the Liberal Party, now seek to undermine the authority of the Industrial Relations Commission. The Government is committed to this industrial relations process. The Government has confidence that if the dispute cannot be resolved at the TAFE and federation level it must be determined by the independent umpire—the Industrial Relations Commission. For those reasons I move the following amendment to the motion:

That the question be amended by omitting paragraphs 2 to 4 and inserting instead:

2. That this House notes that negotiations continue between TAFE teachers and the Department of Education and Training.
3. That this House reiterates its strong support for TAFE in New South Wales.

**The Hon. LYNDIA VOLTZ** [3.26 p.m.]: I oppose the motion moved by the Greens. My colleague has spoken to the House about the value we place on TAFE NSW and the results it delivers. I fully support this view. TAFE NSW has a long and proud history. The annual half million enrolments translate to one in nine people in this State being enrolled in TAFE at any one time. No wonder TAFE is such a much-loved institution, as pointed out by a number of members today. No wonder also that in this debate no member in this House has spoken against the statements of support for TAFE that form part of Dr John Kaye's motion.

As my colleague has eloquently stated, the Rees Government is committed to supporting TAFE and TAFE teachers. We admire the work teachers do to ensure that TAFE students have the skills and knowledge they need to gain work and, even more importantly in the current climate, to retain work through adaptability. When workers in the Riverina were being retrenched it was TAFE staff, ably supported by State Training Services from the Department of Education and Training, with the Department of State and Regional Development, and the Department of Premier and Cabinet, that got to work to support them.

Together they established a single point of contact including a one-stop shop. This contact point has a career choices help centre, which will have representatives from Centrelink, job placement agencies, financial

counsellors, TAFE and other agencies as required. It will also provide career advice, job application assistance and other services. The TAFE service will include someone to provide information and support on assessment of competencies; TAFE counselling for job and career information; support for retrenched workers and referral to other counsellors where needed; online job information; and workshops and short courses, such as résumé writing and how to prepare a job application.

The Department of Education and Training has funded TAFE to develop a choices after retrenchment program with a reference group that includes industry and training representatives to meet the training needs of displaced workers. As soon as new jobs are identified or retrenched workers have chosen a new career direction, TAFE will undertake current skills and recognition of prior learning assessment for the displaced workers from the Albury firm who request it. This is the type of service and flexibility for which TAFE New South Wales is renowned. Dr Kaye's motion is not principally about the value of TAFE. It is another example of the Greens attempting to undermine the Industrial Relations Commission.

Let us review the purpose of the commission. Dr Kaye should listen to this because it is very important. The Industrial Relations Commission conciliates and arbitrates to resolve industrial disputes. The commission sets conditions of employment, and fixes wages and salaries by making industrial awards. It approves enterprise agreements and decides claims about unfair dismissal. A glance at its website shows that its functions include providing a framework for the conduct of industrial relations that is fair and just, promoting efficiency and productivity in the economy of the State, promoting participation in industrial relations by employees and employers at an enterprise and workplace level, preventing and eliminating discrimination in the workplace, and in particular ensuring equal remuneration for men and women doing work of equal or comparable value.

**Dr John Kaye:** We knew that.

**The Hon. LYNDIA VOLTZ:** That is why it is so important. Reading the website material leads me to wonder why the Greens are so keen to undermine the Industrial Relations Commission. We must allow the commission to do its work. That is why we must oppose Dr Kaye's motion.

**Dr JOHN KAYE** [3.30 p.m.], in reply: I thank all members who contributed to the debate. It has been a useful debate, if only to assist in understanding positions. I particularly thank the Hon. Robyn Parker and the Hon. Robert Brown for their contributions. It is very useful to have a contribution from a former TAFE teacher and from someone who has been a TAFE student. Both contributions underline the importance not simply of TAFE but of a TAFE that is well funded. It is very easy to say how important TAFE is, but that statement is meaningless without funds to make TAFE function.

The Hon. Robert Brown made the important point about maintaining the workforce to retain flexibility in a time of economic change. There is now widespread understanding that the next 10 years will be economically challenging. The best way to survive that type of change is to maintain stability in the training regime. I thank also the Hon. Penny Sharpe and the Hon. Lynda Voltz for their expressions of commitment to TAFE. It is important to have Government members say that, and it is an important step forward. However, it is a strange kind of commitment that allows TAFE to be cut—

**The Hon. Robert Brown:** Back on track!

**Dr JOHN KAYE:** I will be back on track as soon as I find my place in the notes. It is a strange kind of love when the Government starves a training institution and cuts TAFE by 30 per cent. It has been suggested that I am against the Industrial Relations Commission and that the motion calls on one party to a dispute before the Industrial Relations Commission to change its position. Somehow that has been construed as my being disrespectful to that institution. Not only is it rather twisted and bizarre to make such an implication, it is just plain fuzzy logic.

The Greens are in no way seeking to undermine the determinations of the Industrial Relations Commission. All we are doing is using the valid position as a Chamber of the New South Wales Parliament to express our opinion to the Government that it ought to change its negotiating position before the Industrial Relations Commission and cease demanding further reductions in benefits to TAFE teachers. To construe that as an attack on the independence of the Industrial Relations Commission is not only rather strange but is plainly misleading and ought to be rejected.

The amendment proposed by the Government seeks to delete everything except for the stub and insert what the Government wants to state. That is not an amendment; it is a negating of the motion. That is a simple

way for the Government to avoid having the reality of its position exposed. The Government is engaged in a battle with TAFE and TAFE teachers, and if the Government wins it will have devastating consequences. I urge members to reject the amendment and support the motion.

**Question—That the amendment of the Hon. Penny Sharpe be agreed to—put.**

**The House divided.**

**Ayes, 18**

Mr Catanzariti	Mr Obeid	Mr West
Mr Della Bosca	Mr Robertson	Ms Westwood
Ms Fazio	Ms Robertson	
Ms Griffin	Mr Roozendaal	
Mr Hatzistergos	Ms Sharpe	<i>Tellers,</i>
Mr Kelly	Mr Tsang	Mr Donnelly
Mr Macdonald	Ms Voltz	Mr Veitch

**Noes, 23**

Mr Ajaka	Mr Gay	Ms Parker
Mr Brown	Ms Hale	Mrs Pavey
Mr Clarke	Dr Kaye	Mr Pearce
Mr Cohen	Mr Khan	Ms Rhiannon
Ms Cusack	Mr Lynn	Mr Smith
Ms Ficarra	Mr Mason-Cox	<i>Tellers,</i>
Mr Gallacher	Reverend Dr Moyes	Mr Colless
Miss Gardiner	Reverend Nile	Mr Harwin

**Question resolved in the negative.**

**Amendment negatived.**

**Question—That the motion be agreed to—put.**

**Division called for and Standing Order 114 (4) applied.**

**The House divided.**

**Ayes, 23**

Mr Ajaka	Mr Gay	Ms Parker
Mr Brown	Ms Hale	Mrs Pavey
Mr Clarke	Dr Kaye	Mr Pearce
Mr Cohen	Mr Khan	Ms Rhiannon
Ms Cusack	Mr Lynn	Mr Smith
Ms Ficarra	Mr Mason-Cox	<i>Tellers,</i>
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Mr Macdonald	Ms Voltz	Mr Veitch

**Question resolved in the affirmative.**

**Motion agreed to.**

### **HIGH-FRONT ROOF GUTTERS**

**Debate resumed from an earlier hour.**

**Ms SYLVIA HALE** [3.46 p.m.]: Earlier I gave an example of a house in Carey Street, Leichhardt. The Office of Fair Trading inspector was clearly of the opinion that the guttering system was not fit for purpose. The response of the manufacturer, Ace Gutters, was simply to send a preferred installer to inspect the guttering system. He declared that there were no problems with the guttering installation and that any damage was the fault of Ace Gutters. We see this as a persistent pattern on the part of manufacturers and installers. Late last year I was part of a group, including Catherine Reynolds, Ian Higgins and Stephen Mewitt from the Master Plumbers Association, that met with the new Minister for Fair Trading on 28 October 2008.

As a result of that meeting it was agreed that Fair Trading would produce a circular and diagram based upon the Victorian model; distribute it to all industry associations and ask them to distribute it to all their members; give a copy to all licence holders, not solely plumbers, when their licences came up for renewal; approach the manufacturers and get them to place a warning on their websites about the need for compliance with the Building Code of Australia; and vet the wording of the warnings so that the nature of the problem was absolutely clear. Significantly, the advice and diagrams produced by the Victorian Plumbing Industry Commission referred to above neither contain any reference to slots nor any diagrams that in any way imply that slots or non-continuous overflow measures are acceptable solutions. So what did the Office of Fair Trading produce? On 2 February it came up with an online notice. I received a scathing email from a plumber about it not long after, which stated:

Most of the recommendations shown in the recent article by the NSW Department of Fair Trading on Residential Gutters—

it then gives the web address—

are faulty in themselves and shows that the author has potentially little or no practical experience either on the building site or in gutter installation.

What is even more deceptive and misleading about the department's notice is that it appeared on 2 February 2009, the day after the new 2009 Building Code of Australia and Standards became available online. The new code comes into effect on 1 May 2009 and contains no reference whatsoever to slots being an acceptable form of compliance with overflow requirements. Despite this, the Office of Fair Trading online notice refers to non-continuous overflow measures and slots. It states:

Slotted gutters may also provide an overflow measure, however the slots must be of sufficient size. It is recommended that the gutter manufacturer be consulted on this.

But when I followed the office's recommendation and consulted the manufacturers their representative, Neil Creek of the Australian Steel Institute, replied:

I am currently working with a total of seven gutter manufacturers to ensure the capabilities of high front gutters are understood by all parties in the supply chain.

It is my intention to release an industry document late April/early May to coincide with the introduction of Building Code of Australia 2009.

Somewhat frustrated with that response, I emailed the following questions to Mr Creek earlier this week:

Given that

- (a) the Standards and the Building and Plumbing Codes require the provision of appropriate overflow methods, and
- (b) slotted gutters have proved to be inadequate and hence reference to them has been removed from the 2009 Building Code of Australia, do fascia/gutter systems (high-front gutter with spring clip) supplied by manufacturers represented by the Australian Steel Institute comply with the overflow requirements of the Standards and Codes?

If they do not comply, why not?

Last night I received the following response from Mr Creek, which is quite a bald statement. It states, among other things:

High front gutters supplied by ASI manufacturer members installed in an appropriately designed roof drainage system achieve compliance with the Building Code of Australia and the relevant Australian Standards.

I think the question of whether they comply is perhaps best dealt with in a letter I received dated 24 March from the New South Wales and Australian Capital Territory Manager of Archicentre, Angus Kelly, who says in part:

... since the article "Warnings ignored on high-gutter menace" appeared in the Sydney Morning Herald on the 2<sup>nd</sup> February 2009 our office has received numerous calls from home owners seeking advice on this matter through our Building Advisory Service.

The initial advice given by Archicentre was to contact the Office of Fair Trading (OFT) to seek their involvement as this matter refers to compliance with statutory regulations, but unfortunately several people have returned to contact our office as they were not satisfied with the response of the OFT.

We are of the opinion that this matter requires further immediate attention from State Government as non-compliant installation of high-fronted gutters appears the norm rather than the exception. As the method of installation being used directs overflowing water back into the building the consumers of New South Wales are potentially being exposed to expensive rectification costs from water damage.

To date we believe that the media releases (including those issued by the previous New South Wales Fair Trading Minister Linda Burney on the 25<sup>th</sup> and 27<sup>th</sup> February 2008 and the 6<sup>th</sup> March 2008) and the subsequent articles appearing on the OFT website, have contributed by confusing the consumer on this matter. We are particularly concerned that contractors are selectively using this information to support their non-compliant installation methods and ignore any responsibility they may have in ensuring their installation is compliant with the statutory regulations.

It is apparent that contractors and installers are ignoring the statutory regulations, including the Building Code of Australia and AS/NZS 3500.3 (2003), in lieu of the manufacturers recommended installation methods as the manufacturers condition their warranty on their own installation methods.

High-fronted gutters represent approximately 90% of the installation of gutters in NSW, with approximately 65% being re-guttering of existing houses, and 35% being new houses.

Archicentre has recently undertaken independent inspections on two properties which typify the range of problems—

He then named the two properties—first, 48 Cary Street, Leichhardt—and states:

The installation does not comply with the statutory building regulations and has caused substantial damage to the building structure and finishes.

In relation to the second—40 Lumeah Avenue, Wamberal—he states:

... the installation does not comply with the statutory building regulations and has caused minor damage ...

Copies of the aforementioned reports are attached to this correspondence for your reference.

I will seek to have those reports tabled. He continues:

In the cases referred above it is clear that the installation of gutters is non-compliant with the statutory regulations as they fail to direct water away from the building in the event of overflow, and in both cases the contractors are claiming they are not responsible or liable for the rectification costs.

Archicentre is concerned about the potential for New South Wales home owners to be exposed to substantial costs in the rectification of non-compliant high-fronted gutters and the contributory damage which may occur as a result of the ingress of water. In the case of 48 Cary Street, Leichhardt we estimate that as a result of the excess water which has entered into the sub-floor through the cavity brickwork, resulting in damage to the foundations, the cost of rectification could be well in excess of \$50,000.

We believe the examples presented are typical and the cost to rectify the non-compliant installation will range from approximately \$3,000, for replacement of the gutters alone, to in some cases many tens of thousands of dollars where more substantial damage occurs to the building structure and finishes.

As for the potential financial implication to consumers, on the basis that new residential construction (likely to be installed with high-fronted gutters in New South Wales during 2009 alone) will be in excess of 25,000 dwellings, without immediate intervention it is likely that consumers will face future rectification costs for work undertaken during this period of at least \$75 million. This amount excludes the replacement gutter installations to existing houses which substantially exceeds the number of new installations to new residential construction.

He then made a number of recommendations as to what should be done. Those recommendations are consistent with what I have asked for in this motion. I believe this assertion of Mr Creek is false:

High front gutters supplied by ASI manufacturer members installed in an appropriately designed roof drainage system achieve compliance with the Building Code of Australia and the relevant Australian Standards.

But his reply lies at the heart of the problem. I cannot blame plumbers and builders who install guttering systems that manufacturers insist comply with the BCA, Australian Standards and the requirements of the manufacturer's warranty, nor can I blame those who put their trust in manufacturers' assurances that their product is fit for purpose. I do, however, blame those manufacturers who continue to promote plumbing systems that they know are bound to cause untold damage to unsuspecting homeowners and who seek to absolve themselves of responsibility by saying that installers are at fault because they have failed to comply with the BCA. I also blame the Office of Fair Trading, which has consistently refused to acknowledge that a problem exists, let alone how potentially massive and costly it is.

The behaviour of the Office of Fair Trading is deplorable. Its preparedness to connive with manufacturers to permit them to continue to promote a guttering system that is unfit for purpose and contrary to the requirements of the Building Code and Australian Standards is as breathtaking as it is unconscionable. In particular, I blame the Minister for Fair Trading and those ministerial advisers who have wilfully issued media releases for the purpose of shielding major manufacturers from criticism and media releases that those same manufacturers will undoubtedly use to defend themselves against future class actions, media releases that may well be used to deflect the responsibility and immense damages payout from the manufacturers onto the State Government and the public purse. It is time we called the Office of Fair Trading and its Minister to account. It is time to remind them of their obligation to enforce the law. What, after all, is the point of this Parliament making laws if we are prepared to sit idly by and see them flouted, and consumers misled and ripped off?

**The Hon. GREG DONNELLY** [3.58 p.m.]: It is not surprising that the Greens cannot grasp the facts about high-front guttering: after all, it is the job of qualified tradespersons to install those gutters in accordance with very specific building codes, the Building Codes of Australia. The Greens claim that installation methods employed by the plumbing industry for high-front guttering do not meet the requirements of Building Codes of Australia. Yet when the Master Plumbers Association, New South Wales, examined this issue in detail in 2007 as cited by Ms Sylvia Hale in support of her argument, it said its expert committee did not see the need to change installation procedures. The Office of Fair Trading also convened a meeting with manufacturers, building associations, relevant government agencies and Standards Australia to discuss this issue.

The Office of Fair Trading has agreed that there is no evidence to support claims of a systemic problem. According to information provided by the Office of Fair Trading, high-front guttering systems have been supplied and fitted across Australia for the past 17 years. Less than 1 per cent of complaints made to Fair Trading since 2003 relate to the installation of guttering. The major insurance companies that provide insurance for home and contents have not identified this as a significant issue. The evidence to hand indicates that high-fronted guttering that is correctly installed works well in the vast majority of cases. Where building works are defective consumers are protected under the statutory warranties that apply under the Home Building Act.

I am concerned that some of the alarm raised by those opposite, in particular the Greens, is based on lobbying by people who have a commercial interest in causing unnecessary alarm. Members on this side of the House are also concerned. Members on this side of the House feel that concern also. Claims have been raised also about a report emanating from the University of Newcastle titled "Review of guttering and fixing method". I am advised that the report from the university's commercial arm, Newcastle Innovation Limited, was also commissioned by people with a commercial interest in the industry. Any fair-minded person would be concerned about that kind of arrangement. Nevertheless, to ensure that tradespeople and consumers are properly informed the Department of Water and Energy has issued a circular to the plumbing industry to reinforce the need to comply with the New South Wales Plumbing and Drainage Code of Practice. A circular has also been issued to all local councils and private certifiers.

That is an indication of the seriousness of this issue and the steps taken by the Government to deal with it. I am advised that the Department of Water and Energy is currently undertaking a review to streamline the governance arrangements for plumbing and drainage regulations in New South Wales. As a result of representations by the New South Wales Government, the Australian Building Code Board has also amended the Building Code of Australia to remove direct reference to the use of slots in high-front gutters as the sole overflow protection measure. That does not mean that slots cannot be used; rather it leaves the type of overflow provision installed to be decided by the person who is designing or installing the guttering system and puts the onus onto the installer to install the system correctly. The changes to the code are due to take effect on 9 May 2009.

The Office of Fair Trading continually attends industry nights and seminars—more than 100 last year, at which it alerted tradespeople and consumers to these issues and the need for adequate overflow provisions.

And in January 2009 Fair Trading issued an information pamphlet developed in consultation with the Master Plumbers Association. It reminds those installing gutters that manufacturers' instructions are only a guide and do not overrule the need for installation in accordance with the building code and the Australian standard. I suggest those opposite, in particular Ms Sylvia Hale, get themselves a copy of that information sheet from the Fair Trading website. It includes diagrams illustrating overflow measures that may be used, rendering this motion irrelevant and a waste of the time of this House.

That pamphlet is being distributed in licence renewal notices and appeared in the 5 February 2009 edition of *Foundations*. It will also be circulated to industry associations for inclusion in all industry journals and periodicals. As a result of efforts by the New South Wales Government, commercial industries are coming to the fore and I am pleased to note that BlueScope Lysaght has placed a very informative pamphlet on its website. Although Fair Trading has found virtually no evidence to support the claims being made, it will continue to monitor the issue, including contacting manufacturers to reinforce the need to provide clear installation instructions for their products.

The Office of Fair Trading will follow up any complaints of defective building work and has a high success rate in its mediation and resolution role. Should consumers have trouble in having their builder or plumber reinstall the guttering correctly, the Government advises that they should contact the Office of Fair Trading on 13 32 20.

**The Hon. CATHERINE CUSACK** [4.05 p.m.]: The Opposition thanks Ms Sylvia Hale for moving this motion. I extend my personal appreciation to the member for her courtesy in acknowledging the work that the Opposition has undertaken on this issue. Much of the research referred to by Ms Sylvia Hale that was published in the *Sydney Morning Herald* and by me was triggered by a private investigation into the matter undertaken by two brothers, Ian and Jason Higgins. In September 2007 they met with the then Minister for Fair Trading, Linda Burney, to ask her to investigate the issue of high-fronted guttering. I emphasise that I have used the term "high-fronted gutter" as a shorthand term for "high-fronted gutter system", meaning that it is the way that the gutter is mounted that causes the substantive problem. I note that Ms Sylvia Hale is nodding in agreement. We are talking about the combination of a guttering system and the way it is installed.

The then Minister for Fair Trading undertook to investigate the matter and report back. However, there was virtually no outcome at all. The Newcastle *Herald* published a short article expressing disappointment on the part of the Higgins brothers. I read that article and met with the brothers in Cessnock during a visit to the Hunter Valley. Later we organised a meeting with Kelly Burke, a journalist with the *Sydney Morning Herald*, who had undertaken very extensive research with New South Wales and interstate experts before the newspaper took up the story. When the newspaper ran that story on 2 February 2009 it called public attention for the first time to the problem with high-fronted gutter systems where the front of the gutter is higher than the edge on the house. When the gutter blocks or overflows during heavy rain, the water flows back into the house, particularly when the gutter has been joined to the house by a clip, in which case there is no gap between the gutter and the house for the overflow to escape.

Throughout this absolute saga, and at times torture going through the myriad of Australian standards, building systems and accreditations, it has always been the Opposition's objective to get the Office of Fair Trading to, firstly, acknowledge that there is a problem; secondly, take steps to inform people of the problem; and, thirdly, alert customers, tradesmen and builders to the problem. In contrast with what was said by the Hon. Greg Donnelly, a person does not have to be qualified to install those gutter systems. Previously they had to be installed by a qualified plumber—which the Master Plumbers Association is running as a demarcation issue, confusing matters even more. Builders and kit-home builders are free to install that guttering system. The Opposition believes there needs to be an awareness of the standards and of the need for overflow measures in installing gutters and, further, that the Office of Fair Trading should play a strong role in calling attention to the problem.

The Opposition was critical of the fact that the problem had arisen and certainly questioned whether a spring-clip high-fronted gutter system can ever comply with the Australian standard and, therefore, whether it should be legal to sell it. In fact, we are now convinced there is a very narrow set of circumstances in which high-front gutters can comply, particularly when they are mounted on a roof that is well away from the wall of the house. In those circumstances, which are rare, they can comply. Overwhelmingly, high-front gutters are a great threat to the safety and structure of people's homes. Gutters are meant to direct water away from your home, not into your home.

At this point we are really just asking for something to be done. I have to say that after the revelations in the *Sydney Morning Herald* I was quite stunned by the Minister's response, which was to dismiss the issue out of hand. It was almost an emotional dismissal of the issue and at the time I thought it was completely uncalled for and disproportionate to what we were talking about, which was a gutter problem. All we were asking was that it be investigated and that Fair Trading fulfil its role. At that stage it was not a political issue but I think it became one when the Minister took a highly personalised approach to the matter and completely rejected that there was any problem and implied that anyone who said there was a problem was to be dismissed as some sort of fool.

Along the way the Government mounted a very nasty smear campaign against these two plumbers, Ian and Jason Higgins, which I think they were probably anticipating from industry because, after all, they were having a big whack at industry. I think they indicated that at the beginning, and that industry would probably whack back. What was stunning and unexpected was that the Minister, as a politician, would use her position and her privileges to mount an inaccurate, disgraceful smear campaign against those two brothers, who were simply seeking to draw attention to the matter and asking for an investigation. I thought their request was more than reasonable and that what happened to them was totally undeserved.

**The Hon. Greg Donnelly:** Point of order: I have been listening very carefully to the debate as it has proceeded, particularly to the contribution of the Hon. Catherine Cusack. I do not wish to paraphrase her but she referred to the Minister using her privilege—I am not sure whether it was privilege in the House or some other privilege—to somehow either attack or alienate or smear the individuals. That is a very serious allegation that at the very least is impugning the Minister and her motives. I believe that that claim should be withdrawn.

**The Hon. CATHERINE CUSACK:** The word I was seeking was her "position". I am more than happy to withdraw. I am saying the Minister used her position.

**The PRESIDENT:** Order! If the member wishes to withdraw the words referred to, there will be no need for me to rule on the matter.

**The Hon. CATHERINE CUSACK:** I withdraw. I am looking at a media release issued by the Minister on 6 March 2008, in which she said:

Ms Burney said the meeting questioned Mr Higgins' motivation.

"Apparently Mr Higgins and his family have developed an alternative system that they have been trying unsuccessfully to sell to manufacturers for some time," Ms Burney said.

I think it was very unfortunate that the Minister introduced that. There was no-one to defend Mr Higgins at the meeting and the statement impugned Mr Higgins' motivation without actually addressing the substance of the issue that he was raising. The Minister rejected the matter. Certainly I got both barrels along the way on many occasions, but that is okay: I am a politician and I suppose I can argue back. After further revelations the Minister again denied there was a problem. Then she said that if there was a problem it was the Federal Government's fault. That was the stage when everything was being blamed on the Howard Government. Then under pressure on 27 February she announced that she would hold an industry forum to explore whether there was a problem and she issued the following challenge:

If the Opposition has evidence to support their claims they are morally bound to bring it forward ...

The next day I replied to the Minister's challenge in Parliament, saying:

... I will be delighted to attend the Minister's meeting on Thursday 6 March. I have written to the Minister requesting that I be allowed to attend and present my evidence to the people whom she says are the main parties.

I am sorry to say, however, that the upshot of that challenge to present evidence and my offer to provide it resulted in a change in the Minister's position. She then banned me from attending the meeting. Instead I was required to attend a meeting with her staff member and some departmental staff. The evidence was presented formally and documents were given to the senior Fair Trading officer at the meeting. To my recollection, he gave his word that that would all be made available to those attending the Minister's industry forum. I regret that did not happen and again I regard it as an absolute abuse of the Minister's position. As a result the forum was a complete farce. The only outcome was another media release from the Minister again calling for evidence.

I have given this evidence many times to Fair Trading but I would like to bring to the attention of the House a specific piece of evidence about the problem we are talking about. I refer to the gutters of Mrs Ivy



English's home on the Central Coast, which I visited in early March. I have here a photograph of Mrs English's house's high-fronted gutter and members can see clearly in the photograph that when the roof was lifted there was a whole lot of wet timber and leaves inside the roof. It is my contention that the only way the water and the leaves could have entered the roof is via the gutter. Attached to it is a report made after our visit to Mrs English's house by an officer of Fair Trading. The officer contended there was nothing wrong and the water entering her roof was not due to a faulty gutter system, which I found absolutely incredible. I have that report here. I put some questions on notice to the Minister clarifying firstly that she had never presented our evidence to the meeting as we had been promised and, secondly, asking about Mrs English's gutter. I obtained more information about the investigation by Fair Trading. The Minister, in her response to Parliament, continued to say that water entry to the home was not due to the gutter profile. I am utterly perplexed by this. I seek leave to table these documents I am quoting from and the photograph—obviously, I cannot have it incorporated in *Hansard*.

### **Leave not granted.**

It is disappointing that leave was not granted. I might ask one of my colleagues to read this into the record. Returning to the substance of the problem, high-front gutters direct water overflow inside walls and eaves, resulting in mould and damage to wall integrity and even in some homes to the subfloor area. Timber frames rot. I remind members that untreated timber is now used in frames, so they are much more vulnerable to water damage. Plasterboard falls apart, electrical wiring is wet, footings of the home might move and external walls are prone to crack. Mould is also a health issue and I believe the Government is quite irresponsible in not undertaking a further study of the link between a massive increase in childhood asthma over the past 15 years and the possibility that houses are becoming more mouldy because of these high-fronted gutters.

It is a slow process of decay over months or years and the builder, of course, will be long gone from the site and might even be insolvent by the time the problems are detected in full, assuming that the problems are detected within the home warranty period. Time is the enemy of home warranty schemes as there is a six-month period to make a claim after the owner becomes aware, or ought to have become aware, of the problem. This problem, of course, makes a feast for lawyers. A group of people in industry have some share of responsibility for the installation of these systems—the manufacturers, builders, plumbers, local councils that approve the building plans and inspect sites without picking up on the problem, architects and so on. The Office of Fair Trading also bears responsibility for failing to properly and in a timely way alert installers and consumers.

I am not seeking to mark out or nominate one group in relation to this issue; I am talking about a systemic failure. I become particularly cranky when a systemic failure is pointed out—everybody runs for the hills and nobody does anything to fix the problem. I have already made it clear that the Opposition takes issue with the way in which the former Minister handled this matter. Opposition members have received responses from manufacturers that are large enough—they have the resources to organise the training and the research—to provide a solution to this issue. They are continuing to deny that a problem exists even though they are making the largest profits from this practice, which in my opinion places on them the additional responsibility to show leadership on this issue.

Their continuing denials and obfuscation and their claims that these tiny slots in the sides of the gutters are adequate leave me cold. People do not want to accept liability for the issue, given that potentially tens of thousands of homes have been damaged as a result of this terrible problem. I believe that the manufacturers rather than the Government should have shown the most leadership. Their continual denials are only prolonging the resolving of this problem, which is massively irresponsible on their part. This Government has already taken some action. In the midst of all this denial the Office of Fair Trading has issued a number of memorandums that state, "We do not think there is a problem." However, in order to provide clarity it produced additional pamphlets and information that I am sure benefited consumers and builders by drawing their attention to these problems.

One person who was instrumental in highlighting these problems was Kelly Burke of the *Sydney Morning Herald*. Her front-page stories galvanised thousands of plumbers and builders who were unaware of these issues, drawing their attention to the problems, and that resulted in a great deal of discussion. Some chose to ignore or disregard it, but many other consumers and plumbers decided to take additional precautions, which at least protected consumers. I pay tribute to Kelly Burke for the work that she did, which was triggered largely by the Higgins brothers, but she undertook her own extensive research. If the Government continues to deny that this problem exists it will do so at its political peril. Everybody knows there is a problem and most people are trying to take steps to mitigate that problem. Even the Office of Fair Trading is taking steps to mitigate the problem.

The Government keeps saying that there is no problem but we would be happy as long as some action was taken to resolve it, which is certainly what is occurring. I place on record my thanks to my successor Greg Aplin as the shadow Minister for Fair Trading, a member in another place, who has continued this fight and who met with manufacturers. It is important to acknowledge the perspective that manufacturers have put to Opposition members and the fact that Mr Aplin met with them. The manufacturers argued:

- 1 (d) the Australian Standard ... does not require continuous overflow measure for gutters.
- 1 (g) traditional gutter profiles described as "low front" have not been removed from the market, and are available for sale today.

I think members concede that point. High-fronted gutters have dominated the market because they are more popular. We are not trying to blame the manufacturers for that. The manufacturers argued:

- 1 (f) and 1 (h) slotting of gutters is currently recognised in the BCA as an overflow measure.

We do not dispute that, but it is not recognised as an adequate overflow measure. In a sense, that is our bone of contention. In the absence of a gap between the gutter and the wall it is not possible to make these gutter systems comply. The manufacturers then argued:

- 1 (k) the gutter "components" comply with the BCA.

That is right but when all the components are put together and they are placed hard against the wall of a house they do not comply. I said earlier that we were talking about a gutter system. Industry, however, gave the shadow Minister an undertaking that it would initiate new awareness-raising measures, particularly amongst those installing their gutter systems, to ensure that they are better trained and forewarned of what can happen when gutters are placed hard against the wall of a house. We will wait and watch to establish whether the manufacturers act on the undertakings of the shadow Minister. I thank the Greens for following through on this issue, for their interest in the issue, and for the large amount of work that they have done. It should not be this hard to protect consumers. [*Time expired.*]

**The Hon. ROBERT BROWN** [4.25 p.m.]: The Shooters Party has also received representations from Mr Ian Higgins, who did not make it clear at the meeting that was held that he had any commercial interests, so I cannot comment on that issue. The Hon. Catherine Cusack concluded her contribution by stating that she was aware that full-length continuous overflows are not the only or the sole requirement under the applicable standard. In fact, specifically located overflows are an option. Ms Sylvia Hale erroneously claimed that the standard required continuous full-length overflow. The Building Code of Australia is not a specifying standard on its own; it calls up Australian Standards and requires compliance with those standards as part of compliance with the building code.

Reference was made to whether or not the guttering system, as part of the high-front guttering system supplied by companies such as Lysaght, as an example, comply or do not comply with the Building Code of Australia. It is not correct for members in this House to say that they do not comply because they do not satisfy the requirement for full-length continuous overflows. Another way of achieving overflows lies in the design of the guttering. Under certain conditions—I think the one in 20 year storm standard is applied—the guttering should not overflow back under the eaves of a house or into a house. Some members said that they had inspected premises and properties and certain conclusions were drawn. When members are dealing with an area that is outside their area of expertise they should always obtain expert advice. I am not aware whether the Hon. Catherine Cusack took a building expert with her.

**The Hon. Catherine Cusack:** I did.

**The Hon. ROBERT BROWN:** She did. Given the facts that have been presented to us, the Shooters Party cannot support the motion moved by Ms Sylvia Hale. However, I applaud Ms Hale for moving the motion. It was quite clear from what Government members said in debate that the Government believes it has to do certain things in the future. The Government has told us that it has done some things, but if what it has done is not adequate that is a matter for argument. The Office of Fair Trading and the Minister's office recognise that further work on this issue must be done by those bodies that advise Standards Australia.

It should be understood that, generally speaking, the standards set by Standards Australia are what could be called advisory standards. By and large, Standards Australia sets outcomes; it does not specify design.

In most cases those standards require the designer, the manufacturer and the installer in the case of, say, gutters to produce a result that does not contravene—or whatever the case may be—the relevant Australian standard. Today we are talking about the Building Code of Australia, the standard by which local government, inspectors and private certifiers assess whether or not building work complies.

The Building Code of Australia relies on Australian Standard AS/NZS3500.3:2003 for the design, manufacture and installation of gutters. I do not doubt for one moment that circumstances exist wherein the manufacture, design or installation of the system has created a situation in which individual consumers have ended up with damage to their properties. But that does not mean necessarily that the manufacturer's system, the product's design or the way it is installed are faulty or do not meet the standard. Consumers need the absolute guarantee that when certifiers and building inspectors examine these jobs they make sure that, given their knowledge and expertise, the systems will produce the outcomes required by the Australian Standard. I congratulate Ms Sylvia Hale and the Hon. Catherine Cusack on their advocacy in this matter.

**Reverend the Hon. Dr GORDON MOYES** [4.30 p.m.]: I speak as a Christian Democrat to support Ms Sylvia Hale's motion, which relates to high-front guttering. I never thought eight years ago when I entered this place that I would end up on a Thursday afternoon talking about the size and nature of roof gutters. However, it is now a major issue, and it has become a major issue because of the many roof gutters that are being installed and the many people who have become involved. I acknowledge the statement by the Hon. Greg Donnelly that the Government is taking action to change the codes, illustrations and Department of Fair Trading advice on the website. I hope those changes will meet some of the need.

This serious problem affects many consumers who are unaware of non-compliant legislation. I thank Ian and Jason Higgins, Catherine Reynolds and Archicentre for presenting their submissions and informing crossbench members about the problems of high-front gutters. The Hon. Catherine Cusack first raised this issue with us in February 2008. Since then the problem has become quite significant, involving claims, according to insurance companies, of millions of dollars. All eaves guttering is required to be installed with an appropriate continuous overflow feature. I should like to demonstrate the problem to the House with the sample of guttering that Ms Sylvia Hale brought into the House.

The design code indicates that water reaching the top of the guttering should be able to overflow and run down to the ground. That is fairly logical; that is how traditional gutters operate. However, in more recent years high-front guttering—a sample of which I am holding—has emerged. Part of its structure is designed to cover the wooden eave. Generally speaking, nowadays houses do not have wooden eaves, thus the high-front gutter is attached to the roof by an electroplated spring clip. Some of these gutters have slots along the front to allow water to drain out. Currently, 90 million metres of this guttering is being installed on houses each year to channel water run-off and rain from roofs.

Placing slots in the channel of the guttering does not solve the problem because the front of the gutter is higher than the back of the gutter. As water rises in any receptacle it will find the lowest point as its escape route. Eureka! It may even have something to do with Archimedes. Consequently, because of the design of this high-front guttering, water will invariably enter the house to which it is attached. Members may have observed the electroplated spring clip attached to the sample of guttering I am holding up. The clip is designed to keep the gutter tight against the fascia. As a result, water cannot run between the back of the gutter and the fascia and, therefore, must run behind the fascia and into the house. I trust members opposite can see what I am talking about.

**The Hon. Henry Tsang:** But the slots at the front should release the water.

**Reverend the Hon. Dr GORDON MOYES:** The slots at the front should allow for that; the Hon. Henry Tsang is quite right. I acknowledge the member's architectural advice. But usually the slots are not big enough to allow sufficient water to flow out. I have had some experience with this because eight or nine years ago I had new guttering installed around my house and I found that after a deluge of rain water overflowed into the wall cavities and ceilings of my house. As a result paint started bubbling and water seeped from every light fitting. Why? Because the slots at the front of the guttering do not do the job properly. However—and this is a point for the practical man—I took a hacksaw, climbed onto the roof and used the hacksaw to join the slots in various places and made them larger. I folded them down and created an extra overflow, and that took the water away from the house and down into the garden. But I have a question for the Hon. Henry Tsang, the architect: Why am I allowing all this good water to flow down and away from my house into the garden when I really need it to go into my tank to provide water for our toilets?

The problem is not solved. Even in a one in 20 year flood no amount of slots will allow sufficient water to escape if the back of the gutter is lower than the front of the gutter. It is difficult to understand why the Department of Fair Trading has not quickly cottoned on to this concept and made the appropriate information available. Builders, tradespeople and consumers are unaware of the problem because they have been misinformed or misled about the legislative requirements for installing this guttering. The building code quite clearly states:

Eaves gutter systems, including downpipes, shall be designed and installed in accordance with clause 3.2 so that water will not flow back into the building.

Most gutters will perform to their design capacity. However, the Building Code of Australia requires that provision be made for those one-off occasions when rain, hail or leaves can actually block guttering. For this reason a means for alleviating gutter overflow is required. I should like to mention one other matter. The electroplated spring clip to which I referred earlier is not made of the same sturdy material as that used to make the gutter. It does not take long for the spring clip to rust. So the guttering will outlast the clip, the purpose of which is to keep the guttering affixed to the house. Planning circulars by the Building Code of Australia were published to raise awareness and to remind practitioners of the regulatory provisions that apply to the design and installation of gutters. One such circular concluded:

Results indicate that during heavy rainfall events or if a blockage occurs, slotted gutters cannot be relied upon to prevent water overflowing the gutter. In the case of high fronted gutters—

which is what we are talking about—

without appropriate continuous overflow provision, the water would be directed back into the building in breach of the Building Code of Australia.

I do not wish to take up the time of the House any further, but I wish to refer to a report of Dr Sean Manning from the University of Newcastle, about whether the current installation methodology for high-front gutters constitutes a breach of the Building Code of Australia. Dr Manning gave his various findings. In the interests of time on a Thursday afternoon I shall not go through all of that material. Without question, many thousands of Australian homes, particularly newer houses, face serious problems. Water overflowing from high-fronted gutters is not directed away from houses, as the regulations insist, but rather back into wall cavities, which contain electrical wiring, which is then exposed to moisture and water. Ultimately, that water will rot timber frames and plasterboard walls, causing significant, expensive damage—of the order of \$50,000 per house to rectify. Angus Kell, of the very famous firm Kell and Rigby, states:

[If] the rainfall is short and intense ... it's inevitable you're going to get backflow into these houses without eaves when using this form of guttering. The water will flow behind the brick veneer and into the cavity. The soft timber frame will begin to rot, the plasterboard will crack, the skirting boards will soften, the wiring will become dangerous, the sustainability of the house will be reduced because the water-logged insulation will become effectively worthless. Yet the first visible sign might be something as drastic as [the] ceiling starting to ... cave in.

The Office of Fair Trading is not pointing out all the details to people but rather assures us that the Home Warranty Insurance Scheme exists to assist people who face the difficulty. The problem is that by the time people realise they have a difficulty, the warranty period has expired and they are not able to claim. The insurance companies indicate that while most insurance policies will cover the cost of repairs if the damage can be directly attributed to a storm, slow seepage into houses with faulty gutters means that the damage is classified as wear and tear and is not covered by insurance. I thank Ms Sylvia Hale for moving the motion and drawing attention to the issue. I also thank the Hon. Catherine Cusack for undertaking the original investigation.

**The Hon. DON HARWIN** [4.40 p.m.]: I will speak very briefly to the motion because a number of members who know much more about the issue than I do have made contributions that were very helpful and informative and certainly right on the point. As a former reputable and respected contractor in the building industry before being elected to Parliament, the Hon. Robert Brown's perspective was invaluable. Ms Sylvia Hale certainly has taken a keen interest in the issue. I must also acknowledge my colleague the Hon. Catherine Cusack, who, as the shadow Minister for Fair Trading, certainly delved into the facts. That we are beginning to see some action from the Department of Fair Trading on this issue is in large measure attributable to the work done by the Hon. Catherine Cusack.

Last year when the Hon. Catherine Cusack briefed members of the Opposition on the issue, she delivered a dissertation on building. I was worried at the time that some members would experience a little difficulty listening to her talk about guttering. But that was not the case—not at all. The Hon. Catherine Cusack

was just so on top of the subject that she had the complete attention of all the members of the Opposition, and she certainly won a great deal of respect for the work she did on this issue. Now, to her credit, as a result of her work many people—and the Reverend the Hon. Dr Gordon Moyes referred to just how many people are involved, how much of the product has been installed, and how many properties have been affected—will benefit in some way. The Hon. Catherine Cusack must be thanked for that.

I was involved in having a house constructed at Dulwich Hill between 2005 and 2008, and luckily I had a very reputable builder to do that work. On two occasions, just as the Hon. Catherine Cusack was beginning to examine this issue, the house I owned was affected by massive water inundation. For a time it seemed that exactly the problem we are debating here might be the cause of an immensely distressing and irritating problem. Clothing, carpets, paintwork, furniture were all ruined, and that was personally incredibly distressing to me. As it happened my insurance company was helpful, and certainly my builder was helpful. The view of the insurance company's expert was that the guttering was not at fault, but rather the small "valley", as it were, in the roof was probably at fault. The builder rectified the fault and subsequently I experienced no further problems during heavy rainfall up to the time that I, for various reasons, sold the house.

I sympathise completely with the hundreds if not thousands of people who are suffering as a result of this drainage defect. Despite the early steps being taken by the Government to fix the problem, clearly it still has not been adequately addressed, as we heard during the debate. I hope that all members of the House will unanimously support the motion.

**The Hon. HELEN WESTWOOD** [4.45 p.m.]: I oppose the motion moved by Ms Sylvia Hale, which relates to high-front gutters. There are serious factual problems in the motion as presented. If the motion is passed, it will result in work that is already being undertaken by the Office of Fair Trading being duplicated. According to the information provided by the Office of Fair Trading, the major insurance companies that provide insurance for home and contents have not identified this issue as significant. In spite of that, the Office of Fair Trading for some time has been actively pursuing whether slotted high-front gutters are fit for the purpose for which they have been designed. The Office of Fair Trading has undertaken investigations and has engaged in thorough consultation with the building industry.

For more than a year the Office of Fair Trading has been consulting with relevant associations to iron out any inconsistencies in the Building Code of Australia about how to install the gutters. I advise members that the Minister for Fair Trading has raised the issue with the Federal Minister for Innovation, Industry, Science and Research, Senator Kim Carr, requesting him to review the adequacy of the Building Code of Australia in response to this issue. Moreover, the Office of Fair Trading has taken a whole-of-government approach to the issue and three government departments have issued circulars to the building industry. The Department of Water and Energy has issued a circular to the plumbing industry to reinforce the need for compliance with the New South Wales plumbing and drainage code of practice. The Department of Planning also has issued a circular to all local councils and private certifiers to alert them to possible issues regarding the installation of high-front guttering.

The Office of Fair Trading is working with local councils, the Department of Planning, the Department of Water and Energy and its Federal counterparts to reinforce the message that guttering materials need to be properly installed. The Office of Fair Trading also convened a meeting with manufacturers, building associations, relevant government agencies, and Standards Australia to discuss the issue. The meeting agreed that there is no evidence to support claims of a systemic problem. I am concerned that a scare campaign is being based on lobbying by people who have a commercial interest in causing unnecessary alarm. It should be noted that consumer protection agencies in other jurisdictions have been canvassed, and the response is that they are not experiencing problems with high-front guttering.

In response to some of the specific claims in the motion I am advised that there is a range of ways to affix gutters to metal fascia, including by the use of screws. It is important to note that compliance with the New South Wales plumbing and drainage code of practice, the Building Code of Australia, and Standards Australia can be achieved in a number of ways, such as by using continuous or non-continuous overflow protection measures. How compliance is achieved is up to the person who is designing and/or installing the system. The Greens claim that installation methods employed by the plumbing industry for high-front guttering do not meet Building Code of Australia requirements. Yet when the issue was examined in detail in 2007 by the Master Plumbers Association of New South Wales its expert committee did not see the need to change installation procedures. I note that Ms Sylvia Hale cited the Master Plumbers Association in support of her arguments.

I emphasise that the Building Code of Australia requires guttering systems to be designed so that they are capable of dealing with rainfall intensities that may occur in a one in 20 year storm that can be expected to fall in a specific geographic location. A gutter in either the traditional quad style or the slotted high-front gutter style is but one element of the guttering system. It is incumbent on the person who designs or installs the system to ensure that it is capable of preventing the backflow of water into a home. I reiterate that prevention can be achieved by using various continuous or non-continuous overflow measures, or a combination of both, as shown in the examples provided in the Office of Fair Trading information pamphlet and the relevant Australian Standard. It is simply not true that the Australian Standard requires guttering to be installed with continuous overflow—a line that has been constantly peddled throughout this debate.

In relation to encouraging guttering manufacturers to consider redesigning their product, the manufacturers have expressed the opinion that the issues raised to date are a result not of the product but the methods by which it has been installed. Nevertheless, as a result of efforts by the New South Wales Government, commercial industries are coming to the fore. I am pleased to note that BlueScope Lysaght has placed an informative pamphlet on its website. Fair Trading continues to review websites maintained by guttering manufacturers to ensure that they are correct and as informative as possible. As I have outlined, the New South Wales Government is tackling this issue in a comprehensive fashion. A range of accurate information is available to both consumers and contractors on the correct installation of guttering. The motion moved by the Greens is a waste of paper. It is asking for actions that have already been taken and that have been underway for some time. I will not be supporting the motion.

**Dr JOHN KAYE** [4.50 p.m.]: It is with great pleasure that I support the motion moved by Sylvia Hale. I acknowledge the work that she, the Hon. Catherine Cusack and Kelly Burke from the *Sydney Morning Herald* have done on raising the alarm on this issue. The contributions of Government members were fascinating. When politics and physics collide, physics often loses out, at least in the minds of politicians. But in reality, physics always wins. The physics of this issue are straight forward, as Reverend the Hon. Dr Gordon Moyes accurately pointed out. I am not sure whether the correct principle is Archimedes, but certainly water will seek a level. When the front of a gutter is higher than the rear of a gutter, inevitably water will overflow. Another great principle, which is probably be attributed to Murphy, is that if something can go wrong in a water reticulation or water removal system, it will go wrong.

I am sure most members of this House—I note the heartfelt contribution of Mr Don Harwin about his personal experience—have experienced the effects of dodgy guttering and water flow. Almost everyone knows how appalling that can be in terms of disrupting one's life, the personal cost and the way one's relationship to one's home is changed. People should feel nurtured and safe in their homes. Water spilling into a home, causing mould and damage to paintwork and structure is a terrible violation. We are not talking about a trivial matter; it is a serious issue. Reverend the Hon. Dr Gordon Moyes said that 90 million metres of high-fronted guttering is laid every year.

The longer this goes on, the greater the investment and damage, the more difficult it will be to retract from the situation, and the greater the liability for whoever is liable. That vexed question will have to be resolved eventually as the problems with high-fronted gutters become more evident. It is not difficult to collect evidence of damage being done by high-fronted gutters. I seek leave to table three reports: an architect's advice to Ms Catherine Reynolds, who is the owner of 48 Carey Street, Leichhardt, New South Wales; a structural engineer's report on that same house; and a document relating to 40 Leumeah Avenue, Wamberal.

**Leave granted.**

**Documents tabled.**

All three documents clearly detail the scope of the damage that can be done by high-front guttering. That is the physics and the engineering of the problem. But what about the politics of the problem? There seems to have been a breakdown in the ability of the Office of Fair Trading to regulate in the public interest. Fair Trading seems to have lost the plot entirely on this issue. Part of the problem with politics is that once a mistake is made a fair amount of political courage is required to recognise that a mistake has been made and to turn it around. Sheer policy inertia appears to be blocking the Office of Fair Trading from recognising the mistake it made in not stamping out high-fronted gutters in the first instance and allowing the situation to continue—and, indeed, to get worse at the rate of 90 million metres per year.

As Ms Sylvia Hale said, it is time for the New South Wales Government and the Office of Fair Trading to confront this problem honestly, to set aside any embarrassment and recognise that the longer we leave this

problem the more damage will be done, hence a greater liability. Also, the more guttering that is installed, the greater the cost of reversing the situation. I strongly commend the motion to the House. I hope that all members will support the motion with a sense of multipartisanship. They should understand that this motion simply calls for action on a problem that is vexing a large number of people and will vex an even greater number of people in the future.

Parenthetically, the problem is exacerbated by the absence of eaves on many modern houses. It is a question of building standards. Eaves were put on houses for exceptionally good reasons: not just because of their thermal performance but also because of their ability to reject rain. With the combination of high-fronted gutters and no eaves, water overflowing at the point where the gutters are connected directly to the fascia board is a guaranteed recipe for water infiltrating a house. The trend to move away from eaves, and long eaves, is regrettable. It has not only exacerbated the problem of high-fronted gutters but also reduced the thermal performance of modern houses. We should be moving back to incorporating eaves in the house design, despite the fact that no eaves reduces construction costs in the short term and increases developer profits. In the long run society's costs are increased in terms of water ingress and thermal performance. I commend the motion to the House. I call on the Government, despite its stated position, to recognise the damage caused by high-fronted gutters and to support the motion.

**Reverend the Hon. FRED NILE** [4.57 p.m.]: As has been said in this debate, the use of a certain style of guttering that enables water to enter a home can be most damaging. I remember that when we had extensions done to our home the builder allowed some brick mortar to be left inside wall cavities. That had the effect of channelling water inside the walls, and into the ceiling. Suddenly our ceiling collapsed under the weight of water. So I know how devastating it can be for a family to find that this style of guttering, which they feel is secure from all types of weather—storms, floods and so on—enables water to flood into their home and cause severe damage. These days many houses are brick veneer construction and walls can be severely damaged by excess water or water overflowing into the houses.

The first sign of water damage in my home was water coming from light fittings. Eventually the damaged ceiling started to collapse. I am sympathetic to families whose homes have been damaged. I have no evidence to support accusations that a company has a vested interest in this debate to change a policy that would benefit such a company, but if that is the case, it should be investigated to ensure that this debate is not influenced by an organisation or company that could benefit.

**Pursuant to sessional orders business interrupted to permit a motion to adjourn the House if desired.**

**Item of business set down as an order of the day for a future day.**

## **CROSS BORDER TRANSPORT TASKFORCE REPORT**

### **Production of Documents: Return to Order**

**The Clerk** tabled, pursuant to the resolution of 12 March 2009, documents relating to a Cross Border Transport Taskforce report received this day from the Director General of the Department of Premier and Cabinet, together with an indexed list of documents.

## **SPECIAL ADJOURNMENT**

### **Motion by the Hon. Henry Tsang agreed to:**

That this House at its rising today do adjourn until Tuesday 31 March 2009 at 2.30 p.m.

## **ADJOURNMENT**

**The Hon. HENRY TSANG** (Parliamentary Secretary) [5.02 p.m.]: I move:

That this House do now adjourn.

## **TRIBUTE TO RONALD CONWAY**

**Reverend the Hon. FRED NILE** [5.02 p.m.]: I draw the attention of the House to the death of an outstanding Australian, Ronald Conway. He was a great Australian social commentator, a philosopher of hope

and truth. On 21 March Tony Abbott, a member of Federal Parliament, wrote an article that was published in the *Australian*. Mr Abbott emphasised Ronald Conway's ability and contribution to thought in Australia. He said that Ronald Conway was a great Australian thinker who had high regard for human frailty. He also said:

RONALD CONWAY, who died this week, was a more perceptive social critic than Donald Horne but not nearly as well known.

Conway's first book, *The Great Australian Stupor*, first published in 1971, sold almost 70,000 copies. After Horne's *The Lucky Country*, it has been by far Australia's largest selling work of serious social criticism. While Horne's title has become part of Australia's self-description, his book is a period piece. By contrast, there is a timeless quality to Conway's psycho-study of Australian society, especially his account of the dysfunctional Australian male.

Many Christian people who discuss *The Lucky Country* would rather it be called "The Blessed Country" because they do not believe it is simply luck that our nation has been so bountifully blessed both above and below the ground. He continued:

Conway described himself as a conservative, and was a frequent biting critic of much that was associated with the modern world: consumerism, materialism, feminism and especially the post-Vatican Council disarray of institutional Catholicism. Yet he was far too aware of the complexity of the human condition and especially of the power and ambiguity of human sexuality to be a straightforward barracker for conventional thinking. While he supported orthodox Catholic teaching, Conway also observed that

The Catholic has been far too long made to suffer a scarred conscience because he or she could not, or would not, always be able to live up to such lofty ideals.

His six books, though, are his most enduring contribution to Australians' self understanding. "Stupor" was followed by two companion volumes, "The Land of the Long Weekend" in 1978 and "The End of Stupor" in 1985. "Being Male" was published in 1986 and "The Rage for Utopia" in 1992. In 1988, he published an elegant autobiography. His work hasn't always been as well promoted as it deserved because he was rarely entirely on any side. Much of his writing has the capacity to surprise, dismay or exhilarate a wide range of readers. Instead of cementing his position in the front rank of Australian public intellectuals, however, many thought that this made him not quite trustworthy. The danger is that his insights will be forgotten because they aren't sufficiently partisan even though he stands to the analysis of social behaviour in Australia much as Edmund Burke does to conservative political thinking more generally.

This philosopher of human frailty was indeed a prophet who should be much honoured in his own country.

We give thanks to God for the writings of Ronald Conway. May they be read, studied and influence debate in our society on many of these important social issues. It is important to be objective and not partisan, which is what Ronald Conway was. God bless his memory.

### TRIBUTE TO JOHN "PADDY" KENNEALLY

**The Hon. HELEN WESTWOOD** [5.07 p.m.]: I speak in commemoration and celebration of the life of a great Australian John "Paddy" Kenneally, whom Jose Ramos-Horta, President of Timor-Leste, paid tribute to as one of the greatest human beings he has ever known. Paddy Kenneally was born in Youghal, County Cork, Ireland in 1916. His family migrated to Australia in 1927 and made their home on the foreshores of Sydney Harbour in Millers Point. Perhaps it was his childhood experiences of the Depression in Sydney that gave Paddy his great sense of social justice and his absolute tenacity in the face of hostility to speak out against injustice. Paddy was working on Pyrmont wharves when his foreman told him that the Japanese Air Force had just bombed Pearl Harbour. Paddy is reported to have got up, dropped his tool belt and started to leave. When the foreman asked where he was going Paddy told the foreman to get himself another man, he was going to join the Army to fight, not for the Yanks, not for the British or the Russians, but for Australia.

It took him three days to get into the army because wharf labourers were classified as essential workers. As a staunch republican, legend has it that Paddy held his breath when asked to swear loyalty to King George and picked up the oath again when swearing allegiance to his country. On 21 January 1942, Paddy landed in East Timor—then Portuguese Timor—with the 2nd Independent Company, known as the 2/2 Commandos. The Japanese army arrived in East Timor on 20 February 1942 just a month after the 2/2 Commandos. The Australian troops were hopelessly outnumbered and by that time 80 per cent of the Diggers were sick with malaria. They were forced to retreat to the mountains from where they would wage a guerrilla campaign against the Japanese. The 2/2 Commandos stayed in East Timor for another 10 months and continued their guerrilla campaign, something they could not have done without the support of the Timorese people. The Timorese took care of them right from the beginning of hostilities.

The very first day the Japanese arrived, the Timorese saved an Australian. There were many more accounts from Australian soldiers of the selfless acts of bravery by Timorese that saved the lives of Diggers. The Australians acknowledged their survival and successes depended on East Timorese support, especially that of



the helpers, or companions, whom they called "criados". The effect of the criados on a soldier's mobility was great. They carried his pack, blankets and all non-military equipment. During the 11 months of warfare, the 2/2 Commandos lost fewer than 40 soldiers, while it is estimated that 2,500 Timorese lives were lost.

During the Second World War years of 1942 to 1945 some 60,000 East Timorese died because of their involvement with Australia. They were killed in battle, tortured to death, or died of disease caused by malnutrition. The Timorese paid a huge price for supporting the Australians. In 1943 Paddy made a commitment to the many Timorese criados who sheltered, guided and cared for the men in his unit that he and Australia would never forget them. He spent the rest of his life trying to repay that debt. Paddy raised much-needed funds for projects, particularly schools. He visited East Timor many times. Following Paddy's death on 1 March 2009, the Prime Minister of Timor-Leste, Xanana Gusmão, and his wife, Kirsty, paid him the following tribute:

True to the words of 2/2nd and 2/4th commandos in Timor-Leste, Paddy Kenneally did not forget.

Paddy's credentials as a soldier during those dark times in our nations' combined history are acknowledged by all. As a fellow veteran, albeit in a later atrocity, I was nourished by a bond with Paddy; a bond that comes from understanding the unspoken and the unspeakable.

His fighting spirit endured throughout his life and Paddy's tireless pursuit of justice and inability to suffer fools are now part of his legend and his legacy.

Paddy's personal crusade to repay the debt of honour owed to our people became the thorn of conscience in the side of those who would forget.

On behalf of the people of Timor-Leste we give heartfelt thanks for Paddy's will to keep up the fight for us.

An obituary in the *Sydney Morning Herald* by Paul Cleary stated that Patrick Keneally, by virtue of his energy and longevity, probably did more than any other person to remind Australia of its debts to the Timorese, especially after the Whitlam Government gave Indonesia the green light to invade the territory in 1975. Keneally was certainly a man who fought hard. He also appeared in television advertisements on the eve of Anzac Day with five other veterans. He called on the Howard Government to give the impoverished new nation a fair go. Kenneally told the Prime Minister, John Howard, "I'd rather that you did not come to my Anzac Day parade."

## GUNNEDAH POLICING

**The Hon. TREVOR KHAN** [5.12 p.m.]: Gunnedah is a town located 76 kilometres west of Tamworth. According to the Australian Bureau of Statistics, as at 30 June 2007 the Gunnedah Local Government Area had 11,968 residents. I have received an email from a concerned Gunnedah resident, which states:

I live on a property just out of town in Gunnedah (5 minutes drive to town), and in the early hours of Thursday morning my daughter and I were woken up by yelling and loud banging by an unknown and unwelcome man at our front door.

I made a call to 000 and asked for police assistance. Within a few minutes I received a call from Tamworth Police wanting to know exactly what was going on, and I explained the situation.

The policeman was very helpful, but told me a police car would possibly not be here for an hour.

By this time the unwelcome person had gone into our open car bay and started my car up and in the meantime had tried to open our locked front gate.

At this moment I cannot begin to tell you the terror my daughter and I felt. At the same time I had called 000 twice more as 000 had told me to call back if anything had changed, the last time the lovely lady stayed on the phone with my daughter and I until the police came and in the meantime I made a frantic mobile call to my husband in Sydney as I thought if anything happened to us he wouldn't have a clue what had gone on.

A short time later the 000 lady then told me the Police were outside and I finally went to the back door and there was a policeman at the bottom of my stairs, the relief I felt at seeing him standing there reduced me to a flood of tears. He had a look around and he found the man in question asleep in my car.

A few minutes after this, another police car turned up and took the man in question away. From the time I made the first call to 000 it took roughly 40 minutes for police to come.

What was also alarming was the fact there was only one policeman in the first police vehicle. The safety issue alone for him is mortifying and also what back up would there have been, for example, if there had been a hostage situation, that is not a job for one lone policeman.

I have to say that the policeman was exemplary and my daughter and I were extremely grateful. That morning my daughter and I had cause to go to the Gunnedah Police station at 8.30am, the front door was shut and when she pressed the button a voice picked up from Tamworth Police station, a couple of seconds later the squad car had come back to Gunnedah Police station.

This has not been the first time. It has been stated in the local paper of the Police station shut due to staffing issues. I wonder how Police Minister Kelly would feel if his family was put in the situation my daughter and I found ourselves in, in our own home.

The townspeople don't want to know about December 2008 statistics, what is important is the present and what is going on at the moment not 3 month old statistics, brought up in March, after the fact, we need this obvious problem fixed and no amount of bouncing around the topic with fancy numbers and ignoring questions put to him are going to change the facts.

The implications of what could have happened to both my daughter and myself are very scary and highlight a very serious problem. No wonder police are leaving the force. The policeman who helped my daughter and I was back on duty that very morning, sleep deprived no less. The police do a wonderful job, but if we want to keep these good men and women and make their jobs as safe as possible, the powers above certainly have to do better than this, that is for sure. Do the powers above who have the final say on the numbers of police allocated to a particular area honestly think that this is adequate; you have to wait nearly an hour for help? This is no way to protect a town. I am proof that this is certainly not adequate enough.

Regards

Concerned Gunnedah resident.

Inadequate police resources in the town are a very real concern to the Gunnedah community. The Minister for Police must do more to allay the concerns of the residents of Gunnedah about the lack of boots on the ground.

### **REDEEMER BAPTIST SCHOOL ASSISTANCE TO ABORIGINAL COMMUNITIES**

**Reverend the Hon. Dr GORDON MOYES** [5.17 p.m.]: About a year ago the year 10 students of Redeemer Baptist School in North Parramatta, a school that has been trenchantly criticised in the House, started to raise money for Aboriginal communities in need after I advised their headmaster, at his request, that the school readiness program, known as HIPPY La Perouse, would be one project very worthy of their assistance. HIPPY, which stands for the Home Interaction Program for Parents and Youngsters, is an early childhood enrichment program targeting disadvantaged families, particularly indigenous people, auspiced by the Brotherhood of St Laurence. Currently, more than 400 families are being helped. Recently the Rudd Government announced that it would provide Federal funding of \$32 million to expand this very successful program. Over the past two or three years, through the support of the Rotary Club of Sydney—I am a past president—I was able to present cheques on two occasions totalling \$175,000 to employ special teachers and home helpers.

The program in La Perouse is under the direction of the Eastern Zone Gujaga Aboriginal Corporation, and supported by the La Perouse Public School. When I explained to Jonathan Cannon, the Principal at Redeemer Baptist, of what we had done in the past he contacted the coordinator of HIPPY La Perouse, who welcomed the Redeemer Baptist students' offer to provide assistance. The Mulli Mulli Aboriginal community was also known to have particular needs, and contact was made with their pastor, Lola Bundock. Pastor Lola asked if the students could help fix up their church building, which had been built some 30 years ago from discarded timber. Pastor Lola especially wanted the students to stop the roof leaking because, as she explained, when it rained people needed to put up their umbrellas inside the church.

The students decided to raise funds for both of those projects. They held a number of sausage sizzles at Redeemer Baptist School and a major fundraising event, the Annual School Gala Day. As a result, they raised the money and then set out with a team of volunteers from Redeemer Baptist Church, including builders, an architect and senior teaching staff, and travelled to Mulli Mulli on the Queensland border to establish plans for the church renovation project. The team estimated that the project would require more than \$100,000 in building materials and labour. The Gala Day and sausage sizzles were a success—and more than \$10,000 was raised towards the Mulli Mulli project. But this fell far short of the \$100,000 needed.

Representatives of the school, the church and Redeemer staff went out to industry to seek further assistance. The result was quite amazing. They received many donations, including free use of a 14-tonne truck, good quality doors and windows, timber cladding and paint, insulation and roofing materials, paving, gardening supplies and plants. The schools estimated this immediate assistance was worth \$50,000.

Year 10 Redeemer students then spent a week of their 2008 term 3 holidays alongside volunteers from Redeemer Baptist Church and some of the people from the Mulli Mulli community rebuilding the church. The week was brought to a conclusion on the last Sunday of the school holidays with a thanksgiving service in the newly reconstructed church. People came from all around to celebrate with the Mulli Mulli community.

Honourable members can imagine the delight of the community. Some said that what was happening in the Mulli Mulli community was being talked about in all the Aboriginal communities on the North Coast. One man came to the service saying that he had been told in town about the renovation and he did not want to miss seeing it for himself.

Repairs to the church building had been in the hearts of the Mulli Mulli people for a long time. The community thanked the Redeemer Baptist School and its students for their assistance and told them that their gift had been an incredible answer to their prayers. The Redeemer students, staff and church volunteers agreed that it was a wonderful privilege to work alongside their new friends of the Mulli Mulli community.

In December 2008, representatives of the year 10 class presented a cheque to the HIPPY program at La Perouse during the graduation ceremony held in the Matraville Sports High School assembly hall. That gift of \$2,500 will help provide HIPPY project workers with training and support. It gives me great pleasure to speak about these two remarkable projects from one school that has helped to meet the needs of our indigenous people. I thank the school, its students and the church for all they did. I congratulate them on a job well done.

### PAY EQUITY

**The Hon. LYNDA VOLTZ** [5.21 p.m.]: The closure of the Pacific Brands factory is a great loss; many Australian workers face an uncertain future. However I will deal with two issues that were raised in media reports. Firstly, in the storm that followed the closure and the pay rise awarded to the chief executive officer, Sue Morphet, it was revealed that she was being paid just half of what her male predecessor had received. Second, 70 per cent of the people who will lose their jobs in the Pacific Brands lay-offs are women. Yesterday, when submissions were available online, it was revealed that the Australian Childcare Alliance, which represents 2,700 childcare centres, is making a submission to the Fair Pay Commission that the minimum wage be either unchanged or, surprisingly, reduced. This is an industry in which 98 per cent of the employees are women.

While some in the community, and perhaps in this Chamber, are uncomfortable with the term "feminism", it is perhaps time that we returned to some of the campaigns that were championed by the feminist movement, in particular that of pay equity. My colleagues may wish to consider the following figures: women hold just 7 per cent of the top earner positions in Australian companies and on average earn just 58 per cent of the salary packages paid to men in the same positions. Women's wages are now worth just 83 per cent of a man's average wage, down from 85 per cent previously. The figure is 65 per cent if women in part-time work are included, an area in which we are greatly over-represented. Even in this Chamber, perhaps as a microcosm of the larger community, female members of the Legislative Council earn on average \$20,223 less than their male counterparts. To achieve pay equity would require an increase of 14.85 per cent for female members of the Legislative Council.

Of course, compounding the impact for women in the workforce are changing patterns, particularly in fertility. The early to late thirties are crucial years in employment in the shift through middle management. However, these are also crucial ages for women having children. The median age of all women as per births registered in 2007 was 30.7 years. In 2006 the fertility of women aged 35 to 39 years increased to 68.1 babies per 1,000 women. This was the highest rate for women aged 35 to 39 years since 1950. For women, time spent on household work tends to be greatest during the peak child-rearing period from 25 to 44 years. In 2006, women in this age group with children aged under 15 years spent around 53 hours a week on household work—the average for all women aged 25 to 44 years was 42 hours per week—and around 33 hours and 30 minutes a week for those aged 45 years and over. Men aged 25 to 64 years spend between 17 and 21 hours on household work, and men aged 65 years and over spend 27 hours a week on household work.

In 2006, mothers aged 20 to 49 years in couple relationships did 29 hours more household work per week than those without children. While much of this was due to the time mothers spent on childcare activities, they also spent an extra seven hours a week on domestic activities. Fathers aged 20 to 49 years in couple families spent roughly the same amount of time on domestic activities and less time shopping compared with those without children. While mothers spent less time in paid work than women without children, they also got less sleep and had less time for recreation and leisure activities. For fathers, the extra household work came at the expense of sleep, and recreation and leisure time, but not paid work.

The number of women in the labour force and the level of their qualifications have increased considerably from the 1980s, as changing attitudes and labour markets opened employment opportunities to

women. In 1986, 59 per cent of women aged 18 to 44 years were employed. By 2006, 70 per cent of women in this age group were employed. By contrast, the employment of men aged 18 to 44 years remained at 84 per cent in each period. As these participation levels continue to converge, we must do better.

Perhaps it is time for a new age of feminism, with the banner being handed down from mother to daughter to fight not just for a convergence of participation rates in employment but also for women to achieve real equality by convergence of pay equity figures and household work figures. I look forward to the Australian Bureau of Statistics one day releasing this welcome news.

### SCHOOL SOLAR PANEL TENDERING

**The Hon. CATHERINE CUSACK** [5.25 p.m.]: Last year the Rudd Government launched a program of grants to assist every school in Australia install solar panels so that they could become micro-generators of electricity. At the very least this would allow the schools to reduce their carbon footprint and become more sustainable. There are about 2,500 Government schools in New South Wales and I am sure we would all find the prospect of installing panels to be a major and exciting contribution to the battle to reduce greenhouse gases—all, that is, except perhaps the New South Wales Government, which has erected a large number of hurdles.

New South Wales Government schools are, I believe, the only schools in Australia not to have received any Federal grant money. Not one solar cell has been installed with this funding. This is in keeping with the poor performance of this Government. When I discuss the situation with industry and the community there is a shrugging of the shoulders, a sort of resigned gesture, which says, "We are not surprised; it is what we have come to expect of this incompetent, self-centred Government."

What has surprised some is the news revealed by the Opposition this week that the major culprit has been the New South Wales Minister for Climate Change and the Environment, Carmel Tebbutt. The Minister, wearing her other hat as Minister for Commerce, was asked by the Federal Government to post \$50,000 cheques to schools, a simple job that has been botched. Instead of sending out the cheques the Minister has seized control of all the funding and has embarked upon a ham-fisted exercise in which all construction decisions are to be centralised, and 544 pages of conditions have been devised and will be imposed on suppliers by way of a centralised tender. Basically no school will ever see a cent of their funding because it all stays in Sydney and can only be doled out by bureaucrats under the contract. This complex, expensive and unnecessary tender is costing our schools and our environment time and money.

Why has the Minister done this? The answer is simple. A centralised contract means her department can rake off a 2.5 per cent so-called management fee, which perhaps should be called a "mismanagement fee". All this complexity to justify a rip-off! There are some interesting conditions in the tender contracts. The 2.5 per cent Department of Commerce rip-off must be kept secret by the contractors. There is no transparency. Contractors who are slow to pay the secret 2.5 per cent commission will be penalised 5 per cent a month. It is a bit rich, isn't it? Here we have a Government that will not pay its bills, especially in health. Creditors in some towns have cut off all credit to local hospitals, forcing nurses to buy bandages from local vets. Yet this same Government wants to put secret commissions and secret penalty clauses for late payments in contracts, a policy that strikes me as quintessentially Labor and iconic of Labor's approach to business and the community.

It began as a simple, practical program with a fantastic green outcome for schools and our environment by boosting renewable energy and reducing electricity costs. To give it its due, the Rudd Government has followed through on this issue. Such is the bipartisan nature of this simple initiative that it is working everywhere except in New South Wales government schools, where it has been hijacked opportunistically. Now that the truth has come out it is incumbent on Minister Tebbutt to show remorse, to do the right thing and to apologise for turning a simple grants programs into yet another funding quagmire. Clearly, the way to go from day one was to empower the schools to engage their own contractors to support local businesses and the growth of jobs—green jobs. Sadly, Labor's fixed philosophical attachment to centralised power and its hatred of local autonomy has been allowed to derail this wonderful program. Other States and school systems have got on with it, empowering schools to arrange local businesses to install these panels.

It is distressing that the Minister for Environment would oversee such a rort at the expense of both children and the environment. I had hoped for better from the Minister for Education and Training, the Hon. Verity Firth, whose job is supposed to be to stick up for schools. Sadly, in October 2008 Minister Firth placed a ban on New South Wales Government schools applying for the grants. In a letter that I have Minister Firth answers critics of the way in which the program has been mismanaged by stating:

I am advised the tender process is seeking innovative and sustainable procurement solutions, including standardising to appropriate products, to ensure the government can better manage its total lifecycle costs, consumption and the quality of its infrastructure.

I think Minister Firth must have copied that paragraph straight from a *Yes Minister* script. Either it is a joke or, like the Minister for the Environment, she has lost the plot. Sadly for students and for the environment, it is probably both, and these small \$50,000 grants intended for schools continue to languish in the bank accounts of bureaucrats.

### **BAIL SURETY**

**Ms SYLVIA HALE** [5.30 p.m.]: In January 2008 Mr Ian Fraser, a friend and neighbour of mine who had been charged with allegedly maliciously discharging a firearm, approached me. Mr Fraser was in a desperate position. Bail had been set at several hundred thousand dollars and he had no chance of raising that money. I was aware that Mr Fraser was caring for his long-term partner who is facing serious health issues. Failure to raise bail would see him spend more than 12 months in jail awaiting trial. The effect on both him and his partner would be devastating.

Given the circumstances, I agreed to provide a surety of \$250,000 towards bail. I did not seek to publicise this action but a journalist at the bail hearing apparently recognised my name and the matter was covered in a story in a local newspaper and in a Sydney Sunday paper. In February I raised a series of questions about the decision by the Minister for Lands to grant a lease over the Killalea State Park to a developer who had made several large donations to the Labor Party. In response to those questions the Minister for Lands referred to the bail surety, implying that I had in some way acted inappropriately. He said:

I would like to know why the member funded a bail application for an alleged criminal.

He also said:

It reminds me of something I mentioned yesterday, and will continue to refer to it so long as the member continues this attack. I have a press clipping that is entitled "MP bails friend on firearms charges."

Following this attempted smear, I made a personal explanation to the House on 3 April 2008. I confirmed that I had provided the surety and I made the point that—

*[Time for debate expired.]*

**Question—That this House do now adjourn—put and resolved in the affirmative.**

**Motion agreed to.**

**The House adjourned at 5.32 p.m. until Tuesday 31 March 2008 at 2.30 p.m.**

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