

A hard reign: NSW public administration under Labor — 2007 to 2011

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'The biggest mess'

The tumultuous 54th Parliament in NSW has been the most dramatic since the dismissal of the Lang government in 1932. Incompetence, misbehaviour, maladministration, infighting and leadership instability saw the Labor government's stocks plummet to record low levels as measured in the opinion polls running up to the 2011 election.

The period was characterised in the words of one observer as 'the biggest mess in the history of public administration in Australia'.¹ Since the victory in 2007 by Morris Iemma, who succeeded long-time Premier Bob Carr in 2005, the government writhed in anguish as scandal after scandal engulfed it; resignations, rebellions and dismissals have occurred with alarming regularity, so much so that by the time of the Parliament's dissolution, the political landscape bore little resemblance to that at the start of the term. Iemma, whom some thought had won against the odds in 2007,² was no longer in Parliament; a newly-elected member in 2007, Nathan Rees, had succeeded him in 2008, but by 2011, Rees was a backbencher, having been deposed at the end of 2009 after just 15 months at the helm; and a junior minister in 2007, Kristina Keneally, was in place as the first female Premier in the state's history. The abrupt rise and fall of Rees established two records: he was the shortest-serving member of the NSW Parliament to become Premier since Federation, and he enjoys the dubious distinction of being the only Labor Premier not to have led the party into an election. If Rees' tenure was short, it was anything but uneventful, presiding as he did over four Cabinet reshuffles in that time, with ministers scarcely warming their seats before being moved on or moved out. It was not an atmosphere in any way conducive to sound

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policy-making or rational administration, and public confidence in the government simply collapsed. Parliament's traditional role of holding the executive to account was frustrated by a growing tendency to bypass it on major issues wherever possible — always the desperate tactic of a government in deep trouble, both untrusting and untrusted.

Big plans, few results

Two particular policy issues dogged the government during the course of the 2007–2011 Parliament — public transport and privatisation of the electricity industry, and the government's failure to chart a steady course on both issues contributed to its erosion of support in the electorate. In the public mind, lack of progress on key issues was conflated with internal dissension and leadership instability. The developing pattern of major projects being announced with fanfare and then subsequently abandoned became farcical, the more so given the public perception that this appeared to happen with each change of Premier. The change from Iemma to Rees, for example, saw an abrupt shift in the public transport field with the new leader announcing the indefinite postponement of a major rail project, the North West Metro,³ which had been championed by Iemma, but unveiling at the same time plans for a new inner-city rail line, the CBD Metro, a nine kilometre railway running from Rozelle and Pyrmont to connect with Wynyard, Town Hall and Central in the Sydney CBD.⁴ The CBD Metro, however, was subsequently scrapped by Rees' successor, Kenneally.⁵ Budgetary constraints were cited in each case.

The frequent policy reversals in public transport plans for western Sydney have merely drawn attention to the compounded failure of successive state governments to deliver on infrastructure promises to the region, a pattern that has been evident now for four decades. The grandiose plans for an expanded and modernised rail system, while making for visionary-style public announcements, appear to be dubiously grounded in terms of financial viability. In 2008, for example, officials of the Office of Financial Management warned the government that the proposed spending on the Metro system, already being avidly promoted by the Government, ran the risk of exhausting the state's capital spending reserves, which cast doubt on the claim by then Premier Morris Iemma that the projects were independent of any sale of the state-owned electricity generation assets.⁶

The apparent cavalier approach to what is a serious and frustrating issue in Sydney — inefficient and overcrowded public transport — has thrown any semblance of long-term strategic planning out the window.⁷ The North West Metro, designed to ease access and cut travel time into the city from the growing metropolitan fringe, was planned as a modern European-style line of 37 kilometres, of which 32 kilometres were to have been underground. It was proposed as a direct link of Sydney's north-west with a total of 17 new stations. According to the press release announcing the project, the metro line was to offer

a rail service of one train every four to five minutes (three minutes during peak hours).⁸ However, the project was mired in controversy from the time of its announcement, with questions being asked about how realistic the announced journey times were. The government was forced to defend its projections while a consultant's report showed that travel times would be much slower than those announced, apparently not taking into account the time spent stopping at stations.⁹ The deferment of the CBD Metro not only added to the confusion and general air of uncertainty, but it also came at a significant cost to the public purse. Apart from the \$300 million already spent by the Government on the project, an agreement reached on compensation to contractors cost a further \$93 million.¹⁰ It, too, sparked controversy from the time it was announced when at a media conference the then Premier, Nathan Rees, was unable to put a cost on it, drawing criticism that the project was drawn up 'on the back of an envelope'. The government subsequently nominated a figure of \$4 billion, but six months later this had blown out to \$5.3 billion.¹¹

Yet the North West rail project was not dead, only, apparently, the 'metro' part of it. In early 2010, it was resurrected by the new Premier, Kristina Keneally, in a form more closely resembling the heavy rail link first proposed as part of the Carr government's master plan in 1998, originally earmarked for completion by 2010, but now not scheduled to begin construction until 2017. However, the project became a focal point of the federal election campaign in 2010 with the Prime Minister, Julia Gillard, throwing an apparent financial lifeline to the stalled project in the form of \$2.1 billion, leaving the NSW government with only \$520 million to find, and a projected completion date of 2017. In an apparent vote of no confidence in the state's ability to deliver on its end of the deal, federal funding was conditional on the project's being overseen by the Commonwealth's infrastructure body, Infrastructure Australia.¹² The attempt by Federal Labor to shore up its support in Sydney's west largely backfired, with the party's national secretary and campaign director, Karl Bitar, later calling the move a big mistake. The rail link was good policy, he said, but it ended up 'sucking oxygen' out of the campaign because the media reported it in an extremely cynical way.¹³ The media coverage more likely reflected public scepticism because the day after the announcement an opinion poll in the Sydney Morning Herald showed only 28 per cent of respondents believed the project would come to fruition.¹⁴

While the public has long wearied of public transport plans failing to materialise, there was one significant achievement in Labor's final term — the opening of the Chatswood–Epping railway link on Sydney's north shore in 2009. Yet even this feat, mooted as far back as 1920, was far from an unalloyed success, having been originally a part of a much larger scheme to connect the north shore with Parramatta in the west. This was postponed indefinitely in 2003 in an announcement by then Transport Services Minister, Michael Costa, which effectively removed the crucial centrepiece of the government's transport blueprint, in place since 1998.¹⁵ Justification for the decision was based on

concerns that the projected daily patronage of 15,000 passenger trips did not warrant the project's \$1.2 billion cost.

Power struggles

The issue of ownership of the electricity industry has been a thorn in Labor's side for much of its 16 years in office, and more than any other issue has contributed to destabilisation of the government and a growing public perception of policy paralysis. It was also the catalyst that drove Morris Iemma from office in 2008. While Victoria and South Australia privatised electricity in the 1990s, NSW has a troubled history of such attempts. When Bob Carr's first attempted wholesale electricity privatisation in 1997, he quickly retreated when faced down by union and party anger.

Late in 2007, Premier Morris Iemma announced the government would sell the state-owned electricity retail companies and lease the power generation companies to private operators.¹⁶ This decision was voted for by cabinet and caucus and followed the recommendations of Professor Anthony Owen following his inquiry into the electricity supply in NSW. His report concluded that 'government expenditure on infrastructure is an opportunity cost issue'. In other words, government investment in infrastructure that can be adequately provided by the private sector, such as power generation, is at the expense of investment in other infrastructure requirements (e.g. policing, education and transport) that may not attract adequate levels of private investment or may not provide basic levels of service across all communities in NSW.

Thus government ownership should ensure an adequate level of security of supply of these services. Since electricity generation and retail operate in a competitive market, there is no rationale for government ownership based upon any inability of the private sector to provide a secure supply at competitive prices.¹⁷

The main thrust of the Owen Report was that the most efficient means of providing for baseload was to improve the commercial and policy signals used by the private sector when investing in generation capacity in NSW. The report's key recommendation, was 'that the Government...divests itself of all State ownership in both retail and generation'.¹⁸ A second review, headed by former Premier Barrie Unsworth, was also established by Iemma to consider the effect of the proposed sale on families, the environment and workers in the power industry,¹⁹ or as Iemma put it 'to examine the Government's plans to secure our future energy needs'.²⁰

However, there was criticism of both the Owen inquiry and the Unsworth review, as neither considered 'the crucial issue of whether privatisation was a good idea or not', and both being underpinned by the assumption of the government's preference for privatising electricity and going on from there.²¹ It was high-risk politics on Iemma's part, treading where his predecessor had feared, taking on not

just the union movement and key sections of his own party, but also public opinion which continued to favour government ownership. One published poll showed 79 per cent of respondents opposed to privatisation²² and Iemma's own party conference had voted just a few months earlier, by 702 to 107, to oppose privatisation.²³

The essence of Iemma's proposal was that the assets of the state-owned owned companies, Energy Australia, Integral Energy and Country Energy would continue under state ownership, but their retail operations would be sold. On 28 August, Iemma recalled parliament to vote on the Electricity Industry Restructuring Bill 2008, which was already in jeopardy in the Legislative Council where the Opposition had decided, for purely political reasons, to oppose privatisation. This was a setback to the government which was relying on opposition support given its uncertainty about all its own supporters voting for it. In his second reading speech Michael Costa, who was by then Treasurer, said the legislation represented 'the most important piece of economic reform contemplated in this State in a generation. Costa went on to say:

Without them we face a very stark and unavoidable choice: Either run unacceptable risks to the security of the power supply or divert taxpayer funds away from front-line services and vital infrastructure.²⁴

In response, the Leader of the Opposition in the Legislative Council, Mike Gallacher, accused the government of betraying public trust, citing statements by both the Premier and the Treasurer prior to the 2007 election that there were no plans for privatisation of the electricity generation, transmission or distribution industry in NSW. Parliament was then adjourned.

The following day Iemma responded with a revised plan involving the sale of the state's three electricity retailers along with the development sites for new generators. The plan provided for the power generators to remain under state control, a move available to the government without the need for a vote in parliament. Iemma's public justification was that he had to act to protect the state's interests as 'the credit rating agency, Standard & Poor's has put us on credit watch because of the Coalition's treachery'.²⁵ Iemma's anger with the opposition was curious given that parliament had not been given the opportunity to debate the Owen report, on which he was relying so heavily on pushing ahead with privatisation. Also curious was Iemma's use of Standard & Poor's, which had endorsed privatisation, rather than the other major credit rater, Moody's, which had reported that the state had a 'moderate debt burden' and that 'the positive performance of water and electric utilities eases the state's debt burden' as these corporations' debt was self-supporting through user charges under a regulated pricing structure. Further, the NSW Treasury immediately removed the link to the Moody's website, and from then on provided a link only to Standard & Poor's.²⁶

It looked very much like an acceptable compromise had been reached, and the Labor Party's acting secretary, Luke Foley, went on television to declare 'a victory for the Party members, a victory for the Party conference'.

The issue of generation is always the one that's attracted the most heat within the Labor Party. Now that it's confirmed that generation will remain in Government ownership and control, I'm optimistic that we can work through the issue of retail and put the Labor Party back together in NSW.²⁷

However, the tensions and destabilisation within the government and the Labor Party over the issue were not about to disappear. The following week saw the Deputy Premier, John Watkins, resign from Parliament, citing exhaustion,²⁸ and foisting on the government a potentially divisive Cabinet vacancy as well as an unwanted by-election. Iemma considered that the electricity issue had been resolved and that the government needed to move on; to do that it needed a new look, and he seized on the resignation of Watkins as an opportunity to push through a reshaping of his ministry, most notably in removing the Treasurer, Michael Costa, the principal architect of electricity privatisation. It was, however, the other changes proposed by Iemma that met resistance in a process that amounted to a test of his standing in the Labor caucus, and faced with that resistance, Iemma resigned.²⁹ The war over privatisation had exacted a heavy toll, the government losing its Premier, Deputy Premier and Treasurer in one fell swoop.

Now you see him, now you don't

Nathan Rees, elected in 2007, and immediately appointed Minister for Water Resources and Minister for Emergency Services, was chosen by the party to succeed Iemma. It was an inauspicious time to take the reins as the Global Financial Crisis was beginning to impact on the state's finances with a slump in revenues, and the first task for Rees after getting the Cabinet he wanted was handing down a mini-budget on 11 November. The changed economic climate forced some hard decisions on the new Premier and he moved to increase a range of taxes and charges and also announced the further privatisation of state assets. A universal scheme providing free travel on public transport for all students going to and from school was curtailed — a decision since reversed — and the previously announced North West Metro and south west rail projects were indefinitely put on hold.³⁰ Again, a major factor in the government's thinking was the state's credit rating from Standard & Poor's which, while retaining its AAA status after the failed electricity privatisation, had had its outlook downgraded to 'negative'. Unlike the business community and the public, the agency welcomed the mini-budget as going 'some way to reducing the uncertainty about the state's fiscal flexibility'. Standard & Poor's noted that the financial statement set out a capital reprioritisation program and measures aimed at strengthening NSW's operating position, but warned that 'the execution of the strategy will be important to returning the outlook to stable'.³¹

Thus, the new Premier had a challenge to meet: the broad strategy had been ticked off by the target audience the government wanted most to please; now it had to implement that strategy. If economic conditions were not propitious for the wished for new start by the troubled government, neither were the prevailing political winds. A series of by-elections on had delivered an almighty blow to the government, with the results in Ryde, Cabramatta, and Lakemba showing the largest by-election swing against Labor in its history. Ryde, formerly held by Deputy Premier John Watkins, was lost to the Liberals with a swing of 22.6 per cent against Labor; Cabramatta recorded a swing of 22.7 and Lakemba, formerly held by Morris Iemma, a swing of 13 per cent, but Labor retained them.³² To make matters worse, there was an early ministerial casualty when Small Business Minister, Tony Stewart, was stood aside, and later sacked, over allegations that he had bullied a female staff member.³³ If the government was on notice for the quality and effectiveness of its performance, the last thing it needed was a distraction such as this, following hard on the heels of another unsavoury ministerial departure in September when Matt Brown was sacked as Police Minister after allegations involving personal behaviour during a late night party in Parliament House.³⁴ With the Government's popularity in free fall and slipping below 30 per cent in opinion polls, Rees tried to claw back lost ground by restoring free student travel.³⁵

Much of 2009 saw the government on the back foot as several of the initiatives from the November 2008 mini-budget faltered or were wound back. For example, privatisation continued to be a problem for the government, and plans to privatise Cessnock jail were abandoned.³⁶ A populist attempt to impose a ban on bottled water at all government agencies backfired after it was revealed that three companies had contracts to supply it until March 2011.³⁷ Yet again, the government was distracted, this time involving the resignation of Health Minister, John Della Bosca, over a sex scandal.³⁸ A bizarre move by the government to avoid parliamentary scrutiny, when it feared that it might not get its legislation to privatise the state lotteries through the Legislative Council, effectively shut down the upper house one day prior to the long winter recess by resorting to the tactic of having the only Minister in the chamber walk out, leaving the President no alternative but to adjourn the house, on the 'ringing of the long bell' as there were no government representatives in the house.³⁹

The Government continued to slide in the polls and speculation gathered pace daily about challenges to Nathan Rees who, in late 2009, sought and won unprecedented powers from the ALP State Conference to select his own Cabinet — the use of which brought about his own downfall,⁴⁰ and led to the election of Kristina Keneally, the third Premier in as many years in the 54th Parliament.⁴¹

It was always going to be uphill for Kristina Keneally. The damage had been done; her job was to try to cauterise the gaping wound that was the Labor government. The public mood remained implacably hostile, and was eloquently articulated at a by-election in mid-2010 for the seat of Penrith in what was once

Labor's heartland, with Labor suffering a swing of 25 per cent and losing the seat to the Liberal Party.⁴² The reason for the by-election was also embarrassing for the Government, brought on by the resignation of Labor MP Karyn Paluzanno who admitted to misusing public funds and to lying about it to the Independent Commission Against Corruption.⁴³ In December 2010, a Parliamentary Secretary, Angela D'Amore, was sacked after a corruption investigation found she had misused parliamentary allowances.⁴⁴ The ministerial revolving door continued to revolve for all the wrong reasons: four ministers departed in 2010, three of them in circumstances that reflected poorly on the government. David Campbell resigned as Transport Minister after accusations he used a taxpayer-funded government car to visit a gay sex club,⁴⁵ Major Events Minister Ian Macdonald quit amid allegations he misused his ministerial travel entitlements,⁴⁶ and Ports Minister, Paul McLeay, left after admitting to using a parliamentary computer to access gambling and adult websites.⁴⁷

Electricity privatisation remained a central part of the Government's agenda and in late 2010 it contracted the electricity trading rights of the nine State-owned power stations to the private sector (the 'Gentrader model') followed by the sale of three energy retailers, Energy Australia, Country Energy and Integral Energy, to two private companies in a deal worth \$5.3 bn.⁴⁸ Controversy attended the issue right to the end, with Keneally proroguing parliament early in an attempt to block an Upper House inquiry into the sale, and a protest resignation of eight board members of the electricity retailers.⁴⁹ An opinion poll reported 'anger and outrage' at the move, with 83 per cent of those surveyed of the opinion that that the Government had done 'a poor job' of handling the sale.⁵⁰ The NSW Business Chamber president, Stephen Cartwright, who supported privatisation, described the process as 'this horrendous failure in public policy' that both undervalued the assets and locked in inefficiencies.

It is time for a more mature approach to public policy in NSW. We must start taking the long-term welfare of the state into consideration, not just what will make us happy at election time.⁵¹

On 23 February 2011, the Legislative Council committee handed down a report which cast doubts on key aspects of the Owen Report, on which the Government had relied so heavily, and expressed the view that the sale had not achieved value for the state and had 'left the electricity industry half-reformed and the other half in limbo'.⁵² It called for the contracts to be rescinded and a full judicial inquiry be established to investigate the process.⁵³ The report also took issue with the Premier's premature proroguing of Parliament, finding that contrary to her own evidence to the committee 'the NSW Government prorogued the parliament for the specific purpose of frustrating the Inquiry into the Gentrader transactions'.⁵⁴

Conclusion

A curious aspect of the end of 16 years of Labor rule in NSW is that after four consecutive terms in government, the outgoing administration was remarkably

inexperienced given the seismic shocks that have churned the ministry (see appendix). Only nine of the 20 Cabinet ministers in the last Keneally government had been there at the start of the term under Iemma in 2007, and of those, five had been new ministers in 2007. In 1965, for example, when Labor lost office after a record unbroken term of 24 years, 14 of the 16 ministers had been there since the 1959 election, and some of them much longer. Two Ministers had been members of every government since Labor won office in 1941. It was a ministry deep in experience that had grown weary under the burden of office whereas the Keneally cabinet was a ministry shallow in experience that had worn the responsibilities of office too lightly. The average length of time that ministers had spent in their substantive portfolios was just one year and nine months — that is, less than half the life of the Parliament. It challenges the conventional view about long-term governments dying from a lack of new blood: it is nearly all new blood.

The attrition rate of ministers did not augur well for strategic administration at any level, and the rapid changes at the top negated any sense of a consistent vision for the state. As well it was not only Premiers that came and went with unusual rapidity — three different directors-general headed the Department of Premier and Cabinet in that time, diminishing the steadying effect that a bureaucracy might normally be expected to exercise during political turmoil.

The reasons for Labor's fall from grace are many and varied, but one stands out prominently, and has been examined at length by historian and former Labor minister, Rodney Cavalier:⁵⁵ the rise of a political new class, a ruthless and self-serving oligarchy, which had come to dominate the Labor Party. Office was seen as a given in Labor NSW; it was conferred permanently on the clique that controlled the ALP, and those exercising power all too often placed themselves beyond accountability to say nothing of conventional morality. Factional manoeuvring took precedence over policy and the scramble for spoils trumped process; all too frequently the standards of behaviour expected in public life were flouted before an ever-despairing electorate. It was not so much what the government did that made the headlines, but the government itself became the story.

The NSW experience is eerily reminiscent of the decaying Communist system of the Soviet Union as described by the Yugoslav dissident, Milovan Djilas, in his classic book, *The New Class: An Analysis of the Communist System*, and is an apposite epitaph for NSW Labor, 1995–2011.

The core and the basis of the new class is created in the party and at its top, as well as in the state political organs. The once live, compact party, full of initiative is disappearing to become transformed into the traditional oligarchy of the new class, irresistibly drawing into its ranks those who aspire to join the new class and repressing those who have any ideals...The class grows stronger while the party grows weaker...⁵⁶



APPENDIX
NSW MINISTERS AS AT MARCH 2011

Minister	Portfolio(s)	Previous Portfolio(s)	Time in Portfolio	Minister Since
Kristina Keneally	Premier	Planning	1 year 3 mths	2007
Carmel Tebbutt	Health	Climate Change Environment Commerce	1 year 6 mths	1999*
John Hatzistergos	Attorney-General Citizenship Regulatory Reform	Health	3 yrs 11 mths	2005
Eric Roozendaal	Treasurer State & Regional Development Ports & Waterways Special Minister of State	Roads Commerce	2 yrs 6 mths	2005
John Robertson	Transport Central Coast	Energy Climate Change Environment	10 mths	2009
Verity Firth	Education & Training	Climate Change Environment	1 year 6 mths	2007
Tony Kelly	Planning, Infrastructure Lands	Local Government Emergency Services Police	1 year 3 mths (Planning, Infrastructure) 6 yrs 8 mths (Lands)	2003
Frank Sartor	Climate Change & Environment	Planning	1 year 3 mths	2003**
Linda Burney	State Plan Community Services	Fair Trading Youth Volunteering	1 year 3 mths (State Plan) 2 yrs 6 mths (Community Services)	2007
Michael Daley	Police Finance	Roads	1 year 6 mths	2008
Paul Lynch	Industrial Relations Commerce Energy Public Sector Reform Aboriginal Affairs	Local Government	1 year 3 mths 2 yrs 6 mths (Aboriginal Affairs)	2007
Steve Whan	Primary Industries Emergency Services Rural Affairs	Small Business Rural Affairs	1 year 3 mths 2 yrs 1 month (Emergency Services)	2009
David Borger	Roads, Western Sydney	Housing	10 mths	2008
Peter Primrose	Ageing, Disability Services Youth, Volunteering	None	10 mths (Ageing, Disability Services) 1 year 3 mths (Youth, Volunteering)	2009
Jodi McKay	Tourism Science & Medical Research Women	Small Business Commerce	2 yrs 6 mths (Tourism) 2 yrs 4 mths (Science) 1 year 3 mths (Women)	2008
Barbara Perry	Local Government Juvenile Justice Assist Minister for Planning Assisting Health (Mental Health)	None	2 yrs 6 mths	2008
Phillip Costa	Water Corrective Services	Regional Development Rural Affairs	2 yrs 6 mths (Water) 1 year 3 mths (Corrective Services)	2008
Kevin Greene	Gaming & Racing Sport & Recreation Major Events	Community Services	2 yrs 6 mths (Gaming & Racing, Sport) 9 mths (Major Events)	2007
Virginia Judge	Fair Trading Arts	None	2 yrs 6 mths	2008
Frank Terenzini	Housing	None	10 mths	2010

*Except 2007-08 **Except 2008-0

Endnotes

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- ⁵² 'The Gentrader transactions', Report of General Purpose Standing Committee No 1, Legislative Council, Parliament of NSW, p. 46.
[http://www.parliament.nsw.gov.au/Prod/parlment/committee.nsf/0/3f7a0972901ccb96ca25784000069faa/\\$FILE/100223%20Final%20Report%20Gentrader%20transactions.pdf](http://www.parliament.nsw.gov.au/Prod/parlment/committee.nsf/0/3f7a0972901ccb96ca25784000069faa/$FILE/100223%20Final%20Report%20Gentrader%20transactions.pdf)
- ⁵³ *Ibid.*, p. 47.
- ⁵⁴ *Ibid.*, p. ix.
- ⁵⁵ Rodney Cavalier, *Power Crisis: The self-destruction of a state Labor Party*, Cambridge University Press, Melbourne, 2010.
- ⁵⁶ Milovan Djilas, *The New Class: An Analysis of the Communist System*, Thames & Hudson, London, 1957, p. 40.