

PORTFOLIO COMMITTEE NO. 4 - CUSTOMER SERVICE AND NATURAL RESOURCES

Wednesday 7 September 2022

Examination of proposed expenditure for the portfolio areas

SMALL BUSINESS, FAIR TRADING

CORRECTED

The Committee met at 09:30.

MEMBERS

The Hon. Mark Banasiak(Chair)
Ms Abigail Boyd
The Hon. Anthony D'Adam
The Hon. Courtney Houssos
The Hon. Emma Hurst (Deputy Chair)
The Hon. Aileen MacDonald
The Hon. Taylor Martin
The Hon. Peter Poulos
The Hon. Mick Veitch

PRESENT

The Hon. Victor Dominello, *Minister for Customer Service and Digital Government, Minister for Small Business, and Minister for Fair Trading*

* Please note:

[inaudible] is used when audio words cannot be deciphered.

[audio malfunction] is used when words are lost due to a technical malfunction.

[disorder] is used when members or witnesses speak over one another.

CORRECTIONS TO TRANSCRIPT OF COMMITTEE PROCEEDINGS

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

**Budget Estimates secretariat
Room 823
Parliament House
Macquarie Street
SYDNEY NSW 2000**

The CHAIR: Welcome to the initial public hearing for the inquiry into budget estimates 2022-23. I acknowledge the Gadigal people of the Eora nation, the traditional custodians of the lands on which we are meeting today. I pay respect to Elders past, present and emerging, and celebrate the diversity of Aboriginal people and their ongoing cultures and connections to the lands and waters of New South Wales. I also acknowledge and pay my respects to any Aboriginal and Torres Strait Islander people joining us today. I welcome Minister Victor Dominello and accompanying officials to this hearing. Today the Committee will examine the proposed expenditure for the portfolios of Small Business and Fair Trading.

Before we commence, I make some brief comments about the procedures for today's hearing. Today's hearing is being broadcast live via the Parliament's website. Proceedings are also being recorded and a transcript will be placed on the Committee's website once it becomes available. In accordance with the broadcasting guidelines, media representatives are reminded that they must take responsibility for what they publish about the Committee's proceedings. All witnesses in budget estimates have a right to procedural fairness according to the procedural fairness resolution adopted by the House in 2018.

There may be some questions that a witness could only answer if they had more time or certain documents to hand. In these circumstances, witnesses are advised they can take the question on notice and provide an answer within 21 days. If witnesses wish to hand up documents, they should do so through the Committee staff. Minister, I remind you and the officers accompanying you that you are free to pass notes and refer directly to your advisers seated behind you. Finally, could everyone please turn their mobile phones to silent for the duration of the hearing. All witnesses will be sworn prior to giving evidence. Minister Dominello, I remind you that you do not need to be sworn as you have already sworn an oath to your office as a member of Parliament.

Mr MATTHEW PRESS, Executive Director, Compliance and Dispute Resolution, Safe Work, Fair Trading, Department of Customer Service, affirmed and examined

Ms MEAGAN McCOOL, Director, Construction Services Group, Metropolitan, SafeWork NSW, Department of Customer Service, affirmed and examined

Ms NATASHA MANN, Fair Trading Commissioner, Deputy Secretary, Better Regulation, Department of Customer Service, affirmed and examined

Mr DAVID CHANDLER, Building Commissioner, Department of Customer Service, sworn and examined

Mr CHRIS LAMONT, Small Business Commissioner, Small Business Commission, sworn and examined

Mr JOHN TANSEY, Executive Director, Policy and Strategy, Department of Customer Service, affirmed and examined

Ms EMMA HOGAN, Secretary, Department of Customer Service, on former affirmation

The CHAIR: Today's hearing will be conducted from 9.30 a.m. to 12.45 p.m., with a 15-minute break at 11.00 a.m. We are joined by the Minister in the morning, and in the afternoon we will hear from departmental witnesses from 2.00 p.m. to 5.15 p.m., with a 15-minute break at 3.30 p.m. During the sessions there will be questions from Opposition and crossbench members only. If required, an additional 15 minutes is allocated at the end of the morning and afternoon sessions for Government questions. We thank everyone for their attendance today. We will begin with questions from the Opposition.

The Hon. COURTNEY HOUSSOS: Good morning, Minister, and good morning, everyone. Ms Hogan, when were you first made aware of issues with former Minister Petinos' behaviour towards staff?

EMMA HOGAN: Sorry, I thought your first question was going to be to the Minister. Can you be a bit more specific?

The Hon. COURTNEY HOUSSOS: When were you first aware that there were issues with the former Minister's behaviour towards staff?

EMMA HOGAN: There were some areas of concern that were raised with me probably in April. It was as early as April.

The Hon. COURTNEY HOUSSOS: As early as April this year?

EMMA HOGAN: Yes.

The Hon. COURTNEY HOUSSOS: April 2022. Ms Petinos became a Minister in December, is that correct?

EMMA HOGAN: Yes. From recollection, it was announced in December.

The Hon. COURTNEY HOUSSOS: When those issues were first raised, was that in a formal complaint to you or was that a general discussion?

EMMA HOGAN: It was not raised with me formally, no.

The Hon. COURTNEY HOUSSOS: But you became aware of it in April?

EMMA HOGAN: I became aware of some instances in April, yes.

The Hon. COURTNEY HOUSSOS: Did you take any action as a result of that or was it just a discussion that was occurring at the time?

EMMA HOGAN: There were a couple of issues that occurred that my staff had raised with me. As you would be aware, when there are instances that occur that relate to behaviours in the workplace or respectful behaviours in the workplace, there are different procedures that staff can follow. It doesn't always result in people making formal complaints. Sometimes they just want you to be aware of something and sometimes they want you to take specific action. I was made aware of a couple of instances. I took it upon myself to raise some of those instances with the former Minister in early May.

The Hon. COURTNEY HOUSSOS: So you raised them with the Minister in early May?

EMMA HOGAN: Yes.

The Hon. COURTNEY HOUSSOS: And these issues obviously continued?

EMMA HOGAN: There were a few different issues that had been brought to my attention. Some issues did continue and some did not.

The Hon. COURTNEY HOUSSOS: I understand that these are very delicate issues and so I certainly don't want you to be giving up any confidences, but are you able to explain the nature of any of those complaints that were raised with you?

EMMA HOGAN: Yes, I definitely don't want to give a blow-by-blow account here of what I know. I don't think that's fair to anybody involved.

The Hon. COURTNEY HOUSSOS: I'm certainly not asking you to.

EMMA HOGAN: There were probably two things if I was to talk about it at a high level. One was concerns about respectful behaviour in meetings and others were about some cultural concerns that had been raised with me about working in her office.

The Hon. COURTNEY HOUSSOS: Were those concerns about working in her office about departmental staff who didn't want to be rotated through the Minister's office as they normally are?

EMMA HOGAN: Yes, there were some staff who didn't wish to work in that office. But there were also instances where the Minister felt that—you know, it's at the Minister's maybe not discretion but it's up to the Minister as to what they need. I think, on occasion, it was considered that we perhaps hadn't put the right skill set or right person in there. I would say that that was two way.

The Hon. COURTNEY HOUSSOS: Minister, I want to come to you. You were the lead cluster Minister for Customer Service at the time when the previous Minister for Fair Trading was in the role. Is that correct?

Mr VICTOR DOMINELLO: Correct.

The Hon. COURTNEY HOUSSOS: That gives you a total salary of over \$333,000. That is correct, isn't it?

Mr VICTOR DOMINELLO: Correct.

The Hon. COURTNEY HOUSSOS: And your chief of staff is in the top salary band, which means that he can be paid over \$354,000?

Mr VICTOR DOMINELLO: I believe so. He has been with me for 10 years.

The Hon. COURTNEY HOUSSOS: Minister, when did you become aware of these issues with the former Minister's behaviour?

Mr VICTOR DOMINELLO: When you say "issues", can you be more specific about that?

The Hon. COURTNEY HOUSSOS: Well, there were issues. I don't want to use the word "complaints" because I understand that the word complaint has a specific requirement. When were concerns raised? When were—

Mr VICTOR DOMINELLO: Let me say this: You raise a good point around the wording. I did not receive any formal or informal complaints regarding the former Minister's conduct towards her ministerial staff. Workplace complaints are dealt with by the Department of Premier and Cabinet and, where appropriate, escalated to the attention of the Premier and his office. The subsequent action taken by the Premier followed a discussion with the secretary of my department, Ms Hogan. I was not privy to that discussion and I was informed of the Premier's decision later that evening. I don't intend to make further commentary on that, given it's already been canvassed extensively in the public domain because of the matters raised by Ms Hogan and we don't want to aggravate or scare off other potential complainants from making complaints.

The Hon. COURTNEY HOUSSOS: No, and I certainly would not want to do that either. I'm trying to get an understanding of the time period. Minister, I'm interested, you are the senior cluster Minister.

Mr VICTOR DOMINELLO: Absolutely.

The Hon. COURTNEY HOUSSOS: Were the complaints ever escalated to you?

Mr VICTOR DOMINELLO: No, I never received any formal or informal complaint.

The Hon. COURTNEY HOUSSOS: Were there discussions with you about what was going on in then Minister Petinos' office?

Mr VICTOR DOMINELLO: I never received any formal or informal complaint about bullying.

The Hon. COURTNEY HOUSSOS: In your statement that you just referred to, or you spoke through, you said that the complaints were dealt with through the Department of Premier and Cabinet and the Premier's office. There is no role for oversight in terms of this kind of behaviour from the cluster Minister?

Mr VICTOR DOMINELLO: If I received a formal complaint then I would take steps in relation to it, but I never received a formal or informal complaint.

The Hon. COURTNEY HOUSSOS: What I am interested in, Minister, is obviously Ms Hogan did receive—I hesitate to use the word "complaints". I'm not sure, we might get to that this afternoon, but there were issues that were raised with the secretary and then the secretary went to the Department of Premier and Cabinet and the Premier's office.

Mr VICTOR DOMINELLO: A stern threat reporting channel.

The Hon. COURTNEY HOUSSOS: What is your role as the senior cluster Minister?

Mr VICTOR DOMINELLO: It is to do with policy, mainly. A senior cluster Minister is really there to shepherd things through Cabinet, through ERC, to make sure that the policies are aligned across the cluster and, particularly in my role because I was there in Fair Trading all those years ago, you have the broader oversight in relation to the whole-of-government reform. Because so often government and Ministers are focused on their very individual channels, a cluster lead is supposed to take a bigger picture approach.

The Hon. COURTNEY HOUSSOS: Mr Chandler, in his resignation letter, outlined that there were some impasses in terms of legislation. Was that ever raised with your office?

Mr VICTOR DOMINELLO: No, not directly. No, not to my knowledge.

The Hon. COURTNEY HOUSSOS: Did you get a sense of that, though? You just said that you were the previous Minister; you understand that this is a pretty robust portfolio. There's lots of legislation, there was obviously a strong agenda within the building industry. Were you aware of that legislative impasse?

Mr VICTOR DOMINELLO: I was aware that there were concerns in relation to a whole lot of things happening in the construction space and, yes, I was aware of workflow issues. But, equally, Ms Petinos was a new Minister. I know what it's like to be a new Minister. It's hard yards and it takes some time to get your feet underneath the table, as it were. I offered to assist in any way I could in relation to workflow issues.

The Hon. COURTNEY HOUSSOS: What assistance did you provide in relation to workflow issues?

Mr VICTOR DOMINELLO: Again, I offered to assist in terms of where I thought priorities could be, how communication channels could be improved. And I offered the assistance of my staff because my staff have been around for a long, long time too. My chief and deputy chief have been with me for 10 years each. They know how government works and I suggested that if anybody in Ms Petinos' office needs some mentoring or assistance in relation to how to get things through the agency quickly, we'd be happy to help.

The Hon. COURTNEY HOUSSOS: Did anyone take you up on that offer?

Mr VICTOR DOMINELLO: I think Ms Petinos' chief of staff did reach out to my COS. I'm sketchy on the detail.

The Hon. COURTNEY HOUSSOS: I understand. I just want to be clear on this. On 31 July—and we will probably come to that this afternoon; we've got plenty of time this afternoon—your involvement, Minister, was you were simply informed of that later in the evening, along with your other Cabinet colleagues?

Mr VICTOR DOMINELLO: When you say "informed"?

The Hon. COURTNEY HOUSSOS: When the Premier sacked Ms Petinos, he didn't speak to you beforehand, obviously Ms Hogan was part of the—

Mr VICTOR DOMINELLO: No, I got a call on the evening. I think it was a Sunday, from memory.

The Hon. COURTNEY HOUSSOS: Yes, it was. And that's—

Mr VICTOR DOMINELLO: Yes. I got a call on the evening, saying he's going to make this decision or he's made the decision and he's asked me to step in in the role.

The Hon. COURTNEY HOUSSOS: We might come to Mr Chandler. Welcome. I am very glad to see that you are going to stay on in the role, Mr Chandler. Minister, I am interested to know, what did it take to get Mr Chandler to stay on or to come back?

Mr VICTOR DOMINELLO: Well, according to Mr Chandler, a physiotherapy session. But, in fairness, the relationship is between Ms Hogan and Mr Chandler. I have been a public supporter of Mr Chandler for a long, long time. I just think he's got a very, very strong vision. He's very data focused and that's what you need in terms of deep reform in the construction sector. I have just been a big supporter of Mr Chandler from day one, pretty much.

The Hon. COURTNEY HOUSSOS: Obviously there was a range of issues that were outlined in the resignation letter, and I have been upfront; I was calling for you to be reinstated, Mr Chandler. We have had our differences in the past, but I think there is an important program of work that needs to be rolled out, but there were some concerns that were raised in that letter. Did you address those concerns?

Mr VICTOR DOMINELLO: Well, again, the employment relationship is between Ms Hogan and Mr Chandler and I'm not going to interfere with that. I think Mr Chandler appreciates that I understand the vision that he is driving and I am fully supportive of it, but you have to ask Mr Chandler about that.

The Hon. COURTNEY HOUSSOS: No worries. We've got plenty of time this afternoon. There was Mr Chandler's resignation, prior to that there was the termination of Mr Minns, who is now going to be reinstated into the Property Services Commissioner role.

Mr VICTOR DOMINELLO: Correct.

The Hon. COURTNEY HOUSSOS: We are happy that we are going to have the opportunity to ask him some questions this afternoon. Did you have to make any specific undertakings to Mr Minns to get him to come back?

Mr VICTOR DOMINELLO: No. Similar to Mr Chandler, I had discussions with Mr Minns and Mr Chandler. I wanted to understand their vision, their priorities and they wanted to understand where I stood in terms of their visions and priorities. Again, I just think the work that both of them had outlined, and their visions, is the right way forward, so it was a pretty simple conversation.

The Hon. COURTNEY HOUSSOS: Clearly now the former Minister had gone and you had stepped into the role, they felt that confidence had come back?

Mr VICTOR DOMINELLO: You have to ask them about what they felt.

The Hon. COURTNEY HOUSSOS: But there were no specific undertakings? There was no guarantee that Ms Petinos wouldn't come into the portfolio again if you win the election? There were no specific undertakings?

Mr VICTOR DOMINELLO: Oh, no. It was just an opportunity for both of these gentlemen to canvass their visions, their priorities and I wanted to see whether we were on the same page. Again, I'm absolutely supportive of the direction. I think it's just nation-leading what we are trying to do here because it is complex reform, and to get really stuck into the weeds and the data and that transparency piece—no-one else is doing it. They absolutely have my full backing.

The Hon. COURTNEY HOUSSOS: Minister, are you still planning on moving the Property Services Commissioner out of Fair Trading?

Mr VICTOR DOMINELLO: That's the proposal, yes.

The Hon. COURTNEY HOUSSOS: Where will it move into?

Mr VICTOR DOMINELLO: It's independent.

The Hon. COURTNEY HOUSSOS: Into an independent—

Mr VICTOR DOMINELLO: Yes, that's the proposal. Obviously we have got a tight—a very heavy legislative agenda, so I don't think we will be able to get around to it before the election. But it gives the Property Services Commissioner time to further consult with the industry in terms of what the finer details of that will look like.

The Hon. COURTNEY HOUSSOS: So not before the election?

Mr VICTOR DOMINELLO: There is just so much on the agenda legislatively, so that's going to be very difficult.

The Hon. COURTNEY HOUSSOS: Minister, you talked about data and the need for transparency. Do you know how many interim occupation certificates remain in force in New South Wales without a final occupation certificate?

Mr VICTOR DOMINELLO: No, but Mr Chandler would. Mr Chandler, would you know?

DAVID CHANDLER: I'll get that out while you're talking, yes. Can I take that on notice for a few minutes?

The Hon. COURTNEY HOUSSOS: Yes, of course, absolutely. Perhaps you might know how many interim occupation certificates that have been issued by certifiers who have been struck off as certifiers are still in force—

Mr VICTOR DOMINELLO: Yes, we can find that out.

The Hon. COURTNEY HOUSSOS: —without having a final occupation certificate being issued.

Mr VICTOR DOMINELLO: Yes, again, I've been in the role for about four weeks, so I'm not across every piece of data but, yes, I'll get that on notice.

The Hon. COURTNEY HOUSSOS: I understand. We have talked about this consistently at estimates, and you would know from your previous time in the portfolio that this is a key issue—the issuing of interim occupation certificates without a final—

Mr VICTOR DOMINELLO: Yes, I'm not arguing with you. I will get the information for you.

The Hon. COURTNEY HOUSSOS: Are you looking, then, at putting occupation certificates onto—are you looking at a data program to actually analyse? In the past we've been told that we don't have this figure. Mr Chandler, do you have the figure?

DAVID CHANDLER: There are 160 occupation certificate audits that have been commenced, and 79 of those are closed.

The Hon. COURTNEY HOUSSOS: So we've looked at 160 buildings, and thousands of buildings have gone up across Sydney over the past decade. I understand the audits process; we've talked about that a lot at estimates, and I think that's important work. But I'm interested, Minister, in how many interim occupation certificates there are out there.

Mr VICTOR DOMINELLO: Again, I'll take that on notice.

The Hon. COURTNEY HOUSSOS: This is a key issue. The Vicinity apartments in Canterbury, as an example, still only have an interim occupation certificate in place and no final occupation certificate issued. The interim occupation certificate was issued by a certifier who has now been struck off.

Mr VICTOR DOMINELLO: Yes.

The Hon. COURTNEY HOUSSOS: The developer was Toplace, a developer that was named by Mr Chandler in his resignation letter. Some of the residents have been told that it's at imminent risk of falling down. This is a crucial issue that needs to be addressed. Given your passion for data, can you say that you will map which interim occupation certificates—

Mr VICTOR DOMINELLO: It makes a lot of sense to me, and I'll definitely speak to Mr Chandler and get some more details.

The Hon. COURTNEY HOUSSOS: Okay, thanks very much.

Mr VICTOR DOMINELLO: That's the level of transparency that we need to drive towards; there's no doubt about that in my mind.

The Hon. COURTNEY HOUSSOS: Yes, but it has been going on for quite some time, Minister, and there's been a succession of Ministers through this portfolio.

Mr VICTOR DOMINELLO: I know, but I share your passion for transparency in this space. These reforms are particularly complex, and that's why we're just trying to shine a light on a lot of this stuff.

The Hon. COURTNEY HOUSSOS: Strata laws were last changed when you were previously the Minister in the portfolio.

Mr VICTOR DOMINELLO: Yes, 2017-18—something like that.

The Hon. COURTNEY HOUSSOS: Will you respond to the strata schemes review before the end of this year?

Mr VICTOR DOMINELLO: I'm hoping to. Mr Tansey?

JOHN TANSEY: Thanks, Ms Houssos. Yes, and we have. Our plan in progressing the reforms—as I might have flagged, I think, in the Committee before—was to do it in two stages. So a first tranche of the reforms that are both easy to—

The Hon. COURTNEY HOUSSOS: Sorry, Mr Tansey, my time is literally about to run out, so we might go into more detail this afternoon. I'm interested from the Minister's perspective that you are interested in pursuing this before the end of the year. A review into the Home Building Act is currently underway. Did that review exclude the Home Building Compensation Fund?

Mr VICTOR DOMINELLO: I'll have to get some detail on that. Mr Tansey, are you aware?

JOHN TANSEY: It's not a specific focus. There's a very broad question in the consultation that's started. But there is separately work being undertaken by the State Insurance Regulatory Authority, who's responsible for the scheme, as I'm sure you know—a broader, deeper review into the fund and the scheme itself.

The Hon. COURTNEY HOUSSOS: Excellent, and we'll come back to that this afternoon. Minister, do you anticipate making legislative changes as a result of this review?

Mr VICTOR DOMINELLO: Again, it's a function of time and the legislative agenda in front of us. It's unlikely we'll get it before the election, because we've only got six weeks left of Parliament. But I imagine there will be reforms coming out of the review.

The Hon. COURTNEY HOUSSOS: But you can see that a large range of reviews have been sitting in this space. Mr Chandler obviously outlined some legislative issues in his resignation letter, but there is a large range. The Residential (Land Lease) Communities Act review is also sitting there. A number of reviews are in place or underway that require legislative change.

Mr VICTOR DOMINELLO: And some will be activated this year. But as you've acknowledged yourself, we've only got six weeks left of Parliament so we're just trying to cram in as much as we can before the election.

The Hon. COURTNEY HOUSSOS: Do you have any specific priorities before the end of this year?

Mr VICTOR DOMINELLO: Yes, definitely. I know that right up the top of the list is the reforms or the further amendments required by Mr Chandler. Yes, we're trying to push that through. But as you've pointed out, there are just so many more that need to be—but this is not going to be a one-stop shop in terms of reform, so that we've fixed everything by the end of the year. This is going to be ongoing but, yes, we have to identify the stuff that's really urgent.

The Hon. COURTNEY HOUSSOS: Unfortunately, my time has expired.

The CHAIR: Welcome, Minister.

Mr VICTOR DOMINELLO: Thank you.

The CHAIR: I might just start by trying to clear up some comments that were made by the Building Commissioner in the previous estimates on 27 October around private certifiers. It was a fairly benign, innocuous question by me—or what I thought was a fairly benign and innocuous question by me.

Mr VICTOR DOMINELLO: I can't imagine that would be the case.

The CHAIR: It certainly was. I just asked whether the Building Commissioner had a list of good or bad actors in the certifying area. He said no, that wasn't his role—and then a video emerged online of him essentially saying that he had an informal list of certifiers, which made its way to banks in terms of who they shouldn't be working with. Ms Hogan, I note that you were quoted as saying that you investigated and cleared Mr Chandler of any allegations of misleading Parliament, notwithstanding the fact that the only one that can clear someone of misleading Parliament is Parliament itself.

I'd be interested to know some details around the investigation you had. I preface that by saying I support Mr Chandler's steps to highlight good and bad actors. I think he probably should have a public list of good and bad actors from across the broad spectrum of builders and professions within the building game, but I just want to clear up this mess once and for all.

EMMA HOGAN: I'm certainly not meaning to take over the role of or infer that I have any say in people being cleared of misleading Parliament. But it became obvious to me through the investigation that, from what I could see, he had not done so. There were reports in *The Australian*; the video was well circulated. I investigated the matter. That involved interviewing Mr Chandler and a number of other staff members. We were able to get some context around where that video had actually been recorded—without Mr Chandler's permission,

I might add—and it became very clear to me during the course of that that he had not, to my knowledge or to my view from the investigation, lied to Parliament.

I would say that Mr Chandler takes his oath very seriously. He had also not provided any such list to banks—or anyone else, for that matter. There is not an informal list that exists of that. What I concluded was that Mr Chandler had perhaps been a little more elaborate than he should have been on a building site where he was confronted with a site being poor and not up to standard. The context around this is that I've worked with Mr Chandler now for a couple of years. On regular occasions I have been concerned for his safety. There have been various attempts to interrupt him, so I'm very aware that the context of the industry that he's dealing with and the reforms that he's trying to put in place have at times meant that he's been more elaborate with his behaviour than I would like.

I drew the conclusion that it was probably best if he reviewed the expectations of him under our code of conduct and ethics, but I saw that there needed to be no further action taken. That was concluded within a week, and I gave the outcome of that to Mr Chandler as soon as I could, and the same to the Minister.

The CHAIR: I appreciate in the industry he's working in there's always some robust language being thrown around the construction sites, so that's fine. I want to pass up a document that was emailed to members of the Committee and you, Minister. It was addressed to you, Ms Hogan, from EA Legal on 19 August. It's an urgent cease and desist. We have some extra copies here. The secretariat will pass a copy to the Minister. It was emailed to your office as well. I think it was your electorate office, but I'm not too sure. It might have got lost in the ether.

Mr VICTOR DOMINELLO: Thank you.

EMMA HOGAN: Yes.

The CHAIR: It's on behalf of their client, Toplace, which has come under the review of Mr Chandler several times, rightfully. But it just raises some concerns for me where they're asking the Building Commissioner, who's a regulator, to essentially cease and desist regulating. So my first question is: Have you got any advice legally as to whether this carries any weight?

EMMA HOGAN: We engaged our own legal team to respond to this matter. It's in response at the moment, so I'm conscious of what I can and can't say on the public record. I don't think anybody has the right to insist that Mr Chandler cease and desist, and there are appropriate court mechanisms for anybody who wishes to make a complaint.

The CHAIR: Sure, and obviously there are some serious accusations going back and forward about people purporting to act on Mr Chandler's behalf, or the Building Commissioner's behalf, shaking down Toplace for money et cetera, and that has all been referred to the appropriate authorities. But it does really raise the more overall concern of the professional relationship the Building Commissioner has with people in the industry. When you've got these people saying they don't want to work with the Building Commissioner—I appreciate the Building Commissioner has to be very tough and firm, which he is, but it clearly raises a concern if developers are sending—

Mr VICTOR DOMINELLO: Well, some developers.

The CHAIR: Some developers.

Mr VICTOR DOMINELLO: From my perspective—I've just read this now—I think rather than cease and desist, I want the commissioner to continue and persist. We need a strong commissioner here that is going to shine a light on, quite frankly, some appalling developers that need to be held to account. We've seen what happens when bad developers enter the market and cause havoc, not just for one year but for years and years and years, to unsuspecting home owners and renters alike. So, again, I look a letter like this—Ms Hogan will no doubt give advice—but I want the commissioner to persist—

The CHAIR: I was bemused by the letter too when it crossed my desk. That's why raised the first question: Is it even legally possible?

DAVID CHANDLER: Can I just make one comment? At the last hearing I also referred a similar letter that came from a lawyer in Melbourne on behalf of Icon, which I handed up to Mr Shoebridge. It was a similar sort of letter, so I've had two of these. That's all—two of these. And I'm afraid that both of them were feeling the strain of pain.

The CHAIR: Rightfully so. Minister, where are we with the remaking of the Explosives Regulation? I asked the previous Minister and she, frankly, had no sight or clue about it. This is dating back to 2021. I know there was a slight adjustment to the regs a couple of weeks ago to do with freight, but there was going to be an overall remake.

Mr VICTOR DOMINELLO: I can say that it is approved by the Government. I'm just getting the exact date because I was across it. It was approved by the Government on 31 August and took effect on the date it was published on the legislation website, which was 2 September.

The CHAIR: My understanding is that was just a small change.

Mr VICTOR DOMINELLO: That was a regulatory change required.

The CHAIR: Yes, but there was a broader review done in 2021 over the whole regulation.

Mr VICTOR DOMINELLO: That has been postponed to remake in September 2023. That was the purpose of the reg—to enable one last postponement until 2023.

The CHAIR: Why was it postponed?

Mr VICTOR DOMINELLO: From memory, we had to do some more consultation on it and refine it. I know it has been kicked along for about four or five years now, but this is the last opportunity to postpone because then there's a guillotine. So it's going to have to happen by 2023.

The CHAIR: Sure. The other review that I'm interested in is the paintball statutory review. There was the final report handed down with six recommendations.

Mr VICTOR DOMINELLO: Mr Tansey is across that.

The CHAIR: I note you said the legislative dance card is pretty full, but are we going to see this legislation? There were six recommendations in terms of strengthening the Act so I'm just wondering whether we'll see the Minister—

Mr VICTOR DOMINELLO: Unfortunately I don't think that's on the dance card in the next six weeks. It could change but I don't think so. Mr Tansey, unless you are aware of anything different?

JOHN TANSEY: No, that's right, Minister.

The Hon. COURTNEY HOUSSOS: Mr Chandler, I just wanted to ask you about your thoughts. Obviously I was in the previous hearing where you tabled a similar kind of letter that we have all received on behalf of Toplace developer. The previous letter was about Icon. I just wanted to give you the opportunity to respond on the record to what they raised in this particular letter.

DAVID CHANDLER: Ms Houssos, this is currently being handled by the department's lawyers, which I think is the appropriate process for this. My only comment here is that there are quite a lot of attempts to rewrite history in this letter and I think the fullness of time will bring that forward. But certainly the issue around an alleged concern expressed by me by matters being referred to ICAC is a complete misrepresentation of the reality. All public servants are accountable, and so I have no problem at all with any reference about my performance to ICAC.

Where this particular matter became sensitive to the company was the matter related to the work we were doing when the Skyview project was being considered for an occupation certificate. There was the allegation, during one of the meetings, that was raised by Toplace that they had received what they called a shakedown to say that if they paid \$5 million into this trust account, they could make the Building Commissioner go away on Skyview. I don't know what substance abuse they might have been on to suddenly believe that might have worked, but you know me. That wouldn't have worked at all, and it didn't change the way we dealt with that matter at all.

What I was concerned about was that that particular piece of paper, when it was presented—I didn't get to see the paper. All I got was, "Here's the email that we've got." Matt Press was in the room at that time, so we've got quite detailed records of the conversation. I said, "Well, if this is what is on the paper, why don't we go to the police station right now and lodge a complaint?" And the answer was, "No, we're not sure enough about it yet." But I do know that later that day they bailed a journalist up and basically put that on the table and said, "Don't you know the Building Commissioner's corrupt? What are you doing about it?" Now that journalist I spoke to last week just to recall that my recall was right. Fortunately the journalist was asked at the time if he would take that conversation off record and he refused to and said, "No. Say what you've got to say. If I believe it then I might run it." So they carried on with that push and he didn't believe it so he didn't run it.

The frustration was I next heard about that letter from former Minister Anderson's staff, who said to me that Minister Anderson had been out at a function over the weekend and one of the other members had come up to him and said, "Pity about your Building Commissioner being corrupt," to which you can imagine what Mr Anderson would have said. So I took offence at the fact that someone was out backgrounding both media and politicians on this matter, which has proved to have no substance whatsoever and I found offensive. That was part

of my reasoning in my letter, and the only thing I was referring to was that in this job you have to take the flak that comes when you push a bit hard, and some people are going to push back equally as hard.

The Hon. COURTNEY HOUSSOS: And you have pushed back pretty hard on Toplace. Obviously there's the Skyview development out at Castle Hill. I know you've been out to Vicinity Apartments in Canterbury. That's another one of their developments. You have put them under the microscope, haven't you?

DAVID CHANDLER: No more or less than anybody else. I could give you the names of another three or four developers. You're aware that we push pretty hard on the Merhis Group. Unfortunately they didn't get across the line with the Hassall Street project and, of course, now a bank is in possession of that site.

There are at least six to 10 developers out there that have got multiple projects. It would be inappropriate for me to call them out at the moment because we are working through some of the historical projects with those people and one of them, for example, has got three historical projects that have serious defects in them. They are currently in the process of entering into enforceable undertakings to go back and fix those defects. I don't want to sort of go clouding the fact that, yes, I do use soft and hard powers when we need to. We're going to push that because where we can go back and attend to some of these historical buildings, we will do so. I am sorry that Toplace feels that they're probably the subject of special attention. They are not subject to special attention at all.

The Hon. COURTNEY HOUSSOS: You talked about needing to use soft and hard powers in your pursuit of some of the dodgier elements within the building industry. One of the things that we have talked about previously is, is there a need for more powers for yourself to undertake the role? Is it true that you can only get these enforceable undertakings issued if there is a viable developer in place? They can't be issued against anyone else.

DAVID CHANDLER: The definition of developer is quite broad. It does include the builder, so if there is a viable developer or builder then we have the ability to go back and seek their redress on these issues. If there is no-one there, as is the case on a number of the other projects we're looking at, the options narrow quite dramatically, as we will talk about later, no doubt, 93 Auburn Road—

The Hon. COURTNEY HOUSSOS: Yes, we'll come to that.

DAVID CHANDLER: —where the options do narrow very, very quickly when there is no accountable party there. It is unfortunate in those instances that the only people who can respond in that regard are the owners of the building.

The Hon. COURTNEY HOUSSOS: Mr Chandler, that's the limit of your power, isn't it? The enforceable undertakings can't be issued if there is only an owners corporation left holding the can; is that right?

DAVID CHANDLER: Correct, and that becomes then a matter for local government to issue orders to the owners corporation to attend to matters that they regard as being life threatening, as again we briefed your colleague on another project at Auburn where it appeared at the time the only person left standing was the owners corporation. It appears that out of the twilight has come the developer saying, "It's alright. I'm still around. I think I'll pay." That was a bit of a soft-power exercise. I'm told by the lawyers representing the owners corporation that this developer, who had thought that he was out of the play, had suddenly had an epiphany and re-appeared, so I'll be watching that with great interest. That's an example of soft powers playing out. If we need to come back into that, we will.

The same thing exists on another of Toplace's projects at 42 Pemberton Street, Botany. Again, that's an instance where an owners corporation had raised concerns with a media outlet and that media outlet contacted me to ask me what was I going to do there. I met with that owners corporation and they were very sensitive, I guess, to the fact that their project became publicly known. Fortunately, this has already been covered in the media so I'm not announcing this project for the first time today. The project at 42 Pemberton Street, Botany, was built by Toplace and the certifier there was the former Botany council. Now that raises another question because that was a really bad certification, so we're still investigating that. You should be aware that you will hear much more about that and I will talk to you this afternoon about what we have been doing in local government. But that particular project was certified by the former Botany council.

It was referred to me on the basis that the owners corporation had agreed to enter into a deed of release with Toplace to do certain things, to receive a single payment and then to never put up their hand again to ask for another matter to be fixed on that site. I went out and met the owners corporation and I met Toplace on that site. I said, "I'm afraid that my powers go way past you guys coming to a deed between you as to what is in and what's out. I'll decide what's in because my powers under the RAB Act allow me to describe a whole range of things." So we took some officers out there and went through that building and found that there was an extensive list, well beyond what was in the deed of agreement between the owners corporation and Toplace.

The owners corporation said, "What are you going to do about those?" I put it to Toplace, "Are you prepared to deal with all of these issues?", to which they subsequently wrote a letter and said, "Yes, we are." Again, the owners corporation were conscious that they didn't want a Building Works Rectification Order published. They didn't want all of that. I have had three inspections of that site to see the progressive response of Toplace to those defects, and most recently I went out and had a look at the work that was being done. I think there are about 40 per cent of those defects that, in my view, that still need to be completed. Toplace gave a reasonable explanation that the workforce has been affected by COVID, and wet weather because there were quite a lot of issues to do with water. We have agreed that I will be going back to the building in the next month to have a look and see whether these matters have closed out.

During the last inspection I was concerned about a number of passive and active fire systems that I saw that weren't operational. I referred that to Botany council to say to them, "I think it would be appropriate, if I'm not going to be doing a Building Works Rectification Order here at this point, for you to send some of your officers out to have a look at any matters that might concern you from a passive and active fire point of view." I understand that they have sent inspectors out to have a look at that. I haven't had feedback at this stage about it. So that's a work in progress.

The Hon. COURTNEY HOUSSOS: That is very helpful in terms of understanding where you are with the work and also the extent of your powers, but also the limitations. You talked about when the developer disappears, as some are inclined to do. We have got some specific examples of those at 93 Auburn Road, Hassall Street in Parramatta. You are saying it is up to local government to issue those orders?

DAVID CHANDLER: Not at Hassall Street, Parramatta, because—

The Hon. COURTNEY HOUSSOS: Sorry, Hassall Street is separate.

DAVID CHANDLER: [Disorder] and they can't have an occupation certificate. So we have the undivided attention of the bank who is now in possession of that project. All of those defects will be fixed before they get an occupation certificate.

The Hon. COURTNEY HOUSSOS: That will be very welcome news for those owners that we have been working closely with for a long period of time. Obviously they were concerned about actions that you took. We raised those in previous budget estimates around not being able to exercise their sunset clauses, but I am sure that some of them will be happy that they get a defect-free building. It is a different situation at 93 Auburn Road. It is a different situation at a number of other buildings across Sydney where the developer is no longer there and can't be required to fix it. Is it your position that then it's local government that needs to step in?

DAVID CHANDLER: Where there are issues that go to life safety, yes. For example, when we looked at the project at Rawson Street, Auburn, at that point in time I was confronted with a situation where there was no obvious developer present, so we had to work closely with Cumberland council. I have to say, I want to call out Cumberland council's cooperation here because they quickly moved to send inspectors down to that site and quickly issue orders on that owners corporation. We were able to work with Fire and Rescue NSW and with local government to come up with what we call a continued occupation protocol. So where this building had some issues, we met within three days with the owners corporation and within another day with the council, and we identified the things that needed to be fixed immediately to allow continued occupation.

The owners corporation undertook to get on with those things straightaway. I also required that they put a 24/7 fire warden in that building until such time as those matters were attended to just to make sure that Fire and Rescue were satisfied that we didn't have people in a building that may not have been protected by the appropriate systems. Within seven to 10 days those matters were attended to. Fire and Rescue wrote to me and said, "We're happy for you to step down on our concern and now we will just go and navigate the remaining issues in an orderly manner." It looked as though the owners corporation were going to stump for that but it looks as though out of the ether has come the developer. The lawyer representing the owners corporation at the moment said, "Can you just hang on because it looks as though we're going to get this sorted."

The Hon. COURTNEY HOUSSOS: Mr Chandler, you did brief my colleague on that; you didn't brief me on that particular circumstance. I understand my colleague, the local MP, was briefed on that and that was appropriate.

DAVID CHANDLER: Lynda Voltz, yes.

The Hon. COURTNEY HOUSSOS: Mr Chandler, the expertise in terms of assessing whether these buildings are unsafe, there's certainly expertise within your office, within the office of the building—

DAVID CHANDLER: Sorry, within Fair Trading?

The Hon. COURTNEY HOUSSOS: Yes.

DAVID CHANDLER: You have to realise that I've got a very small team and we don't ever want to hold out that we're emulating the department. Fair Trading, which is fortunately now—Matt Press, who was the director of the Office of the Building Commissioner, has now moved to the department and is now the executive director out there. I think that's great news because he's taking the culture, the insights and the energy that we've had in the Office of the Building Commissioner there. So I'm really pleased about that development. But all that capability resides inside Fair Trading, except for in regard to Project Intervene, which I'd rather brief you on separately simply because I don't want to take up a lot of time and it's quite a complex piece of initiative.

We are using a similar sort of methodology as we are with Project Remediate to outsource some of the investigations so that we can mobilise that work quicker, because we've got a really full slate of work ahead of Fair Trading. To be one of the resources that are out there now—they're flat out. We don't need more resources, but we're just starting a new initiative that we think is a surge campaign. But once we've finished that surge, we'll go back to business as usual. So we're working very close together on that.

The Hon. COURTNEY HOUSSOS: But, Mr Chandler, my point is that within Fair Trading, within your office—I'm flexible about the terminology—there is expertise in terms of assessing buildings—

DAVID CHANDLER: There is, yes.

The Hon. COURTNEY HOUSSOS: —that isn't necessarily there within every local government area. You would accept that?

DAVID CHANDLER: No, I don't accept that because a number of local government areas do have that expertise. If we're leaning to a view that local government has become diminished in some of its capabilities in the last 10 or so years, I'm in agreement with you. I'm in total agreement that the capabilities within local government appear to have been somewhat diminished. I have been working with the Chief Executive of the Local Government Association. I've also been meeting with the unions from local government to make sure that there are no surprises and that we're working in lock step. In fact, I've got another meeting with the secretary of the local government union next week. I'm sorry, the name—Paul—

The Hon. COURTNEY HOUSSOS: Graeme Kelly.

DAVID CHANDLER: Sorry about that. I had a meeting with him and Scott Phillips about six or nine months ago and said, "We're going to do a body of work." The purpose of that was to provide evidence that there wasn't the depth or availability of resources within local government that they might have had once. It would probably lead to us being able to bring forward some informed recommendations regarding what local government should do in the future to rebuild some of that capability, because at the moment they're very denuded. But many of the councils do have that standing capability.

The Hon. COURTNEY HOUSSOS: Minister, are you comfortable with this approach of pushing the enforcement of unsafe buildings off onto local government if there is no developer in place? Or do you think that that's an area for further reform?

Mr VICTOR DOMINELLO: I think it's a multi-pronged approach. For example, we're moving towards decennial liability insurance. That provides another safety net in the event that there are problems. That's never been done before in this State, or in the country. We're moving, through the commissioner's leadership, through the building trust indicator—again, another area to make sure there's transparency, to your piece, in relation to the actual trust of the building. iCIRT is another transparency piece so that we can start rating builders and developers so that if they've got a five-star rating, you've got more confidence because that rating would have included whether they are prone to, or have red flags around, phoenixing and their ability to carry out projects and the like.

The Hon. COURTNEY HOUSSOS: Minister, I accept all those things, but they're all forward facing. The question that I'm asking specifically is around historic defects. My time is about to run out so that's why I'm asking you: Are you comfortable with councils being the enforcement? Or should that, in terms of the assessment and the expertise—obviously it issues with you?

Mr VICTOR DOMINELLO: I think it needs to be both. I think what Mr Chandler said is right. You've got different levels of capacity across councils. There are so many councils. Some are great and some are not. So we need to work with them.

The Hon. COURTNEY HOUSSOS: Councils have raised with me that they don't have that expertise, that that expertise does issue, and that would involve hundreds of thousands of dollars in consultant fees that they

would be required to undertake, when the expertise does sit within the Office of the Building Commissioner, or within Fair Trading.

Mr VICTOR DOMINELLO: I would challenge that in the sense that you've got some larger local councils, such as Sydney and Parramatta, where general managers are making more than the Prime Minister. They've got capacity.

The Hon. COURTNEY HOUSSOS: I don't dispute their general managers any more. I'm saying whether they have the specific building expertise within—

Mr VICTOR DOMINELLO: I think those larger councils definitely have the capacity, and therefore should have the expertise. Again, I think it should be a combination of us working with local councils.

The Hon. COURTNEY HOUSSOS: If I can ask one final question, because my time has expired. What would the cut-off be? You talked about Sydney and Parramatta. There are obviously plenty of large councils.

Mr VICTOR DOMINELLO: Again, I would have to liaise with Mr Chandler on that. All I'm saying, in answer to your question, is, no, I don't think we should do everything. I think there should be a collaboration between us and local councils to work out where we can assist, particularly for those that need assistance.

The CHAIR: I will pick up on some of that questioning from my colleague. Looking at the Fair Trading website, is it right to assume that the orders that are listed there are the ones that are still current and still haven't been completed, Mr Chandler or Mr Press?

MATTHEW PRESS: That's correct.

The CHAIR: If you go to some of these building work rectification orders, some of them date all the way back to early 2021, and they had, I guess, compliance orders to be done by 28 days or 40 days. Where are we up to with those, given that, obviously, they have failed to comply if they're still up on the website? Do you want some specific examples, Mr Press?

MATTHEW PRESS: They'd each have their own story to them, Mr Banasiak. We adjust the time line depending on the specifics.

The CHAIR: So 12 Beaconsfield Parade, Linfield, was issued on 12 February 2021. It had a date set for the work to be done, or complied with, by 28 days. Clearly we are beyond that 28-day period. Then there's another similar one: 93 Auburn Road.

MATTHEW PRESS: I'm happy to take on notice the specifics, but they've each got quite a complex story about how when we've initially issued the order and then we'll follow through the rectification of those defects. Sometimes it might take further analysis. They might have to get further specialists in, engineering advice, a BCA consultant—that sort of thing. The order will stay in place until the work is completed. But the progress of remediation, I guess, is in the hands of the developer, particularly if it's not occupied yet.

The CHAIR: Where does the public go to find that level of detail in terms of where those rectification orders are up to? Obviously there are a lot of things going on in the background. But for the public to be informed, where do they go to get that sort of detail in terms of a status update?

MATTHEW PRESS: It depends on what type of building we're talking about. If we're talking about a non-occupied building, so a building under construction, that's for the developer to feed back to those home owners. The purchasers have engaged with them. It's not for us to step in between that relationship. In an occupied setting it's a little bit different, and we'll be communicating both with the owners corporation or the strata manager, or both, and the developer-builder.

The CHAIR: So you have no power to compel them to pass on that information? You don't have any oversight on them passing that information on to their customers?

DAVID CHANDLER: I will take that back, Matt. Could I give you an example? If you look at 29 Carter Street, Lidcombe, where we issued a building works rectification on 9 March 2021.

The CHAIR: I don't have that on the website, so it must be clear.

DAVID CHANDLER: Yes, that's correct. I've just lifted that order. Good spotting. I wanted to give you the journey. We only did that a week ago. That's a matter of the developer first of all went into what we call the denial phase and said, "No, there's no problem here." So we spent some time in the Land and Environment Court. Of course, it's difficult for us to talk to the owners corporations in that period because we are really dealing with a developer. The developer's relationship with the owners is a matter between the developer and the owners.

The CHAIR: Some of the owners corps aren't even set up at that point in terms of buildings that are being developed.

DAVID CHANDLER: This one was, but the trouble with this one is it has got a runaway lawyer, who was taking the owners corporation off on what we called a folly of litigation. The reason we lifted the order was that the developer has now voluntarily entered into an enforceable undertaking—the perfect oxymoron—but they have to offer us an undertaking, and we look at the undertaking and accept it. In that case, the developer has entered into that agreement. They put a bond in to support their undertakings in that agreement, and we are in the process of briefing the owners corporation of what has been achieved there. But in the midst of it all, their lawyer is saying, "But there's more. We could get more." The bottom line is we are getting these things fixed, and when we enter into an order the other thing that needs to be noted is that's not the end of it. If we have to go back later on and find that there are other things that are not covered in the order, the order makes it very clear that this is not the door closed.

Some of these are quite complex. A similar one was with Otto 2, which is another one at Botany; I haven't got the address in front of me at the moment. We recently revoked that as well because after—that's the one where Icon went broke—the old Icon Co went broke, not the new co; the new co is quite different but old co went broke. On that job there, I take my hat off to the developer, Capital. We issued them a building works rectification order there. Again, I've really managed this from a distance, so I can only report to you how they reported to me. But, again, another lawyer had taken the owners corporation on over \$700,000 worth of legal expenses and had not achieved one single defect being rectified. We issued a building works rectification order out to Capital. The first call-out there was, "Well, we've got the last of the builders performance bond available—\$350,000. How about you have that?" I can report to you that, in fact, Capital have entered into a deed of release with the Otto 2 owners corporation only a few weeks ago and settled that matter for \$6.25 million.

The CHAIR: Can I just pick up on some of the comments you were making about fire safety? You gave a couple of examples of buildings that haven't got appropriate fire safety. I was looking through the website again the other night—

DAVID CHANDLER: Have you got a life?

The CHAIR: —[disorder] my interest in Wollongong, because it's my neck of the woods. It's a similar circumstance where they failed. This is the one at Young Street and Belmore Street—

The Hon. COURTNEY HOUSSOS: They're doing a blitz in Wollongong.

The CHAIR: —where they have failed to put in adequate firefighting equipment, and you just raised a couple of examples there. To me, that seems like a bit of a schoolboy error—like, something like that's pretty basic. You've given a couple of examples there. How common is just failing to put an appropriate firefighting equipment in the building?

DAVID CHANDLER: These are projects under construction?

The CHAIR: Yes.

DAVID CHANDLER: So we're getting them in construction. This is not something that the owners corporations are going to be stuck with.

The CHAIR: No.

DAVID CHANDLER: In this case, we've got three others, I think—or three in total—where the builder has failed to take a wet pipe system up behind the leading edge of construction so that if there was a fire at the leading edge—the formwork, for example—the brigade will have a chance of getting some water up there so they could attend to it. We treat those matters very seriously.

The CHAIR: They are, but to me it seems like a very basic mistake that you wouldn't expect to be made so readily.

DAVID CHANDLER: When we turned up on that job last week, what was sort of more concerning to me was that, as I approached the job, I ran into a fire system fitter and he was just fitting off the hydrant hose reel head out on the street frontage. I said, "What are you doing?" He said, "I got an order three days ago to get this wet pipe system in." He had only just started three days before we got there to put it in. This is just basically people trying to cut corners, and the price for that is your project will sit there for a while because this particular job has got many more issues other than just that.

The CHAIR: Tell us more about this oxymoron of voluntary enforceable undertakings. You said there has only been one.

DAVID CHANDLER: No, there are two—sorry. First of all, the Skyview project, the Toplace one—that was the very first of these voluntarily entered into enforceable undertakings.

The CHAIR: Is this what you talk about on your website, "developer undertaking"?

DAVID CHANDLER: Developer undertakings. We are just getting some changes done to allow us to publish those undertakings. Previously, we were restrained from publishing undertakings, but we are in the process of changing that at the moment. We've got two other undertakings now signed. We've got eight other undertaking deed polls—so, basically, we get the developer to enter into a deed poll to say, "I undertake to go through an enforceable undertaking." We've got eight of those currently being played out at the moment. We found that in pursuing developers to go back and rectify defects, they are all keen to say, "We'll go back and fix it. We'll do this. We always undertake to do that." The trouble is that they go back and they patch up, as opposed to do a proper job. So the reason why we've moved to enforceable undertakings is that we also include a supervision overlay into these undertakings to make sure that the remediation works are properly supervised. They're quite a comprehensive document. I would like to brief you at another moment on these because it has taken a fair bit of work to get to where we are. It's going to be a fantastic piece of future capability for the regulator.

The Hon. ANTHONY D'ADAM: Minister, a number of recent inquiries before the LC have cast doubt about SafeWork's ability to fill its functions to keep workplaces safe. In the 2022 Review of the Workers Compensation scheme, the CFMMEU have said:

Our experience of the construction industry more generally is that SafeWork has been an absent regulator, with little action taken to enforce the Work Health and Safety 2011 and Work Health and Safety Regulation 2017. The CFMMEU is concerned that SafeWork appears to value its educational advisory role more than its function as a regulator.

In an inquiry into the impact of technological and other change on the future of work of a New South Wales Parliament's select committee, the TWU said:

The TWU submits that the inaction of SafeWork NSW is putting the safety of gig workers at severe risk. The lack of enforcement is emboldening 'gig' companies in their belief that the WHS Laws do not apply to them or their workers, or that their inadequate attempts to comply with the Primary Duty are sufficient and exposing thousands of workers to unacceptable levels of workplace risk.

In the 2021 Review of the Dust Diseases Scheme, Kate Cole, a WHS specialist, said:

Our view is that we need stronger regulation to get rid of the grey areas that still exist, that enable workers to get sick [with silicosis] ... increased enforcement of work health-and-safety regulations, which at a minimum means undertaking inspections across high-risk workplaces.

So a number of significant stakeholders casting doubt on the capacity of SafeWork to fulfil its core function. We know that in the McDougall review there is a recommendation that the responsible Minister for SafeWork—which is now you—should conduct a public review of the agency's performance, of its regulatory and education functions under the Work Health and Safety Act 2011, and that the report on the review be made publicly available once it's completed. Your predecessors, both Minister Anderson and Minister Petinos, declined to act on that recommendation. McDougall has said:

I have come to the view that such a review is desirable. In doing so, I have taken into account submissions as to the suggested present inefficacy of SafeWork NSW's activities.

So my question to you, Minister, is do you intend to change the position in relation to that McDougall recommendation around having an independent inquiry into the functions of SafeWork?

Mr VICTOR DOMINELLO: Can I say you've gone through a number of reviews over three or four years—I think the latest being McDougall this year—but a lot of them predate, as you say, three or four years ago. I can say that the review was outside McDougall's report, so we've already commented on that, but there are a whole lot of things that we have been doing along the way. For example, you appropriately mentioned the concerns in relation to the gig economy.

We did work—I was there in my capacity as the Minister for Customer Service and Digital Government, and I intervened there to insist that we have a work group together. SafeWork was there with SIRA to see what we could do, and they improved the settings. For example, from 1 July they have to have their protective clothing and devices in place, they've got to have better reporting mechanisms now, they've got to keep evidence of what they are doing, and better induction and training. That then piggybacks with what I understand the feds are going to be doing in this space. I agree with you; there are reviews. But that's the flavour of government. There are constantly challenges that we need to address.

The Hon. ANTHONY D'ADAM: The issue, Minister, is that we've had major stakeholders raising questions about the efficacy of SafeWork. We've had McDougall, an independent review, say, "Look, there appears to be an issue here. We need to have another look." How is it that you can satisfy yourself that there is not something further that needs to be looked at here? We have got major stakeholders raising these questions,

you've got an independent review saying this needs to be looked at, yet still the Government is declining to look into the problem to satisfy itself that, no, SafeWork is doing what it should or, no, there needs to be further corrective action. To satisfy yourself that—

Mr VICTOR DOMINELLO: I respectfully disagree with the premise in the sense that when issues arise—for example, there were, that then resulted in McDougall. Issues arose in relation to those tragic four deaths in relation to the food delivery drivers—tragic. That resulted in us working with industry. Again, the feds, to their credit, are taking a leadership role, and I think it should be driven at a national level in relation to the gig economy and food delivery. For example, I wasn't aware of this, but one of the big challenges was that the food delivery drivers were relying on their international driver's licences, which means they didn't have to do the training that would be required. That was another thing that we can fix. What I'm trying to say is when issues arise, we are responsive to it. I think what you're suggesting is that there is a systemic failure in SafeWork.

The Hon. ANTHONY D'ADAM: I'm not suggesting it. Multiple stakeholders are suggesting it, and McDougall is agreeing.

Mr VICTOR DOMINELLO: Again, the reference to McDougall was outside the terms of inquiry. Multiple stakeholders in specific issues—I can ask Ms Mann if she has got further commentary in relation to it.

NATASHA MANN: Thank you, Minister. I was appointed the head of SafeWork in December last year. I must say that I'm incredibly proud to be the head of SafeWork. We have a team of very committed people who go to work every day to make sure that others come home safely. There are two things that I will say in relation to your comments. The first is in relation to the McDougall review. I did want to say that Mr McDougall didn't actually make any negative findings about SafeWork's performance of its regulatory and educational functions. Mr McDougall also did reject calls for a parliamentary committee to have oversight over SafeWork. That's the first thing to say. The second thing is, if you look at the statistics, they're quite incredible. Last year we delivered, in SafeWork, 58,242 intervention and education activities, including 36,456 proactive workplace interventions. We issued 8,112 improvement notices, 2,220 prohibition notices and 540 penalty notices. I think the scope and scale of that speaks for itself.

The Hon. ANTHONY D'ADAM: My question then is, Minister, where do you get the independent advice about SafeWork? Of course, your agency is going to tell you they're doing a great job, but you need to make a judgement about whether they're doing a great job. Where do you source that advice from?

Mr VICTOR DOMINELLO: Again, Mr McDougall, as Ms Mann just indicated, didn't make the findings that you suggested. I was part of the COVID crisis. I witnessed firsthand the great work that SafeWork officers were doing day in, day out during the peak of the pandemic. Sure, there's always going to be issues in any given agency. No government is perfect, let me tell you that. Our job is to make sure, when issues arise in changing environments, that we deal with them, and I think we are.

The Hon. ANTHONY D'ADAM: So you're satisfied, SafeWork's telling you that they're doing their job and when you look back—

Mr VICTOR DOMINELLO: I back the SafeWork officers in.

The Hon. ANTHONY D'ADAM: —you don't think there's any further questions in this regard?

Mr VICTOR DOMINELLO: I saw firsthand how hard and, more importantly, how well they collaborated with local council and Fair Trading. It was such an enormous effort during COVID. I have seen how good they are and how great they can be. That's not to suggest that there are not issues from time to time.

The Hon. ANTHONY D'ADAM: Minister, I want to draw to your attention an exchange that occurred in estimates last week, I believe, between Minister Tudehope and the Hon. Adam Searle relating to exemptions. Are you aware of that interchange related to SafeWork exemptions being granted to employers—

Mr VICTOR DOMINELLO: No.

The Hon. ANTHONY D'ADAM: —in relation to the operation of WHS regulations? That's not—

Mr VICTOR DOMINELLO: I can't say I was watching Mr Tudehope's exchange with the honourable Mr Searle.

The Hon. ANTHONY D'ADAM: I would have thought your agency would've brought that to your attention, given it came up in estimates.

Mr VICTOR DOMINELLO: No, sorry, I haven't—

The Hon. ANTHONY D'ADAM: Ms Mann, are you aware of the exchange?

NATASHA MANN: No, I'm not aware of the exchange.

The Hon. ANTHONY D'ADAM: Ostensibly, the exchange was about whether the exemptions that are being granted to employers are actually leading to further workers comp claims occurring in workers comp systems. This is a decision that has been made by your agency, through you, Minister, to grant exemptions to employers from certain aspects of the Work Health and Safety Regulation. I'll give you an example. One is around audiometric testing. There's an exemption. Are you aware of that exemption?

Mr VICTOR DOMINELLO: No. I'm listening.

The Hon. ANTHONY D'ADAM: There's an exemption in place, and I believe it's been in place since 2016, that certain employers who are required under the Act to conduct hearing tests on workers who are exposed to noisy environments where they're using PPE—that exemption has been granted, so they don't actually have to conduct those tests. The suggestion that was brought up in the other estimates hearing was that exemption has potentially led to further workplace injuries of workers. There has been an increase in hearing claims under the workers comp system. My question is why are you continuing to provide these exemptions?

Mr VICTOR DOMINELLO: Again, I'd have to defer that to Ms Mann.

NATASHA MANN: It might take me some time, Mr D'Adam, to run you through the reasons that exemption has been granted. I'm happy to do so, if you would like me to.

The Hon. ANTHONY D'ADAM: Let's deal with the audiometric testing one, perhaps. Can you give us a reason why that exemption continues to be extended?

NATASHA MANN: The advice that I have from the team is as follows. It applies to businesses which use hearing protection as a control, not to businesses that are not using hearing protection, who are arguably at greater risk. Testing has no preventative effect, as the hearing damage is already done. Our focus at SafeWork is on regulating noise at the source. They've done a cost-benefit analysis as well, as required by clause 58. The benefits of introducing mandatory audiometric testing as required are not expected to outweigh the cost. That's effectively the advice. There is further detail, but I can provide that to you.

The Hon. ANTHONY D'ADAM: If you think that the provisions are unnecessary, why are they persistent in the regulation? Why don't you just take them out? Those arguments aren't going to change as time passes. Why wouldn't you just remove them from the regulation?

NATASHA MANN: The exemption is an established part of the regime, and this has happened—

The Hon. ANTHONY D'ADAM: So your intention is just to keep rolling those exemptions on?

NATASHA MANN: I don't have any advice on that. I can take it on notice.

The Hon. ANTHONY D'ADAM: It seems odd, don't you think, that you would have a regime to protect workers from hearing and then you provide exemptions to employers from applying the mechanisms that are designed to prevent further hearing damage to those workers? If there is initial damage to their hearing, that can be compounded, presumably, by further exposure. There is a logic behind having the hearing testing in place. Why would you continue to exempt employers in that circumstance?

NATASHA MANN: As I mentioned, that is the framework and the regime that is deployed. But I can certainly take on notice the finer details of that.

EMMA HOGAN: I think Mr Tansey has something to add to that.

JOHN TANSEY: Just to help Mr D'Adam, I think—and we can get more precise information on this, but my recollection is that the audiometric testing exemption is actually a hangover from the old WHS Act, and we're actually in the process of working up proposals to consult on the audiometric testing exemption and look at bringing out that legacy system into our current WHS Act.

The Hon. ANTHONY D'ADAM: Are you suggesting that the consultation is about removing that requirement altogether?

JOHN TANSEY: It's about consulting on how that exists, because, as I said, at the moment my understanding—and I'd like to give you the best possible information and get a bit more advice—is that the regime is a holdover from the old legislation. It was not picked up in the move to national legislation. We've preserved it in our legislation, but I'd like to just check my facts on it and come back to you. I'm happy to do that within the session today.

The Hon. ANTHONY D'ADAM: What's the time frame for that consultation to occur and when will that be concluded and a decision made?

JOHN TANSEY: Pardon me?

The Hon. ANTHONY D'ADAM: When will that be concluded and a decision made about how to proceed?

JOHN TANSEY: I don't want to get ahead of myself. We're working up a proposal, which we would still need to present to Government to formally go out and consult on it.

The Hon. ANTHONY D'ADAM: Are you talking six months? Are you talking a year?

JOHN TANSEY: If we were to get the go-ahead to do consultation, that would more likely be a few months.

The Hon. ANTHONY D'ADAM: Minister, in estimates Minister Tudehope made some comments about dry cutting. You're aware that dry cutting has been banned in New South Wales as a result of actions by one of your predecessors. But Minister Tudehope in estimates admitted that he'd actually been present when he saw dry cutting being undertaken and that he knew that this was a SafeWork issue and that there was clearly a silicosis risk there. Did Minister Tudehope raise this issue with you directly?

Mr VICTOR DOMINELLO: Not directly, but Ms McCool has got some more information in relation to that, Mr D'Adam.

MEAGAN McCOOL: Since we've been doing the five-year strategy, we've only come across two instances where we've had to issue the on-the-spot fine for dry cutting. In terms of securing compliance, that five-year strategy, as I said, is close the gap.

The Hon. ANTHONY D'ADAM: The question was about Minister Tudehope's observations about dry cutting. Did that occasion a referral to SafeWork? Was there any—

Mr VICTOR DOMINELLO: You asked me the question and I answered it.

The Hon. ANTHONY D'ADAM: Not to you, to SafeWork?

MEAGAN McCOOL: I'm not aware of a referral from him.

The Hon. ANTHONY D'ADAM: He didn't raise the issue even though he was aware that there was a safety risk, that it was something that the Government had actually taken action on. There was no referral to SafeWork either through the Minister's office or to SafeWork directly?

MEAGAN McCOOL: Generally a requestor has to make the lodgement, so that can be done on the Speak Up app or through our contact services, but the requestor has to make the request.

Mr VICTOR DOMINELLO: I should say, Mr D'Adam, in fairness to Minister Tudehope, there could have been correspondence between our respective offices but not directly from him to me.

The Hon. ANTHONY D'ADAM: Right, I see.

Mr VICTOR DOMINELLO: I should take that on notice if it's more broadly canvassed.

The Hon. ANTHONY D'ADAM: There was an issue raised about dry cutting and you were there, Ms McCool, at a previous estimates where Minister Petinos was advised of an incident in West Pymble. I think it was taken on notice in terms of the response. I understand that the response to the question taken on notice was that there was a workplace visit but that happened five days after the report and there was no enforcement action taken as a result of the visit. That's correct, isn't it, Ms McCool?

MEAGAN McCOOL: That's correct.

The Hon. ANTHONY D'ADAM: Minister, do you think five days after a referral is an adequate response time from your agency? There's clearly a breach notified but there's no action from the regulator for five days. They go out to the site. Obviously the dry cutting has happened; it's finished. It doesn't occasion any enforcement action. Do you think there's a problem there?

Mr VICTOR DOMINELLO: It's a fair question. It depends on the circumstances of the case. I'd have to ask the agency to respond as to the circumstances.

The Hon. ANTHONY D'ADAM: Ms McCool, you've said that there's only been, I think, two instances of penalties being issued for dry cutting.

MEAGAN McCOOL: That's correct.

The Hon. ANTHONY D'ADAM: How many actual workplace visits have been initiated as a response to a referral or a report of dry cutting occurring?

MEAGAN McCOOL: Of dry cutting? We've done 2,115 visits all up. But in response to dry cutting, as I said, there has only been two instances where the evidence has been conclusive and we have issued those on-the-spot fines, where there has been a lot more instances of not working below the exposure standard.

The Hon. ANTHONY D'ADAM: You say that the evidence has been inconclusive. Why is that?

MEAGAN McCOOL: As I said, a lot of the companies are now using CNC machines where it's actually cut—

The Hon. ANTHONY D'ADAM: CNC—sorry, just for the purposes of Hansard.

MEAGAN McCOOL: They're generally a machine where it's cut within a booth, computerised in terms of making sure the measurements are correct so no recutting has to be done. There has been a big shift in that industry on tool-dust extraction and wet cutting. When we're going there, we're seeing those tools and those controls in place. Equally, we'll still look at any residue. If there's a broom or we see dust on the floor, that's evidence that they're not working below the exposure standard.

The Hon. ANTHONY D'ADAM: How many notifications did you say have been received?

MEAGAN McCOOL: Notifications for?

The Hon. ANTHONY D'ADAM: Sorry, how many improvement notices have been issued?

MEAGAN McCOOL: Improvement? All over, we've issued 1,279 improvement notices, 47 prohibition, the two on-the-spot fines for dry cutting and 69 notices where the control measures were not confirming they were meeting the exposure standard.

The Hon. ANTHONY D'ADAM: I think I am just about out of time.

Mr VICTOR DOMINELLO: Is that a Mr Veitch coffee order break?

The Hon. MICK VEITCH: You are onto me.

The CHAIR: We are a couple of minutes early, but being the fantastic Chair I am, I will dismiss us all early for a coffee break.

The Hon. MICK VEITCH: I'm using one of your great apps.

(Short adjournment)

The CHAIR: Welcome back after that short break. I will throw back to the Opposition. Mr D'Adam, do you want to pick up where you left?

The Hon. ANTHONY D'ADAM: Minister, I wanted to ask you about the model work health and safety regulations. I understand that Safe Work Australia has recommended a range of amendments to the Work Health and Safety Regulation. I'm particularly interested in the psychological risks amendments, but I'd be interested to know why New South Wales hasn't acted on that yet.

Mr VICTOR DOMINELLO: I'm not across that. I might pass to Mr Tansey for that one.

JOHN TANSEY: Mr D'Adam, we will be presenting an amendment regulation to ExCo next week, which will deal with those issues around the psychosocial hazards and a couple of other matters to pick up those elements that have come out of the national review.

The Hon. ANTHONY D'ADAM: Can you perhaps elaborate on which elements are likely to go into the amended regulation?

JOHN TANSEY: The psychosocial hazards—I can get more detail but it's also covering amusement rides and I think some updated references to Australian standards as well.

The Hon. ANTHONY D'ADAM: That will take effect next week, will it? Is that the intention, subject to Ex Co's signoff?

JOHN TANSEY: Well, we present it to Ex Co, yes, and then it would be published on the Friday following. So, as you know, once it's gazetted it would commence.

The Hon. ANTHONY D'ADAM: Thank you. Minister, can I come back to this question around the exemptions. I understand there is an exemption on lead testing. Perhaps Ms Mann can elaborate on the nature of that exemption and why that exemption is still in place?

NATASHA MANN: I'd like to give you the best information possible, and I think I'm better to take that on notice and give you the detail.

The Hon. ANTHONY D'ADAM: Okay. Can you, on notice, advise how long that exemption has been in place and how many times it's been renewed? I'm interested in the basis upon which you think the exemption continues to be relevant or necessary. I also perhaps seek some information about the analysis that is undertaken in terms of possible harm to workers. Clearly, going back to the audiometric testing, Ms Mann, earlier you seemed to suggest that there wasn't any risk to workers because of the situation where PPE is in place. But has there been any analysis that has established that there isn't sufficient risk to justify removing the exemption? So you're happy to take all that on notice?

NATASHA MANN: I'm happy to take that on notice. I know that there would have been rigorous analysis done and I'm happy to provide you with that.

The Hon. ANTHONY D'ADAM: Thank you. Minister, can I ask about inspections in aged care. This is an area where we've seen a substantial loss of life arising from COVID, and there is a high level of vulnerability there. It's essential that we get the health and safety settings right in aged care to avoid unnecessary death arising from COVID. Are you aware of how many inspections have been conducted by SafeWork of aged-care facilities?

Mr VICTOR DOMINELLO: I have the figure somewhere, but I know Mr Press has the figure right at his fingertips—or you, Ms Mann?

NATASHA MANN: I have the figure, actually, yes. Between 13 June of this year and 29 July of this year we've conducted 97 inspections—43 of those have been desktop and 54 onsite. You will remember that last time we came before you we were a bit limited. We were coming out of COVID and we hadn't been able to send inspectors into that vulnerable environment that is a retirement village. But we've now, with the easing of COVID, been able to send inspectors in.

The Hon. ANTHONY D'ADAM: Since July you've had a spurt of activity, but before then there was none. Is that what you're saying?

NATASHA MANN: Well, you can appreciate that some of our elderly and frail people were the most vulnerable to COVID and there were lockdowns in place. But, also, we didn't want to send inspectors in under those circumstances. We've now been able to reactivate that inspection program and, as I said, we've really done a lot of work over the last couple of months.

The Hon. ANTHONY D'ADAM: How many occurred between the beginning of 2020 and the end of June this year?

NATASHA MANN: I think I mentioned at the last budget estimates hearing that we were unable to do the face-to-face inspections. We had done some desktop but not face to face.

The Hon. ANTHONY D'ADAM: Zero. So is the answer zero inspections have been done?

NATASHA MANN: There were desktop but because of, as you can appreciate—

The Hon. ANTHONY D'ADAM: A desktop is not an inspection, is it, Ms Mann?

NATASHA MANN: —the frailty of people in those homes, you can imagine what would have happened if we had put them at risk by doing those inspections.

The Hon. ANTHONY D'ADAM: They're also at risk, are they not, from the potential of failures of the work health and safety system?

NATASHA MANN: We did a risk assessment and determined that it was better not—

The Hon. ANTHONY D'ADAM: It was safer not to look than to actually go in and look?

NATASHA MANN: No, we were looking, but we just weren't sending inspectors face to face.

The Hon. ANTHONY D'ADAM: How do you assess whether an aged-care facility is discharging its obligations under the Work Health and Safety Act through a desktop assessment? Isn't that just on the say-so of the aged-care provider?

NATASHA MANN: Not at all. We require evidence and documentation from the aged-care provider, so things like asset management plans—all sorts of information that we can compel and require, which we did. As I said, we were mindful that we now needed to really focus, now that we were able to send inspectors in, and we've done an enormous amount of work over the last couple of months to really go in and make sure that things are in order.

The Hon. ANTHONY D'ADAM: I'm still unclear. One of the key measures might be making sure that the staff are properly masking and that they're using adequate PPE to prevent transmission. How do you do that with a desktop evaluation?

NATASHA MANN: There is a whole variety of things that we're looking at when we're going in for those inspections. Some of them are the safe work elements. Absolutely, if we had a request for service from someone saying that there were unsafe work practices, we would look at triaging that.

The Hon. ANTHONY D'ADAM: These are vulnerable people.

NATASHA MANN: They are.

The Hon. ANTHONY D'ADAM: So you can't be reliant just on a complaints mechanism, solely. Surely there has to be some proactive work. Wouldn't you agree, Minister, that this is one area where you're dealing with vulnerable people who need high levels of protection? You can't just sit back. You have to be proactive in terms of making sure that the safety systems are in place, don't you?

Mr VICTOR DOMINELLO: Well, Ms Mann has indicated that they have done that through the online mechanisms.

The Hon. ANTHONY D'ADAM: Are you satisfied the online mechanisms are adequate?

Mr VICTOR DOMINELLO: I'm not the expert in safe work. These are operational—

The Hon. ANTHONY D'ADAM: No, but you are the oversight.

Mr VICTOR DOMINELLO: Absolutely.

The Hon. ANTHONY D'ADAM: You're the one who's supposed to make sure that the agency is doing the job that it needs to do and represent the public interest?

Mr VICTOR DOMINELLO: I accept that, but—

The Hon. ANTHONY D'ADAM: Are you satisfied that those measures are adequate?

Mr VICTOR DOMINELLO: I'm satisfied with Ms Mann's answer, yes.

The Hon. ANTHONY D'ADAM: So you don't think that more direct inspections would have been appropriate?

Mr VICTOR DOMINELLO: Well, you've got to be careful because, as Ms Mann said, these are vulnerable situations and you've got to work in with the particular circumstances of the nursing home. We saw that during COVID, how it was very, very difficult in relation to what we could do in terms of moving in and out of nursing homes. So I have to be guided by SafeWork in relation to what they think is the best way forward for these inspections.

The Hon. ANTHONY D'ADAM: And what have you found, Ms Mann, in the—I think you said—54? Is that right, that you've actually done 54—

NATASHA MANN: Fifty-four onsite.

The Hon. ANTHONY D'ADAM: —onsite?

NATASHA MANN: Yes. What we have found was less along the health and safety lines, more along the lines of—one of the things that we're trying to ensure at Fair Trading, actually, is to make sure that people who are moving into retirement villages know about the village, know about the financial situation and the way that the village is run. There was a requirement for those retirement villages to have that transparency and to have an asset management plan.

The Hon. ANTHONY D'ADAM: To clarify then, Ms Mann, are you saying that these inspections weren't health and safety inspections, they were actually Fair Trading inspections?

NATASHA MANN: One of the fantastic things about the model is that we have Fair Trading and SafeWork working together, so we will often send inspectors out who can look at both elements. So we would send a Fair Trading inspector alongside a SafeWork inspector and they can look at both elements of the environment.

The Hon. ANTHONY D'ADAM: You send two people on an inspection, one Fair Trading and one—or it's the same person?

NATASHA MANN: Usually, it would be two people; it would be a SafeWork inspector and a Fair Trading inspector.

The Hon. ANTHONY D'ADAM: In the 54, was that the case that each time there was a SafeWork and a Fair Trading inspector?

NATASHA MANN: I'd have to take those details on notice.

The Hon. ANTHONY D'ADAM: In terms of the inspections, just looking at the SafeWork side, how many improvement notices were issued?

NATASHA MANN: I'm not sure that I have that detail with me. No, we would need to take that on notice.

The Hon. ANTHONY D'ADAM: Any penalties?

NATASHA MANN: I think I'm best to take that on notice.

The Hon. ANTHONY D'ADAM: You don't know off the top of your head?

NATASHA MANN: Sorry, I can see that in relation to the asset management plans that there were 18 PINS and 16 warnings issued.

The Hon. ANTHONY D'ADAM: Eighteen PINS and 16 warnings. How many facilities are we talking about?

NATASHA MANN: I don't have the number of facilities. As I said, I have the number of visits, which was the 97 with 54 onsite.

The Hon. ANTHONY D'ADAM: Are those PINs arising from the onsite visits or from the desktop?

NATASHA MANN: It's not clear to me in this note, so I will get that detail and come back to you.

The Hon. ANTHONY D'ADAM: I see. So there is some evidence of noncompliance, but you can't tell me whether it was arising from direct or desktop. So we're not in a position to make a judgement about the efficacy of desktop over in-person inspection, are we?

NATASHA MANN: Not in the notes that I have available, but I have no doubt that the team will be able to provide you with that.

The Hon. ANTHONY D'ADAM: Given that there's clear evidence that there was noncompliance, do you think that the approach that was taken prior to July this year was the wrong way, that you needed to actually get out there and make sure that those healthcare facilities were operating at the highest standard of safety?

NATASHA MANN: What I know is that we have a very focused compliance effort on the retirement villages currently and going forward. We have additional resources focused on them, and I feel very confident that that sector is in good hands in terms of the regulatory effort applied to it.

The Hon. ANTHONY D'ADAM: Minister, you would be aware of the circumstances that led to the death of Christopher Cassaniti. It's an issue that a lot of us in the Parliament have been very focused on.

Mr VICTOR DOMINELLO: Yes, it's tragic; it's so bad. I remember visiting the Cassaniti family a couple of days afterwards. It was just horrific.

The Hon. ANTHONY D'ADAM: You are aware that there was a notification from Landcom to SafeWork about that site about a year before the incident occurred?

Mr VICTOR DOMINELLO: No, I wasn't the Minister at the time, Mr D'Adam. I wasn't across that detail.

The Hon. ANTHONY D'ADAM: Ms Mann, are you aware of that?

NATASHA MANN: Yes, I am.

The Hon. ANTHONY D'ADAM: I understand that someone from Landcom contacted SafeWork and there was a SafeWork principal inspector who responded to that. They were asked to have a look. Did that inspector go out and have a look at the site? Do we know? _____ was the principal inspector who fielded the query from Landcom. Do we know whether that query occasioned a visit to the site?

NATASHA MANN: No, I don't think we—

MATTHEW PRESS: We'll check on notice.

The Hon. ANTHONY D'ADAM: You don't know? Given the high amount of publicity around this case, no-one here knows whether SafeWork actually responded to a query about the safety of that site?

EMMA HOGAN: It would just be the case we don't have that information with us. But we can get it over the lunchbreak. We'll see what we can find out and bring it back to you this afternoon, Mr D'Adam.

The Hon. ANTHONY D'ADAM: That would be good. Can I ask about another incident? There was a death at Aussie Skips. Are you aware of that, Ms McCool, in 2018?

EMMA HOGAN: Ms Mann or Ms McCool?

The Hon. ANTHONY D'ADAM: Ms McCool, I think. Was that in your brief? I can direct it to Ms Mann if she's better placed to field the question.

MEAGAN McCOOL: I was in chemicals at that particular time, so it wouldn't have been in my portfolio.

NATASHA MANN: Again, as you can appreciate, we're dealing with thousands of incidents at SafeWork every year. While I'm aware of the incident, I don't have the details at hand. So I can come back to you.

The Hon. ANTHONY D'ADAM: Obviously, where there's a death that should perhaps warrant a bit more attention, wouldn't you say, Ms Mann?

NATASHA MANN: And it does.

The Hon. ANTHONY D'ADAM: Are you able to provide to me whether there is any request for service or notifications received by SafeWork for that employer in the two years preceding that incident at Aussie Skips? Is that something you can come back to us on in the lunchbreak or after lunch?

NATASHA MANN: Hopefully, in the lunchbreak. I will do my best.

The Hon. ANTHONY D'ADAM: Are you also able to advise us how many inspections occurred at Aussie Skips in the two years prior to the incident that caused the death of a worker?

NATASHA MANN: I will take that on notice and come back to you.

The Hon. ANTHONY D'ADAM: Can I ask also about an incident at Ability Barge Services? Are you aware of that particular incident, another workplace death of a salvage worker, Ms McCool?

MEAGAN McCOOL: I am aware of the incident. I wasn't in the construction area at that time, but I have brief information about it. But we can come back on that as well.

The Hon. ANTHONY D'ADAM: Again, how many requests for services or notifiable incidents did SafeWork receive in relation to that employer, Ability Barge Services, in the year prior to the incident that occasioned the worker's death? How many inspections or interactions did SafeWork undertake in the year before that worker's death? Was there an inspector recommendation to the SafeWork independent decision-making panel for further investigation in relation to this incident? If you could come back to me on that, that would be good.

MEAGAN McCOOL: We'll come back to you on that.

The Hon. ANTHONY D'ADAM: Can I ask you about the inspectors at SafeWork? Last year I think there was a series of questions around how many actual inspectors we had in SafeWork. I think there was a report that there were 270 SafeWork inspector roles in 2020-21. How many of those 270 are currently filled?

NATASHA MANN: I have some good news. It's actually 370 SafeWork inspectors that we have.

The Hon. ANTHONY D'ADAM: Sorry, 370.

NATASHA MANN: Of those, 342 are filled, which is what we would expect in terms of recruitment and natural vacancies.

The Hon. ANTHONY D'ADAM: How many inspectors did you lose through resignation last year, Ms Mann?

NATASHA MANN: I don't have those figures on me, but I can see whether we can get those for you. I'm fairly comfortable with that rate that we're sitting on in terms of—

The Hon. ANTHONY D'ADAM: Sorry, what was the number again?

NATASHA MANN: The total number of SafeWork inspectors is 370. The latest figure I have is that 342 of those roles are filled.

The Hon. ANTHONY D'ADAM: So the remainder are vacant and in the process of being filled? What's the status of those roles? Are they vacant? Is there no intention to fill them?

NATASHA MANN: Absolutely not. We continue with our recruitment process. Nineteen of those 28 vacancies are actually inspectors who are progressing through their new inspector training. The secretary and I had a great experience a few weeks ago when we were able to go out and meet with those inspectors going through their training. They're very keen and committed individuals. So 19 of those are going through that training. They don't hold that instrument of appointment and authorisation to actually be inspectors as yet. As you can imagine, that's a very intensive, rigorous process that we use before we put inspectors out in the field.

The Hon. ANTHONY D'ADAM: There's a long history, in terms of the preceding agencies, around poor workplace culture. How many workers compensation claims have been made by SafeWork inspectors in the past three years, and how many of those have been psychological claims?

NATASHA MANN: I don't believe I have those statistics on me, but I can see whether we can provide those on notice to you.

The Hon. ANTHONY D'ADAM: Are you aware of there being perhaps a higher than usual number of psychological claims coming out of the inspectorate, Ms Mann?

NATASHA MANN: I'm not aware of that, Mr D'Adam. I do know that psychological injury claims are increasing across the board. We're seeing more and more of those come through, but I'm not specifically aware that they're more acute in SafeWork. The experience that I have with the inspectors is that they're all very committed. They're doing a great job and enjoying it and feel very committed to the—

The Hon. ANTHONY D'ADAM: There's no problem there, as far as you're aware?

NATASHA MANN: No, I'm not saying that; what I am saying is psychological injury claims are growing across the board in private and public sectors. I'm not aware of larger than usual numbers in SafeWork. That's not my understanding.

EMMA HOGAN: I have departmental-wide data that I'll be able to bring back after lunch that would be able to answer that question.

The CHAIR: I'll pass to Ms Hurst.

The Hon. EMMA HURST: Thank you, Chair. Minister, I might start by asking some questions about animals in rental properties. You might be aware that in New South Wales it is still legal for a landlord to refuse to rent to someone with an animal?

Mr VICTOR DOMINELLO: It's illegal?

The Hon. EMMA HURST: It is legal for a landlord to refuse to rent to somebody who has a companion animal and refuse to allow that animal to actually live in the rental property. We've got a situation now where people are unable to find housing with companion animals, particularly as the rental crisis worsens. Just to give you a bit of background on some of the work that I've done in this space, because it links with the domestic violence space, we know from research that up to 70 per cent of people in domestic violence remain in violent and dangerous situations because they can't leave with the animals, and this rental block is a huge barrier to people being able to leave and to take those companion animals with them. I worked with the former Minister and asked her to consider implementing reform in this space, very similar to what has been done in States like Victoria, to make it easier for people to rent if they have companion animals, and I also sent that letter to your office. Have you seen that letter?

Mr VICTOR DOMINELLO: No, I haven't. I've got no doubt my office has got it, but I haven't seen it yet, sorry.

The Hon. EMMA HURST: I've got a copy here; I can give that to you.

Mr VICTOR DOMINELLO: If you don't mind.

The Hon. EMMA HURST: I appreciate obviously you've only had a very limited amount of time as Minister in this role, but is this something that you would be willing to commit to reviewing, the laws around animals in rental properties? Is it something that you at least would be open to starting some kind of a process to help take some action in this space?

Mr VICTOR DOMINELLO: Yes, what you have said makes sense to me, Ms Hurst, but I'm happy to speak to you offline after I've read your correspondence, if that's okay?

The Hon. EMMA HURST: Thank you.

Mr VICTOR DOMINELLO: But it's inherently sensible, what you've said. Just in terms of time frames and reviews, I'm happy to take it up offline.

The Hon. EMMA HURST: Great, thanks Minister. I've got some questions about the statutory review of the Strata Schemes Management Act 2015. It was published in late 2021.

Mr VICTOR DOMINELLO: Yes.

The Hon. EMMA HURST: There were numerous recommendations for reform. At estimates in March with the former Minister I was told that the aim was to introduce legislation in the first half of 2022.

Mr VICTOR DOMINELLO: Yes.

The Hon. EMMA HURST: Can you give me any update on that piece of legislation, if we're expecting to see a strata reform bill some time this year?

Mr VICTOR DOMINELLO: Can I maybe refer to Mr Tansey in terms that I don't know whether that is going to be available this year, to be honest. I didn't see that on the dance floor.

JOHN TANSEY: Yes, Ms Hurst, we have started the formal consultation with people. I think I recall when we talked about this at estimates previously that our plan was to do the reforms in two tranches, the kind of areas that had consensus support and were easy to draft going forward first, and then needing to do a second tranche where we needed to work with stakeholders, get it right and it would need more work to get done. That first tranche for both strata and in fact residential land leases that were at about the same time have been progressed. We've actually concluded the targeted consultation with stakeholders on the residential land lease and the strata, to the best of my recollection, is actually ongoing now. But, as the Minister indicated, given the jammed agenda for Parliament, I'm not expecting it will get a run this year.

The Hon. EMMA HURST: Okay, thank you. I've got a couple of questions about the recommendations. As part of the statutory review there was a number that came up that were related to animals, specifically recommendation 81, that the by-laws should be updated to better reflect changes in the law on keeping of animals; recommendation 83 in regards to the Community Land Management Act to harmonise community land schemes and the reforms for keeping of animals; and recommendation 84, the evidence that owners corporations can request in regards to the Disability Discrimination Act. Can you tell me if any of these will actually be addressed in the reform legislation or have any steps been taken to address those recommendations?

JOHN TANSEY: If I can have a little bit of time to get more advice, I'm happy to do that. I remember you raising that before, and I agree. I've got six recommendations specifically relating to the pets part of it, so I can come back.

The Hon. EMMA HURST: If you could come back to me and give me a bit more information?

JOHN TANSEY: Yes.

The Hon. EMMA HURST: And one of the other recommendations, No. 86, was that the department continue to monitor the operation of the new animal strata laws and regulations which were passed just recently to determine whether further legislative change is necessary to prevent outcomes that are unjust and defeat the purpose of the reforms. We've seen some bad examples of that actually happening in strata schemes where some strata schemes are actually imposing an enormous bond when keeping animals or overly restrictive by-laws. Can you tell me if that is an issue that is on the department's radar and if there is any reform that is potentially being looked at to deal with that issue that has come out of the changes?

JOHN TANSEY: Thank you, yes, it absolutely is. So recommendation 76, styled exactly as you say, where we're concerned that people are using loopholes or other methods to frustrate the new obligation to allow pets on premises, is specifically one of the issues we're looking at around the reforms and, as I said before, I'll just see if I can get a bit more advice about whether or not it is in the first package or the second.

The Hon. EMMA HURST: Okay, great, thanks for that. Minister, the inquiry report into puppy farming in New South Wales was just released—

The Hon. MICK VEITCH: A great report too.

The Hon. EMMA HURST: Yes, a very good report. I don't expect you to have read it—

Mr VICTOR DOMINELLO: No, but I will.

The Hon. EMMA HURST: Good, yes, because there are two recommendations that fall under this portfolio: recommendation 16 and recommendation 18. Recommendation 16 is that the New South Wales Government introduce an extended liability scheme whereby breeders are responsible for congenital or genetic or

other health issues that arise in the first year of the animal's life, because we heard of a lot of cases of people being sold a puppy and it cost \$10,000 to save that animal's life, and it was something that the breeder had bred into that animal for aesthetics or because they didn't understand breeding of healthy animals. Recommendation 18 is that the Minister for Fair Trading advocate to Federal counterparts the greater oversight and regulation of the online sale of animals and call for a review of the Australian Consumer Law to provide better protections in relation to the purchasing of animals. Are these recommendations that you're open to consider?

Mr VICTOR DOMINELLO: Definitely. I'm heading to Adelaide tomorrow on consumer Ministers, so I'll definitely raise it there to see what the appetite is, but it just seems like there is a gap in the law, and yeah, I'll bring it to the room, as it were.

The Hon. EMMA HURST: Great, fantastic. Are you aware if there is any work in those spaces already that is happening within the department?

Mr VICTOR DOMINELLO: No, I'm not aware. Ms Mann?

NATASHA MANN: Yes, thank you, Minister. Ms Hurst, we are definitely aware of those issues. We've read the report. We will be contributing to the Government response to the report, which is due in late November, but yes, we are aware of the issues and working on them.

The Hon. EMMA HURST: Fantastic, thank you, Ms Mann. Minister, are you happy to meet with some experts in this space as well to sort of get the ball rolling?

Mr VICTOR DOMINELLO: Yes, absolutely. You've seen my commitment in relation to the pet register. To me that should be a foundation stone for so much needed reform in this space because again, like the Building Commissioner's work, if we can shed more light on it then we'll get better outcomes, so I think that definitely should be part of the mix.

The Hon. EMMA HURST: Fantastic, thank you. On 1 July the former Minister introduced new rules that food delivery booking providers must supply their delivery riders with high-visibility personal protective equipment, including retro-reflective outer clothing items. It has only been a month but I'm wondering if there are any updates on how these new rules are being implemented and if there has been a good response from the industry?

Mr VICTOR DOMINELLO: That's operational. Who can take that?

NATASHA MANN: Mr Press is probably best placed to talk about the operational aspects.

MATTHEW PRESS: Yes, we've kept a close eye on that. It only came in from July and since then I've had two operations in the Sydney sort of metro area, which are quite popular for food delivery drivers and compliance is quite good generally. The one that is struggling a little bit is bags, and so you'd see that we had a statement of regulatory intent around that because the platforms are struggling to get supplies in in the post-COVID environment, but generally food delivery drivers are using other sorts of PPE, reflective high-vis, and we're looking to ramp that up over the next few months because that transitional period ends very soon.

The Hon. EMMA HURST: Will there be penalties for non-compliant operators at any point after November?

MATTHEW PRESS: There can be penalties on both the rider and the platform, and we'll have to follow the evidence to see which are at fault. It could be both. It could be one or the other.

The CHAIR: Minister, me and Ms Hogan have spoken about the issue of the Firearms Registry and the failure to deliver customer service in the past—and I thank her for her representations on that—but, Minister, as the Minister for Small Business, I want to raise with you the issue of work authorities for firearms dealers. It is taking nine to 12 months for the registry to approve a work authority for an employee—essentially giving them permission to actually work in a shop. As the Minister for Small Business, does that concern you? Do you see that as an unnecessary restraint on trade for those businesses?

Mr VICTOR DOMINELLO: Well, nine to 12 months, as a Minister who has spent a lot of his time—I am speaking in the third person, which is disturbing. As somebody who has spent a lot of my time focusing on how we slash red tape and make the customer experience better, yes, nine to 12 months is not good.

The CHAIR: Does Fair Trading not have a responsibility here or an obligation to investigate such unnecessary restraints on—

Mr VICTOR DOMINELLO: I can make some inquiries to see. Maybe Ms Mann is—

The CHAIR: Ms Mann, do you have an—I appreciate it is another government agency, and you might be hesitant to rap another government agency over the knuckles, but do you not have a responsibility here to make sure that they are not unnecessarily restraining business activity or trade?

NATASHA MANN: I am not sure that we do, but I am not familiar with the circumstances. Perhaps I can go and look at it. But, as you've mentioned, it is not a matter that sits in this portfolio more generally.

The CHAIR: No, I was just more thinking about the responsibility of Fair Trading and regulating business activity. It seems there is an unnecessary restraint on trade where you—

Mr VICTOR DOMINELLO: The Firearms Registry sits with Police, as you know.

The CHAIR: I appreciate that. They just seem to be immune from any—

Mr VICTOR DOMINELLO: I absolutely agree with you that nine to 12 months is not good enough. That is why, as the Minister for Customer Service, I am trying hard right across government to improve processes, digitise platforms, because that type of delay is just terrible.

The CHAIR: Can I just go to associations? There are obviously obligations for associations to report financial data every year. Through you, Minister, to Ms Mann, what options do you have when they fail to do that in terms of compliance or enforcement?

NATASHA MANN: I think I will take that on notice, if I could.

The CHAIR: You don't know what you can do if they fail to report?

NATASHA MANN: As you can appreciate, we have hundreds upon hundreds of pieces of legislation and I don't offhand know the answer to that question, but I will find it out for you.

EMMA HOGAN: Is it a specific association you want us to—

The CHAIR: I will go to a few examples in a minute, but I want to get a broad sense of what is available to the department in terms of compliance and enforcement in that space and what level of oversight the department has in terms of checking that associations are actually fulfilling those requirements? How often is this reviewed by your department in terms of whether associations or incorporations are actually adhering to this requirement?

NATASHA MANN: I think I will have to take that on notice.

The CHAIR: I might go to a couple of examples, and perhaps you could probably take on notice what's happened with them. There is the Yarric Lake Flora and Fauna Trust, which was set up by the New South Wales Government, particularly Crown Lands, but it is essentially run by volunteers. In previous estimates for that Minister—Crown Lands and Water—we found that that trust had failed to meet that obligation for a decade. So for a decade they didn't report to you their financials. Would you agree that that seems like a significant oversight by your department in not being able to pick that up?

NATASHA MANN: Without knowing the particulars, I don't want to comment on that.

The CHAIR: Can you perhaps take it on notice and find out what went wrong in the sense that an association or a trust didn't report their financials to you for 10 years?

NATASHA MANN: I will do.

The CHAIR: Another example I put to you is—and it has made recent media attention—the Southern Riverina Irrigators, who also failed to disclose their financials for several years. They have also been the subject of concerning reports of insider trading, or some of their directors—like, 28 incidents of potential insider trading. I am curious as to whether them as an entity or an association has come across your radar, in not only their failure to disclose their financials but also some fairly concerning reports about the practices of their directors? I note it was the subject of inquiry in the water trading inquiry just a couple of weeks ago.

EMMA HOGAN: Can you just repeat the name of the irrigator?

The CHAIR: Southern Riverina Irrigators—SRI. Are you happy to—

EMMA HOGAN: Take it on notice.

NATASHA MANN: Yes, if I could take it on notice. Personally I am not aware of it, but—

The CHAIR: Sure.

NATASHA MANN: —I will find out how it is being dealt with.

The CHAIR: In the short remaining time I've got, I might just go back to the Building Commissioner. Just going back and looking at that report that you did on strata defects, or defects in strata buildings, I am trying to get a sense of how much of those defects are from obviously poor building practices when they were originally built and how much of it can be attributed to or has been exacerbated by strata not keeping up with appropriate maintenance. I often get complaints to my office about stratas not doing proper maintenance and then residents get slugged with these exorbitant levies because the basic work hasn't been done to keep the buildings up to scratch for many years. I am just curious to get a sense from that report or just from what you have seen, how much of it is dodgy building practices and how much of it is poor maintenance?

DAVID CHANDLER: As you are aware, the first two years of our effort has been on, "How do we correct the making of new buildings?" Over the last year we have started to shift the compass to what happens to buildings after they are built. Part of this Intervene initiative is very much about looking into what happens to buildings after they are built. The strata survey that you are talking about or referred to, that's the first time a survey like that has been done. It looked at the defects that were inherent in the buildings from their build. What came out of the work that we are doing in the last six months is that we can now see very many instances of things that shouldn't happen after buildings have been built. So we have identified now 12 buildings that we believe would justify a case study on, so we could actually look into and see, was it an owners corporation issue, was it a building manager's issue, was it a strata manager's issue?

We have started the first two of those case studies because, as you have raised, it has become quite evident to us that both the backlog maintenance issue is growing, and we really need to get a line of sight to that. So we will re-run that strata survey next year and we will pick up now specific information on that, but we will push it by the work that we are doing on the current 12 case studies. Because you really can't call these things out unless you've got the evidence, so we are in the process of gathering the evidence. But I can see that, from looking at buildings where we are going back now, where there are serious defects, the situation has been aggravated by the fact that they haven't had proper maintenance and people are not abiding by their lawful obligations to live in the building. Storage cages is a really good example, where people are putting combustible materials inside storage cages and they are also stacking materials on top of storage cages, which then negates the impact of a fire sprinkler. We will have much more detail on this in the next six months.

The CHAIR: Is it something that you are going to loop the Property Services Commissioner into, given that he has strata managers on that property services panel and obviously there is a bit of crossover here in terms of your work?

DAVID CHANDLER: Mr Minns has already been out in the field with us. We have been out looking at projects together because there is quite a complex line between making a building and then taking it into its future. These case studies are actually unpacking what we're seeing at that connection point. Mr Minns has been out with me, I think, on two projects to have a look at that firsthand before he had a break in his role. I'll look forward to seeing him back next week.

The Hon. MICK VEITCH: Minister, back in 2015, then Minister Constance deregulated the taxi industry, essentially devaluing a lot of the taxi plates across New South Wales. As I understand, \$20,000 was offered for the loss of income at that time. We're led to believe there's currently a proposal—I think from the Treasurer—looking at further compensation. Are you aware of that?

Mr VICTOR DOMINELLO: No. That would, obviously, come via the Minister for Transport and, no doubt, the Treasurer. It would probably need to go through ERC.

The Hon. MICK VEITCH: At the Treasurer's budget estimates a couple of weeks ago, he wouldn't give an indication as to when he would be making a decision about this compensation package—my words—supplementary compensation package. You've had no input into that?

Mr VICTOR DOMINELLO: No. I'm not on the Expenditure Review Committee. Plus, obviously, we're not allowed to talk about matters that are Cabinet-in-confidence.

The Hon. MICK VEITCH: Are you arguing that you should be on the ERC?

Mr VICTOR DOMINELLO: No. I'm pleased I'm not on the ERC.

The Hon. MICK VEITCH: You would have to agree, though, these are the quintessential small business operators, aren't they, taxi plate operators. Wherever I go in country New South Wales, you get to the airport and you hop in a taxi to take you wherever you got to go. Most of them are family-run small business operators as well, particularly in Sydney. They've built up a nest egg off the back of these taxis. The taxi plate itself has the potential to be their superannuation. They will sell the taxi for their super; that's essentially what they're doing. That was scuttled in 2015 for a lot of people. Minister, you've only got to hop in a taxi these days

in Sydney and the taxidrivers want to talk to you about the fact that their taxi plates have been so devalued. Surely, as the Minister for Small Business, you would be arguing that there ought to be further compensation for these hardworking individuals.

Mr VICTOR DOMINELLO: Yes. Again, that is a matter that is being canvassed with the responsible Minister, Minister Elliott, and the Treasurer. I understand that discussions are underway. But I can't comment, because I'm not the final decision-maker on that.

The Hon. MICK VEITCH: As an example, Minister, of how taxidrivers are feeling unsettled by actions of your Government—I was in Moree recently—in 2018, there was a trial of an on-demand bus in Moree. The trial extended twice. It's now been made permanent. There's been no compensation offered to the taxidrivers who have now had their taxi plates completely devalued. In fact, they can't sell them in Moree. Surely, if ever there was an argument for an industry adjustment package with adequate compensation, that's got to be an example. Do you agree?

Mr VICTOR DOMINELLO: I don't disagree with you, Mr Veitch. In my previous role, when I was involved in relation to better regulation—I have a very strong working relationship with the Taxi Council. I think they would vouch for that. We've done a lot of great work together. I applaud their leadership. But, as the Premier has said, there needs to be fair compensation. There's no doubt about that. I understand that the Minister and the Treasurer are working with industry now on that.

The Hon. MICK VEITCH: A bit like the Chair of the Committee, I spend endless hours, scrutinising *Hansard*—well recorded and transcribed, by the way. In 2009 you made a speech, did you not, about the taxi industry and the need to support the taxi industry.

Mr VICTOR DOMINELLO: I gave a speech?

The Hon. MICK VEITCH: Yes.

Mr VICTOR DOMINELLO: In 2009?

The Hon. MICK VEITCH: Nine.

Mr VICTOR DOMINELLO: Wow, you're good. I probably—

The Hon. MICK VEITCH: You spoke about blood, sweat and tears, trying to build up a nest egg for their future.

Mr VICTOR DOMINELLO: Yes, that sounds about right. I maintain it. As I said, I get along very well with the Taxi Council.

The Hon. MICK VEITCH: I guess what I'm saying is, they really need an advocate right now at the Cabinet table, because if you continue to roll the on-demand buses around regional New South Wales, which I believe is the program, town by town, the taxi plates will be devalued and that retirement nest egg is scuttled. They need an advocate right now, don't you agree, at the Cabinet table?

Mr VICTOR DOMINELLO: Minister Elliott, to his credit, is a very strong advocate. He's made very public comments around that. Again, as the Premier has said, there needs to be fair compensation. I think we're in agreement there. They're working through that right now.

The Hon. MICK VEITCH: It's like a bit of a slow torture, though, don't you think, Minister? It was 2015, Minister Constance's deregulation. We're now seven years later. We're still talking about some sort of fair compensation. It's taken a long time. A lot of people have been put through pain and anguish.

Mr VICTOR DOMINELLO: I accept there needs to be fair compensation.

The Hon. MICK VEITCH: There's been suicides.

Mr VICTOR DOMINELLO: I accept there needs to be fair compensation, and I also accept that we need to land this sooner rather than later. We did have those COVID years. That changed everything for us all. But, yes, I accept what you're saying.

The Hon. MICK VEITCH: It was put to me by one taxidriver—I won't say where, but it was in regional New South Wales—that the Government's behaviour towards the taxi industry has become almost contemptuous.

Mr VICTOR DOMINELLO: Again, that's a matter for him to opine that way. But I think that my personal relationship with the Taxi Council has been strong. It's been advocating. They need to get through the issues with the industry and get to a landing sooner rather than later. I agree with you.

The Hon. MICK VEITCH: Sooner being before Christmas? Can you—

Mr VICTOR DOMINELLO: I'm not the Treasurer.

The Hon. MICK VEITCH: I know. The Treasurer couldn't give a time line either. But if you're a taxi operator about to pick a whole heap of people up from this building this afternoon, you really want to know what your future looks like.

Mr VICTOR DOMINELLO: It's a fair call.

The Hon. MICK VEITCH: Sooner rather than later.

Mr VICTOR DOMINELLO: Absolutely. It's a fair call.

The Hon. MICK VEITCH: Can we go to plastic bags? Bit of a skip.

Mr VICTOR DOMINELLO: I've got my very strong views on plastic bags. I can't give you my personal views.

The Hon. MICK VEITCH: I appreciate that. I'm not going to ask you for your personal views, not until the coffee cart comes and then we can have that conversation. In May thousands of business wholesalers and retailers were left with millions of unused single-use, lightweight plastic bags after the Government failed to communicate properly the fact that regulatory changes were coming into effect on 1 June. Essentially, people were ordering these lightweight, single-use plastic bags, not knowing the date upon which this was to happen.

Mr VICTOR DOMINELLO: Which year was that? Which year did you say?

The Hon. MICK VEITCH: This year.

Mr VICTOR DOMINELLO: This year.

The Hon. MICK VEITCH: Then there was pretty substantial fines—I think upwards of \$250,000—for people who didn't adhere to the new regulation. Surely the communication around this could have been much better so people didn't order lightweight, single-use plastic bags before the regulation date came into effect. Surely we could have given people a bit of a heads-up as to when this was going to happen so they didn't order those bags.

Mr VICTOR DOMINELLO: There was a lot of media at the time about it. Again, I wasn't the Minister at the time, but I remember reading the public commentary around it. I think it's great reform, much-overdue reform, quite frankly.

The Hon. MICK VEITCH: So do I.

Mr VICTOR DOMINELLO: It's definitely what we need to do. Hopefully, it's the beginning. But—

The Hon. MICK VEITCH: The issue isn't the policy settings.

Mr VICTOR DOMINELLO: It's the notification around it.

The Hon. MICK VEITCH: Yes. That's where I'm—

Mr VICTOR DOMINELLO: I've got some notes here. As I said, I wasn't the Minister at the time. I can say that the ban, as you pointed out, commenced on 1 June. Further single-use plastics are phased out from 1 November this year, which is great. The EPA has publicly indicated they'll take a fair and considered approach, and consider all the circumstances when deciding the appropriate compliance action, which is I think the point that you asked. Whilst businesses reported some short-term challenges around sourcing paper bags, there was high awareness, with 88 per cent of surveyed businesses in retail trade and accommodation aware of the New South Wales Plastics Action ban and associated bans. According to this note, there was 88 per cent of surveyed businesses aware.

The Hon. MICK VEITCH: Minister, in August just gone, the environment Minister, James Griffin, advised that the Government had engaged the services of the National Retail Association, or NRA, to deliver an education campaign to wholesalers and retailers regarding the upcoming 1 November single-use ban in New South Wales for lightweight plastic bags, straws, cutlery and other items. The NRA's a company operating out of Queensland, as I understand it. In September 2021 the Government awarded a contract to NRA for \$547,000 to deliver the education campaign. The NRA was paid \$547,000 for what some have said was an ineffective campaign. Are you comfortable that the money was put to good use with this organisation and that the campaign they have run or are running was worthwhile and has met the objectives of government?

Mr VICTOR DOMINELLO: Again, that is through Minister Griffin; I can't speak for him. Based on the briefing note I have here, there was a high awareness, with 88 per cent of surveyed businesses in retail and accommodation and food services sectors aware of the Plastics Action Plan and associated bans. Eighty-eight

per cent is pretty high, Mr Veitch. I don't know if the Small Business Commissioner has anything further that he would like to say.

CHRIS LAMONT: We were concerned from the outset, Mr Veitch, about essentially three things: the awareness of the change for small business, the existing levels of stock for plastic and related single-use plastics, and the cost of changing. The survey that the Minister is referring to is a survey that we conducted in July. We continue to work with the EPA in particular to keep an eye on things. The EPA have assured me that they will take a considered approach in terms of fines, both from the plastic bag issue and in continuing too the single-use plastics. We will keep an eye on that. I think the challenge that remains for small business is the awareness of what is acceptable material and what is not. We will continue to prosecute that case for small business. As the Minister pointed out, our survey work to date indicates a fairly high awareness of the change. It's just a case of getting through the stock that they may have that they purchased previously, prior to these bans coming into effect.

The Hon. MICK VEITCH: Minister, maybe through you to the Small Business Commissioner, from 1 November, the stock that the small business operators may still have, what are they to do with that?

CHRIS LAMONT: Our hope is that they will use that stock prior to 1 November. Certainly, what we are doing is providing advice that the change is coming in. We have looked at alternate replacements to what they might have used, in terms of plastic forks. We know that there is 2c difference between a single-use plastic fork and an alternate option that is acceptable. We are trying to get that material out to the small businesses so they can source a source of supply to provide and ensure that they are compliant come 1 November. But I think that the messaging is key and making sure that they do wind down that stock and that they seek alternative options now, so that come 1 November they are ready to go.

The Hon. MICK VEITCH: Minister, the process for engaging the National Retail Association, the NRA—again, you weren't the Minister but maybe someone might be able to assist here. What was the process? Was it an open tender, a closed tender or off a panel?

Mr VICTOR DOMINELLO: Can I just get some clarification? Was that conducted via Minister Griffin's office?

The Hon. MICK VEITCH: Potentially. It may well have been, if I go back through my notes here.

Mr VICTOR DOMINELLO: I can take it on notice.

The Hon. MICK VEITCH: If you could do that. Thank you. Did you know that the NRA actually donated money to the re-election campaign for Mr Dutton?

Mr VICTOR DOMINELLO: No.

The Hon. MICK VEITCH: Do you think it's appropriate that that organisation then scored the job in New South Wales?

Mr VICTOR DOMINELLO: I would hope that there are appropriate settings around all procurement. I saw a lot of procurement issues last week. As the Minister, I don't get involved in procurement and nor should Ministers get involved in procurement.

The CHAIR: What's Mr Dutton's view on plastic bags?

Mr VICTOR DOMINELLO: But thank you for raising plastic bags. The fact that you are talking about this helps the narrative, so thank you.

The Hon. MICK VEITCH: I think we agree on—

Mr VICTOR DOMINELLO: Yes, I agree. It's about getting that extra 12 per cent.

The Hon. MICK VEITCH: Minister, I just want to go to the waste disposal industry and the skip bins issue. Your department assesses all proposed laws and regulations across government for their impact on small business; is that right?

Mr VICTOR DOMINELLO: I believe so, yes.

The Hon. MICK VEITCH: What is the process for doing that? I just want to get an idea of the impact on small business if government decisions are assessed.

Mr VICTOR DOMINELLO: I might ask the Small Business Commissioner to respond to that.

CHRIS LAMONT: I can't comment on the process. I think this was a power that the EPA had. The primary issue with skip bin operators was the imposition of an additional charge for what could be contaminated waste when skip bin operators took spoil or material to landfill or centres that dealt with landfill. I can't talk to the

actual regulatory impact statement or cost-benefit assessment of the reg itself. I think it was a power that the EPA has under their legislation.

The Hon. MICK VEITCH: Minister, are there regulatory impact statements for small businesses, then, conducted on government decision?

Mr VICTOR DOMINELLO: I imagine that would have been conducted via the relevant Minister and their agency. That's why it's EPA.

The Hon. MICK VEITCH: But does either your department or the Small Business Commissioner have their eye across the regulations et cetera so that we can assess the impacts there may be on small business?

CHRIS LAMONT: Mr Veitch, we received industry feedback in late March on the proposal. I worked with the EPA and the former Minister on addressing some concerns. As a consequence of that representation, there was a suspension in the order by the EPA, which was very much welcomed by the industry.

The Hon. MICK VEITCH: There has been strong opposition from the industry, as I understand it, around the abandoned regulatory orders on 11 May. If the industry didn't accept it, was there some sort of dialogue prior to the implementation? I'm just trying to get my head around if they—

CHRIS LAMONT: My understanding, Mr Veitch, is that there had been discussions with the industry for about 12 to 18 months, looking at a range of options. The concern from industry, as I recall, was that there was growing pressure on the potential to introduce proposed charges or changes later this year and that initiated some very active representations to my office and to the Government. That precipitated some phone calls and discussion with the EPA, as I mentioned, which resulted in a constructive discussion around suspending those initial charges.

The Hon. MICK VEITCH: I think you might have described these as a win for common sense at some stage, Mr Lamont.

CHRIS LAMONT: I am on record as saying that, Mr Veitch.

The Hon. MICK VEITCH: Yes, that is a little bit more research that I was doing there. Minister, do you think it's a win for common sense?

Mr VICTOR DOMINELLO: I am always advocating for a win for common sense, Mr Veitch.

The Hon. MICK VEITCH: Essentially, the impact would have been that small- to medium-sized business operators had the potential of going out the door backwards if this had happened. I am surprised we got to the point we did before that decision was made. Maybe it was a decision for common sense, Mr Lamont.

CHRIS LAMONT: I'm on the record saying as such, Mr Veitch.

The Hon. MICK VEITCH: Will anyone be apologising to the small waste disposal operators around the unnecessary stress this whole process caused them?

CHRIS LAMONT: We will continue to work with them. They had a very good level of representation from their industry associations, both State and Federal. I have a very good dialogue with both entities now and going forward, so we will continue to work with them. Mr Veitch, I think one of the biggest issues was the industry itself in the main works, as Mr Chandler would appreciate, on lump sum contracts. The additional charge would not have been, in many cases, actually factored into existing contracts that were on foot. They would have had additional charges, which they would not be able to recover from employing bodies or agencies. That was something that the EPA took on board when we discussed that with them. We got a very good reception on that issue alone.

The Hon. MICK VEITCH: The reality is that there is the potential impact on the costs of constructing a home.

CHRIS LAMONT: Absolutely.

The Hon. MICK VEITCH: I have seen figures of upwards of \$20,000 extra just to meet this requirement. I wouldn't say I am gobsmacked but I am concerned that it got this far down the track, particularly if all that consultation was taking place along the way. At some point earlier in this process it must have been flagged that the small-to medium-sized operators were at grave risk of going out. As the Minister for Small Business now, you would surely have had some concerns about that for small business operators.

Mr VICTOR DOMINELLO: Again, right now, but at the time I wasn't. As Mr Lamont indicated earlier, there is a resolution in common sense prevailing.

The Hon. MICK VEITCH: You have had a bit on your plate since you picked up the portfolios from former Minister Petinos.

Mr VICTOR DOMINELLO: I enjoy hard work.

The Hon. MICK VEITCH: You have had to roll the sleeves up and work your way through a number of these issues.

Mr VICTOR DOMINELLO: It's a blessing every day in Parliament.

The Hon. MICK VEITCH: It is. I think this will be your last estimates.

Mr VICTOR DOMINELLO: It is. I think I've done, what—

The CHAIR: We'll have to bring him back.

Mr VICTOR DOMINELLO: —12 years. It would be about 24, thereabouts.

The Hon. EMMA HURST: I have only one more question for Mr Press. I don't know if Mr Tansey has had enough time to give me an update. Maybe I will start with Mr Tansey?

JOHN TANSEY: Thank you. Yes, I can clarify. You asked me about the six recommendations in the strata. All but one of the recommendations are in the first phase build that we are currently doing targeted consultation in. So, hopeful of those progressing. Recommendation one, which is the model bylaw, will be in the second tranche.

The Hon. EMMA HURST: The one recommendation that will be in the second tranche is the one around the huge blames and the over-restrictive bylaws. Is that right?

JOHN TANSEY: No. The model bylaw, recommendation 81 is for the second tranche. But the issue, recommendation 76 goes to the excessive kind of workarounds, that will be in the first tranche.

The Hon. EMMA HURST: What sort of time line are we looking at for that second tranche and the first tranche?

JOHN TANSEY: I think the reality now is that would be in next year, which means it's likely to be when the Parliament convenes after 25 March.

The Hon. EMMA HURST: My one other question was to Mr Press, further in regards to the food delivery driver laws. Are there any further planned reforms or activities in this space in regards to the safety of food delivery drivers in New South Wales?

MATTHEW PRESS: Yes, there are. There's a couple of tranches. This first tranche we are in now is around PPE requirements particularly. From January next year there's a heap of other requirements to do with training, for example, that commence as well. We are just getting through the PPE, but from the back end of this year and probably October, we'll start the communication, the awareness on those further requirements as well. They are more positioned on the platforms to provide training to the riders.

The Hon. EMMA HURST: Are you able to give a bit of an indication about what those further requirements would be? I know you have mentioned training. Is it just training or are there other aspects to it as well?

MATTHEW PRESS: I don't think I have that with me. There are about, I would say, five different elements to it.

The Hon. EMMA HURST: If you could take it on notice and then let me know what those elements are, that would be fantastic. Thank you very much.

The CHAIR: I might just ask a few questions before I throw to the Opposition. I note that Mr Chandler has left the room.

Mr VICTOR DOMINELLO: He is just having a bathroom break.

The CHAIR: That's fine. I might try and steer them towards you, Ms Mann. The strata defect report I was talking about in the previous line of questioning, looking at some of the findings, they note that strata schemes preferred not to involve Fair Trading in resolving defects and only lodged complaints in around 15 per cent of cases. Can you explain why you think that might be the case, such a low referral rate to essentially the department that looks after these sorts of things?

NATASHA MANN: I will make a few comments and then I will throw to Mr Press, if that's okay. We absolutely want to get those rates up, is the first point. The second point is that we have a fantastic new tool called the Strata Hub, strata portal.

Mr VICTOR DOMINELLO: I love the Strata Hub.

NATASHA MANN: Yes. It's a Minister Dominello favourite. This is really a portal. We know that more and more people are living in strata. It's a portal where all the information can be up there for people to access.

Mr VICTOR DOMINELLO: Hear, hear!

NATASHA MANN: People who are living in the strata building, but also people that are thinking of moving into the strata building. It's a mechanism by which government can send out push notices when there are issues that people need to know about. I would foresee, Mr Banasiak, that Fair Trading would be pushing notices out to the strata community to make sure that there is full awareness of Fair Trading and the services that we offer.

The CHAIR: In that hub or portal is there an availability for them to push back and send you feed bites or feedback or concerns?

Mr VICTOR DOMINELLO: To my understanding, that's part of the design. There's only one other place in the world, I think it's Ontario, Canada, that's got anything like this. Our model has now superseded what they've got, significantly so. Again, it is that transparency piece, how we can use digitals and make sure we get far better outcomes.

The CHAIR: That hub's operational now?

Mr VICTOR DOMINELLO: Absolutely, in phase one. We are moving to phase two very soon where we get, to my understanding, strata managers being able to come in. But strata owners can already start plugging in. But that's really important. The genesis of that was I couldn't believe at the time when I was Fair Trading Minister that there was no one place that we could notify or have communication with strata owners in relation to flammable cladding. I couldn't believe it. Down in Victoria, they spent a million dollars in 12 months to try and ascertain where the strata schemes were at a certain age and were vulnerable. I couldn't believe nothing in Fair Trading, nothing in Planning, nothing in local government, so that created—that started the journey around the Strata Hub.

The CHAIR: One of the other things the research has suggested was that need to educate strata managers and people within stratas. Is the hub a direct response to that call for the department of Fair Trading to be, I guess, the centre of that education push?

NATASHA MANN: That is part of it, absolutely.

Mr VICTOR DOMINELLO: But the beauty of it is, Mr Banasiak, this is the first time we have ever had a clear pipeline between the regulator and the strata community. Because we don't know what is going to happen in the next five, 10 years. But we do know that, if there are issues that arise, we need clear communication channels and, again, we're only the second place in the world to have got that. And that's going to iterate over time. There's so much we can do with the Strata Hub. That's why I love the Strata Hub.

The CHAIR: Almost as much as the metaverse.

Mr VICTOR DOMINELLO: Almost. I might put the strata up in the—thanks for the idea.

The Hon. COURTNEY HOUSSOS: Minister, we have only got some limited time left. I did just briefly duck out to the Premier's estimates and I asked him some questions about what we have been discussing earlier here this morning about the allegations, serious allegations about the behaviour of Ms Petinos when she was a Minister. He actually indicated that he had spoken to you and asked you as the senior cluster Minister to raise concerns with Ms Petinos. Is that your recollection of it?

Mr VICTOR DOMINELLO: He raised with me—when was it, 3 July? It would have been about two or three weeks before—he raised with me workplace issue concerns. But, again, I repeat, at no point did he raise any allegations around bullying or formal or informal. So I have received nothing of that. But there were workplace and workflow issues, such as she didn't have much staff on deck at the time, and that was slowing things down. He asked me as a senior Minister if I could reach out to her. I did reach out to her and I said, "Why don't we have regular coffees once a week so you can float through any issues or challenges you've got, because I've been around for a while now?" As it turns out, we never got to have that first coffee because, and on the thirty-first I got notified by the Premier.

The Hon. COURTNEY HOUSSOS: The series of events is that there were obviously concerns raised with Ms Hogan as early as April, that were then raised with the Minister, that at some point the Premier has come to you and has said, "Look, we've got these concerns with how her office is operating." But they are not being connected up until the allegations are aired in *The Daily Telegraph*, and then all of a sudden the Minister is fired. We are just trying to get a sense of how it was that these issues that were being discussed around through government weren't actually addressed.

Mr VICTOR DOMINELLO: Yes, and again, Ms Houssos, I can just say categorically at no point did I ever receive any direct or indirect allegations or complaints around bullying because, if I did, I would have referred it up, absolutely referred it up. I take that very, very seriously. I had received that call from the Premier, again from the best of my recollection it would have been early to mid-July about workflow and workplace issues, but nothing was mentioned in relation to bullying or of the kind. The first I heard about it was pretty much when it appeared in the paper. The same with Mr Chandler's letter. The first I saw, when it was produced on the SO 52.

The Hon. COURTNEY HOUSSOS: There was an article that was published in *The Sunday Telegraph* that did contain excerpts. Did you see that?

Mr VICTOR DOMINELLO: When was that?

The Hon. COURTNEY HOUSSOS: On 6 August.

Mr VICTOR DOMINELLO: I may have, may have. But the first I saw of the letter was with this SO 52.

The Hon. COURTNEY HOUSSOS: On 6 August, though, you were the Minister. What questions did you ask—

Mr VICTOR DOMINELLO: I think I was the Minister. I don't know if I was sworn in, but I would have been, for all intents and purposes.

The Hon. COURTNEY HOUSSOS: I think I recall you were sworn in that week, weren't you?

Mr VICTOR DOMINELLO: Yes, I think it was on the Thursday or Friday. Assume I was.

The Hon. COURTNEY HOUSSOS: Then 6 August was the Sunday.

Mr VICTOR DOMINELLO: Yes, assume I was.

The Hon. COURTNEY HOUSSOS: *The Sunday Telegraph* reports on those explosive allegations about why the Building Commissioner had resigned.

Mr VICTOR DOMINELLO: Yes.

The Hon. COURTNEY HOUSSOS: What questions did you ask after you saw that? Did you see that article? Did you ask questions?

Mr VICTOR DOMINELLO: I have a vague recollection of seeing the article. Again, I just recall reading the—seeing the letter for the first time when it was produced. When was it produced under SO 52?

The Hon. COURTNEY HOUSSOS: That was 10 or 11 August.

Mr VICTOR DOMINELLO: Yes, so it would have been shortly thereafter.

The Hon. COURTNEY HOUSSOS: It would have been 11 August.

Mr VICTOR DOMINELLO: Yes, shortly thereafter. That was the first time I saw it.

The Hon. COURTNEY HOUSSOS: You didn't ask to see a copy of it prior to that?

Mr VICTOR DOMINELLO: Definitely, when I was the—I wasn't entitled to have a copy of it when I was not the Minister.

The Hon. COURTNEY HOUSSOS: But once you became the Minister, there were obviously issues that had been raised.

Mr VICTOR DOMINELLO: I think there may have been two or three days, but that would have included a weekend. But, as I said, it would have been a day or so between that story and, effectively, me getting access to it under SO 52.

The Hon. COURTNEY HOUSSOS: The story that appeared in *The Sunday Telegraph* talked about the concerns that the Building Commissioner had about the relationship between the Minister and Coronation group. Did you ever ask about whether that had been acted on? Did you ever speak to Ms Hogan about that?

Mr VICTOR DOMINELLO: Yes, I spoke to Ms Hogan about that. Again, she's given evidence last week about what she did to satisfy herself in relation to those concerns.

The Hon. COURTNEY HOUSSOS: I don't know how I'm tracking for time.

The CHAIR: You can keep going as long as you want until 12.45 p.m.

The Hon. COURTNEY HOUSSOS: Excellent.

Mr VICTOR DOMINELLO: You can breathe.

The Hon. COURTNEY HOUSSOS: I've always got plenty of questions. Watch out, we're going to be here all afternoon. Ms Hogan, I'm sorry, I didn't see that evidence.

EMMA HOGAN: Are you meaning evidence I gave in SO 52?

Mr VICTOR DOMINELLO: No, last week, in relation to how you dealt with the concerns in relation to Mr Chandler.

EMMA HOGAN: I wasn't asked about Mr Chandler last week, but I'm happy to take any questions.

The Hon. COURTNEY HOUSSOS: Alright, we might get into that this afternoon. We'll probably need a bit longer for that. Minister, I'm interested in what happened. The article in *The Sunday Telegraph* talked about the letter. I'm not sure that you were following what I was saying closely, but I'd been saying for several days that it needed to be released publicly and that it was important that some clarity was provided.

Mr VICTOR DOMINELLO: I do recall that commentary.

The Hon. COURTNEY HOUSSOS: At what point did you start asking questions about the issues that had been raised by the Building Commissioner?

Mr VICTOR DOMINELLO: It would have been, again, in the mid to later part of that week. Everything was moving very fast, so the thirty-first was a Sunday. I think I got officially sworn in on the Wednesday or the Thursday or the Friday. The SO 52 came out on the Monday, so everything sort of happened around that time.

The Hon. COURTNEY HOUSSOS: Sorry, so you received the SO 52. The notice was given on the Wednesday, and it was produced on the Thursday?

Mr VICTOR DOMINELLO: Yes.

The Hon. COURTNEY HOUSSOS: Sorry, the notice was given on the Tuesday, and it was produced on the Wednesday. I'm a day ahead.

Mr VICTOR DOMINELLO: Thank you, that makes more sense. Yes, so that's when I would have seen it.

The Hon. COURTNEY HOUSSOS: But did you ask what had happened with the allegations that were raised in the letter?

Mr VICTOR DOMINELLO: Yes.

The Hon. COURTNEY HOUSSOS: When did you become aware that it had been sent to ICAC?

Mr VICTOR DOMINELLO: When the Premier notified the Parliament.

The Hon. COURTNEY HOUSSOS: So you saw the letter—

Mr VICTOR DOMINELLO: Sorry, I've just got to get the dates right. When did the Premier first make the—

EMMA HOGAN: Thirty-first.

Mr VICTOR DOMINELLO: Thirty-first, then it was 31 July.

The Hon. COURTNEY HOUSSOS: Ms Petinos was sacked on 31 July.

Mr VICTOR DOMINELLO: Yes, and we made the statement in Parliament on the—

The Hon. COURTNEY HOUSSOS: It wasn't until 9 August—

Mr VICTOR DOMINELLO: Yes, 9 August.

The Hon. COURTNEY HOUSSOS: —that we gave notice that we were going to compel the production of the Building Commissioner's resignation letter. On 10 August it was produced to the Parliament, and on that day the Premier told us that it had been sent to ICAC.

Mr VICTOR DOMINELLO: Yes.

The Hon. COURTNEY HOUSSOS: So prior to him standing up in the Parliament and telling us that it had been sent to ICAC, you didn't know?

Mr VICTOR DOMINELLO: It's just that, as you would appreciate, the days were blurred because everything was happening so fast. But if I knew—again, if I knew—it would have been a day or so before.

The Hon. COURTNEY HOUSSOS: Minister, I'm trying to understand what were the questions that you started to ask? Mr Chandler bravely raised some pretty serious allegations in that letter—

Mr VICTOR DOMINELLO: Yes, as I said—

The Hon. COURTNEY HOUSSOS: —about the relationship between the former Minister and Coronation Property group. I'm interested to know what you as the Minister responsible, reading the letter, said to get to the bottom of that.

Mr VICTOR DOMINELLO: I asked Ms Hogan at the time because that's when I had the authority, because I had access to the letter and I was the Minister. Before, I didn't have that opportunity. I raised with Ms Hogan—what did she do to satisfy her concerns in relation to the contents of the letter?

The Hon. COURTNEY HOUSSOS: Alright, and we can talk about that more at length this afternoon. Did Ms Hogan tell you that she had sent the letter to ICAC?

Mr VICTOR DOMINELLO: Hand on heart, I just can't recall. If she did—again, you can ask Ms Hogan—it would have been around that time, that date or thereabouts.

The Hon. COURTNEY HOUSSOS: I'm just trying to get my understanding correct. Mr Chandler raises some serious allegations. You go to your departmental secretary and say, "Have you acted on these? Have you investigated these?", and then that's the end of the matter?

Mr VICTOR DOMINELLO: In what sense? Ms Hogan's already forwarded the letter to ICAC.

The Hon. COURTNEY HOUSSOS: Ms Hogan, perhaps you can jump in.

EMMA HOGAN: The distinction to make is that I hadn't sent the letter under my obligations under section 11. I didn't feel that it warranted that. I was actually on leave from 31 July to 8 August, so there were a few things happening in that time. I had been dealing with Mr Chandler's resignation letter as an independent issue, and then obviously the allegations about the Minister were published on the Friday, I think, on the twenty-ninth. I was on leave when that had happened. I'd asked Ms Mann to act as the secretary the following week, but I was conscious not to leave her with a whole lot of things that were happening at that time which you wouldn't normally be dealing with.

On the Sunday I sought some advice. I sought to update the legal counsel at DPC, who I hadn't spoken to for a while. I'd asked her whether she could make herself available to Ms Mann the following week if any issues were to arise. One of the issues I raised was that Mr Chandler had resigned, which she was aware of, but I also shed a bit more detail about the letter and the actions I'd taken. I said to her that I hadn't felt that I should send it to the ICAC, and she said to me she didn't feel that the actions that I had taken and the concerns that David had raised in his letter—she didn't feel that I needed to refer them under section 11 either, but that it was open to me to send it to the ICAC purely as an FYI. I took that advice and decided that I would send it, not refer it under section 11, but that I would send it purely as an FYI.

I called my own legal counsel that afternoon and asked if she could put a short note together and arrange to have it sent to the ICAC the following day. The reason for the timing was that prior to then, prior to speaking to the legal counsel at DPC, I hadn't felt it necessary to do that. Once she had suggested to me that it was open to me and it would be an usual practice in such matters across the sector to do that—to send it purely as an FYI—I did decide to take that action. The reason that it was taken the next day was that I didn't want to leave Ms Mann with the obligation to do that. I wanted to make sure I'd done that myself.

The Hon. COURTNEY HOUSSOS: And then you subsequently went on leave until the eighth?

EMMA HOGAN: Yes, so I was actually on leave that weekend, but I performed those functions so that I could—the following week I was actually physically going away, and I didn't want to leave Ms Mann with that to deal with.

The Hon. COURTNEY HOUSSOS: I understand. I might come back to that again this afternoon—

EMMA HOGAN: Sure.

The Hon. COURTNEY HOUSSOS: —because I think I've got a few additional questions. I'm just checking to see whether I've got anything further for the Minister. Colleagues?

The Hon. ANTHONY D'ADAM: I want to come back to the question about aged care. Ms Mann, have there been any prosecutions arising out of any of the aged-care inspections?

NATASHA MANN: I think I need to seek a point of clarification. Are you referring to aged-care facilities or retirement villages? We regulate retirement villages.

The Hon. ANTHONY D'ADAM: You don't have SafeWork obligations? There are no health and safety obligations in relation to aged-care facilities? Workers in aged-care facilities aren't subject to the Work Health and Safety Act?

NATASHA MANN: Yes, they are.

The Hon. ANTHONY D'ADAM: Then they're clearly within your remit.

NATASHA MANN: I think we may have been speaking at cross-purposes earlier. In terms of that, I will need to take on notice the number of prosecutions.

The Hon. ANTHONY D'ADAM: Let me just clarify, in terms of the evidence you provided earlier in terms of workplace visits, is that in relation to retirement homes?

NATASHA MANN: Retirement villages, that's correct.

The Hon. ANTHONY D'ADAM: Not aged-care facilities. So are you able to provide evidence in relation to how many inspections were done in terms of aged-care facilities?

NATASHA MANN: Yes, I can get that for you.

The Hon. ANTHONY D'ADAM: I see. But that's certainly not the 54 that you—

NATASHA MANN: No, I think we were speaking at cross-purposes. I was referencing the numbers for retirement villages. But I can certainly get information in relation to aged-care facilities as well.

The Hon. ANTHONY D'ADAM: Was it the same arrangement where there were no physical inspections prior to 30 June 2022?

NATASHA MANN: I would expect that to be the case given the vulnerability of the people involved, yes.

The Hon. ANTHONY D'ADAM: When you're talking about the vulnerability, are you talking about the vulnerability of the inspectors or the vulnerability of—

NATASHA MANN: I'm talking about the vulnerability of the aged residents in the facility.

The Hon. ANTHONY D'ADAM: I want to ask about the risk assessment that was undertaken. Again, just to clarify, was that in relation to all inspection services or was it just in relation to inspection services for retirement villages as opposed to aged-care facilities?

NATASHA MANN: During COVID, given the exceptional circumstances that we were facing, we did need to do risk assessments in terms of whether it was better to go in and risk the health and safety of people in there, in terms of COVID, or not.

The Hon. ANTHONY D'ADAM: I understand that.

NATASHA MANN: So it was a risk assessment that was done in relation to every inspection space.

The Hon. ANTHONY D'ADAM: And the conclusion was that it was too risky to do physical inspections?

NATASHA MANN: There were actually times when we were not permitted in because the aged-care facilities—the retirement villages—were locked down. So you'll recall there were parts of COVID where people were not actually able to go inside.

The Hon. ANTHONY D'ADAM: The regulator couldn't exercise its due authority to go into an aged-care facility to deal with health and safety matters; is that your evidence?

NATASHA MANN: It's the risk assessment. We absolutely can go in under those circumstances. What I was referring to is we didn't go in and do our regular inspections as a matter of course. We would have responded had there been requests for service for particular incidents but we didn't send troops of inspectors in, as you can appreciate, under the circumstances.

The Hon. ANTHONY D'ADAM: Can I get, perhaps on notice, how many requests for service were received from aged-care facilities?

NATASHA MANN: Yes, I can do that.

The Hon. ANTHONY D'ADAM: For the period of the beginning of 2020 through to the 30 June 2022 period that we've talked about.

The Hon. COURTNEY HOUSSOS: Minister, I just want to ask you some final questions about the exercise of the functions of the fair trading Minister that you were asked to do when you weren't the Minister but when Matt Kean was the Minister, in relation to David Baynie. Do you recall this? This was some time ago, in 2017.

Mr VICTOR DOMINELLO: I was about to say, that's years ago. It was pre-COVID. I vaguely remember it.

The Hon. COURTNEY HOUSSOS: Have you ever met David Baynie?

Mr VICTOR DOMINELLO: Not to my knowledge.

The Hon. COURTNEY HOUSSOS: You may recall that Minister Kean excused himself from fulfilling his statutory functions and asked you to step into the role.

Mr VICTOR DOMINELLO: Yes, I do vaguely remember that.

The Hon. COURTNEY HOUSSOS: He disclosed that he had a relationship with Mr Baynie?

Mr VICTOR DOMINELLO: Yes. I just recall he recused himself from the role and he asked me to step in.

The Hon. COURTNEY HOUSSOS: Do you remember if your discussions with Minister Kean involved ex gratia payments?

Mr VICTOR DOMINELLO: Sorry, I don't have any recollection of 2017 events.

The Hon. COURTNEY HOUSSOS: Are you able to take it on notice to see if there's anything that you've got—any notes—in relation to what were the—

Mr VICTOR DOMINELLO: I'll take it on notice but I don't have a specific recollection of any discussion.

The Hon. COURTNEY HOUSSOS: And if your discussions with Minister Kean included the findings of the NSW Ombudsman report.

Mr VICTOR DOMINELLO: Again, I'll take it on notice.

The Hon. COURTNEY HOUSSOS: And whether you consulted with Minister Kean at all when you were exercising those statutory functions or whether you didn't.

Mr VICTOR DOMINELLO: I'll take it on notice but I doubt very much I would have consulted with him. If he'd recused himself, I wouldn't consult with him.

The Hon. COURTNEY HOUSSOS: Are you able to tell us whether the ex gratia payments that were provided excluded the people who received them from pursuing further legal action?

Mr VICTOR DOMINELLO: In 2017?

The Hon. COURTNEY HOUSSOS: In 2017.

Mr VICTOR DOMINELLO: Again, I'll take that on notice. Apologies, a lot has happened since then.

The Hon. COURTNEY HOUSSOS: Yes, I understand. It is part of the portfolio, though.

Mr VICTOR DOMINELLO: I accept that.

The CHAIR: Do any witnesses want to clear some homework before we break for lunch?

EMMA HOGAN: We were preparing to come back after lunch, but Mr Press might have something.

MATTHEW PRESS: I just have a couple, if that's okay. Food delivery drivers, Ms Hurst asked about the additional requirements from 1 January. They are training requirements on the platforms to provide appropriate training, which I think I mentioned; for riders to provide evidence to inspectors upon request that they've conducted that training; that riders are required to wear PPE; and penalty notices can be issued to riders if they were not supplied PPE or if they didn't wear it.

JOHN TANSEY: I undertook to Mr D'Adam to check my facts on audiometric testing. I just wanted to repeat that we are proposing, subject to Government's consideration, to go out and consult on the audiometric testing exemption. It was included in the WHS regulation through national reform since 2017 but, as you observed, has been the subject of a class exemption. So the basis of the proposed consultation would be—our in-principle view is that it's not usual or appropriate to exempt things of such nature by such a class and that one option would be to provide for more specific exemptions rather than broad exemptions. It is also still our view, though—and I think colleagues might have made the point—that that does not remove obligations on people conducting or undertaking business that use audiometric testing in a workplace if it's part of their risk management, and it's still our view that the WHS regulation would require that and provides for it, and that the New South Wales code of practice for managing noise and preventing hearing loss specifically deals with the use of audiometric testing.

The Hon. ANTHONY D'ADAM: How does that work, Mr Tansey? If you've got an exemption, you then say that if they have a risk assessment, actually they still have to do it. It's one or the other isn't it, surely?

JOHN TANSEY: Our proposition would be that we shouldn't be dealing with exemptions through very broad class exemptions and that they should be more specific and tending to be case by case. I think my colleagues made the point—I'd happily defer to Meagan on that—about the fact that where it is by the nature of the work, including where your work requires you to use PPE such as noise protection ear covering, audiometric testing would be one of the other mitigation measures that you would use as part of meeting your obligations.

The Hon. ANTHONY D'ADAM: Let me clarify this: This measure is in operation in the other States as a role as a result of the harmonisation process.

JOHN TANSEY: Correct.

The Hon. ANTHONY D'ADAM: In New South Wales we dealt with it by, rather than implementing it, putting in exemptions as a transitional measure? I don't really understand why there hasn't been a decision up until now to retrench the transition measures.

JOHN TANSEY: I can't speak for all the decisions made along the way but it's certainly our view now that it's not an appropriate mechanism to keep doing this year after year, and the current exemption is due to expire in December of next year. So our intention in doing the consultation now is to address it, assess the pros and cons and deal with it in a more regular way so we no longer have these rolling exemptions year on year. We'd like to be clear about its status.

The Hon. ANTHONY D'ADAM: Every year since 2016 it has been renewed. Is that right?

JOHN TANSEY: That's my understanding.

The Hon. ANTHONY D'ADAM: It is only now that you are looking at process of saying we do need to keep undertaking this exemptions system. Surely if you're renewing it each year, those questions should have been asked each time when there's a renewal, Mr Tansey.

JOHN TANSEY: I don't have advice on that. I can't speak to what process is each year on year. I can tell you what we're doing now. I agree with, maybe, the proposition underlying your question that we have our preferred way, our usual way, to deal with these rolling year-on-year exemptions. We prefer to put it on a clear and ongoing footing and then business, industry and workers know what applies and what doesn't, and it would potentially allow for more limited and specific exemptions rather than broad class exemptions. Meagan will, no doubt, be able to add more operational perspectives.

MEAGAN McCOOL: The exemptions don't remove any requirement from doing anything at all. It still has the duty under the laws to minimise risk as reasonably practicable. That would still undertake a risk assessment. If audiometric testing came out in that risk assessment, we would still need to apply it. What has happened, though, is that it would disadvantage many other businesses that have other controls in place. So this is blanket exemption that is essentially it is disadvantaging a certain group and, as a result of that, the exemption expires on 31 December 2023 with consultation on whether it should be put into the law or removed.

The Hon. ANTHONY D'ADAM: Are you saying that the exemption is disadvantaging businesses or that there are businesses that would be disadvantaged if it weren't in place?

MEAGAN McCOOL: It would only apply to those that are using audiometric testing as part of their risk assessment and it would not apply to those that are not using it at the moment. It is disadvantaging a group that are already using that and excluding a group that are not.

The Hon. ANTHONY D'ADAM: How is it disadvantaging if they're doing it?

MEAGAN McCOOL: And that is, I guess, what the issues are around as to where it's fit for purpose. The second thing is that it doesn't take away the duty that businesses need to do the risk assessment, put appropriate controls based on their business—and they may differ between businesses depending on the noise environment.

The CHAIR: We are running over time. I will allow the Minister.

Mr VICTOR DOMINELLO: I thank the Committee first and foremost. Will the Committee require all witnesses this afternoon—for example, the Small Business Commissioner?

The Hon. COURTNEY HOUSSOS: Yes.

The CHAIR: We will have to have a conversation about that after the broadcast has finished. If we can dismiss witnesses early, we will definitely do that. I will throw to the Hon. Peter Poulos, who has the lead for the Government for questions.

The Hon. MICK VEITCH: He's been practising all morning.

The CHAIR: He has at least been paying attention.

The Hon. PETER POULOS: Minister, thank you once again for your attendance today. I personally wrote to you and would like an encore for attendance.

The Hon. MICK VEITCH: You want a supplementary?

The Hon. PETER POULOS: No, an encore.

Mr VICTOR DOMINELLO: I respectfully pass.

The Hon. PETER POULOS: Minister, on behalf of my colleague, I take this opportunity to thank you for your many years of distinguished service in discharging your ministerial responsibilities with such passion. Before we wrap up for lunch, were there any final words of wisdom you can share with this Committee?

Mr VICTOR DOMINELLO: No, not at all, just thank you for the opportunity. All day in Parliament is a blessing.

(The Minister withdrew.)

(Luncheon adjournment)

Mr JOHN MINNS, Property Services Commissioner (as appointed from 12 September 2022), affirmed and examined

The Hon. COURTNEY HOUSSOS: Mr Chandler, I want to start first of all with your resignation letter. We talked a little bit about it this morning, but I am keen to talk in a bit more detail about the concerns that you raised about the relationship between the Minister and Coronation Property group. How did you form that view, those concerns about the relationship between the Minister and Coronation Property group?

DAVID CHANDLER: Ms Houssos, it was really a contextual thing as part of me arriving at the conclusion I arrived at. As I have said in the letter, I was just a bit surprised that within a very short time after issuing a draft order I got a call from the previous Minister's chief of staff to say am I about to issue an order on Coronation. I said yes, I was. I thought within an hour of me issuing the draft order was pretty prompt, and then within a couple of hours later, I received an SMS from Mr Barilaro saying that he was aware I was going to issue an order, and would it be appropriate to meet, but very clearly making the point that if it was inappropriate to meet, that wasn't an urgency. I didn't hasten to a meeting with him, and we organised one for some weeks after I issued the order. So, it was just part of the atmospherics to say, "Well, I'm bit surprised that that happened like that." We drew nothing from it. In my discussions with the secretary, we didn't feel that there had been an infringement on my powers or an infringement to change the course of justice. It was just part of the atmospherics of me putting together a bunch of things that sort of said I'm not sure this is going the way it has always been.

The Hon. COURTNEY HOUSSOS: Mr Chandler, I respect that you have worked in the industry. I apologise I said 40 years, but it has been 50 years—

DAVID CHANDLER: It's 50, actually, yes.

The Hon. COURTNEY HOUSSOS: Over time you get a sense of things with that level of experience. Has the previous Minister's chief of staff contacted you about any other stop work orders?

DAVID CHANDLER: No.

The Hon. COURTNEY HOUSSOS: Is that the first time she had called you?

DAVID CHANDLER: With all chiefs of staff, they do put things on my radar. For example, it was not unusual to make a call to say "By the way, we have got this matter out at Auburn, for example. I just wanted to let you know. We are going to send you up a note to say 'Is it okay to brief the local member'", which we did and that was approved. I did not have very many contacts with the previous Minister's chief of staff as, for example, I would have had with Gavin Melvin in Minister Anderson's office; I expect we would have spoken three or four times a week. I've got to say that since Minister Dominello's arrival, we are back to three or four times of contact a week. There was no spontaneous connection.

The Hon. COURTNEY HOUSSOS: With the previous Minister?

DAVID CHANDLER: The previous Minister.

The Hon. COURTNEY HOUSSOS: I understand that, but that's why this call out of the blue prompted concern from you. Is that correct?

DAVID CHANDLER: Yes, it did. We also responded to two meetings requests from Coronation as well. That was just handled in the normal course of business. The first meeting I had with them—I can't recall the date—they came in after we had issued the order. They said, "We fully accept the order. There's no pushback from us. In fact, we've sacked two people from the job because they weren't doing it right. We're very sorry and we're going to get it fixed." There was absolutely no pushback on the order at all from Coronation. Then there was a subsequent meeting. In fact, Matt Whitton chaired the meeting and you were with him—I was just in attendance. That was to talk about the fact that the order had been lifted by then. Is that right, Matt?

MATTHEW PRESS: Yes.

DAVID CHANDLER: The order had been lifted by then and they had some issues around a potential review of their licence. Again, that's not my domain. I basically said I am happy to sit in the meeting, but I have got no idea because it is being handled by the department as it should be.

The Hon. COURTNEY HOUSSOS: What was the issue with the licence that was raised?

DAVID CHANDLER: Matt, why don't you talk to it because it's your patch, not mine?

MATTHEW PRESS: I should actually pass to Ms Mann because its not my part of compliance. It is the licensing and disciplinary areas.

DAVID CHANDLER: I am happy to talk to it.

NATASHA MANN: Ms Houssos, there was an issue with the licence of MN Builders.

The Hon. COURTNEY HOUSSOS: Which is associated with Coronation Property group?

NATASHA MANN: That's correct. The issue was that we had issued a notice of intent to cancel that licence on 5 April. Indeed, we did go on to cancel that licence. It was cancelled on 23 August this year. The very next day there was a summons filed in the Supreme Court by MN Builders, or their lawyers. A stay was granted on 26 August, which meant that the registration, or licence, of MN Builders has been reinstated. Now that has been referred to a date for a preliminary hearing. So that matter is active and live.

The Hon. COURTNEY HOUSSOS: I certainly don't want to in any way prejudice that. I want to go back to the meeting with Mr Barilaro. Mr Chandler, you said, and your letter noted, that you received a text message on your personal phone. Is that the way you were normally contacted? Do you have a work phone?

DAVID CHANDLER: I have a work phone. I keep them quite separate. One is for my grandkids; one is for this one. It came in on my personal phone. I give my personal phone number to the senior executive because I do turn this off on weekends and try and have a weekend. If I am needed—I am the Building Commissioner, so a few people have my phone number, including in the Minister's office. I was just as surprised that within four hours of issuing the draft order I received an SMS from Mr Barilaro saying, "I understand you're issuing an order. Could we have a meeting?", with a strong message at the bottom, "If this is inappropriate, tell me and I won't push it any further." It was inappropriate. I said to my EA, "Let Mr Barilaro know that I'm happy to meet with him in due course." But I did keep the secretary informed of that process throughout.

The Hon. COURTNEY HOUSSOS: I'll come to that in a moment. Mr Chandler—and this might be something I should clear up—there were some notes that one of your colleagues—Mr Nyss, is it?

DAVID CHANDLER: Yolande Nyss, yes.

The Hon. COURTNEY HOUSSOS: He—

DAVID CHANDLER: She.

The Hon. COURTNEY HOUSSOS: She, I apologise. She wrote some notes that were produced to the upper House in a call for papers. They actually said that John Barilaro wanted to discuss the stop work order. Was that correct or he didn't want to?

DAVID CHANDLER: When he came into the room he just said, "I acknowledge it's been dealt with." It was of really no material part of the comment. He really came in to follow up his earlier email to me to say that he'd like to—I think the two copies of the SMSs that I've had from Mr Barilaro were in the pack that you've got. The first one was asking for a meeting. The second one followed me giving a presentation to the Property Council of Australia at which, when I sat at the head table, he was already there. He sat on the other side. We nodded and then he sent me an email afterwards saying, "Good presentation. Now I've got the understanding of what you're on about and we now want to be one of your success stories." We had the conversation in the context of him wanting to know what they needed to be doing to be one of the success stories.

The Hon. COURTNEY HOUSSOS: So he contacted you on your personal phone. That was on about 4 April or something like that?

DAVID CHANDLER: It's in the pack.

The Hon. COURTNEY HOUSSOS: I've got a list here. Sorry, on 6 April he sends you a text message.

DAVID CHANDLER: The day of the draft order, yes.

The Hon. COURTNEY HOUSSOS: Yes, on the day of the draft order. The next day chief of staff calls you.

DAVID CHANDLER: No, she called me before Mr Barilaro.

The Hon. COURTNEY HOUSSOS: She called you. Mr Barilaro sends a text message on your personal phone, which is—

DAVID CHANDLER: About an hour after I issued the draft order. By the way, I didn't issue it to Coronation. I issued it to Kaan Finch, because we were doing a Design and Building Practitioners Act audit. We were actually going through were the drawings fit and proper before declaring and issuing for construction. We found that they weren't. The draft order was given to Kaan Finch in their offices. About an hour or so later I was back in my office and I got a call saying, "Are you issuing an order?" At that stage it was just a draft. I said, "I've

issued a draft order. I may issue a formal order. But obviously everyone has got an opportunity to come back and say why the order shouldn't be issued." So we reviewed that and made a decision to issue the order.

That happened in the first hour. I said, "Look, you'll see the order posted when the order is posted if there's an order" and that was the end of it. The chief of staff had no push at all. It was just, "Are you going to issue an order?" and within an hour of me issuing it it was in the architect's office. It wasn't even in the hands of Coronation at that time. Then, about four hours later, I got an SMS on my private phone from Mr Barilaro—who, by the way, I had never spoken to in the entire time I'd been Building Commissioner. That was the first time I'd ever had an exchange with him.

The Hon. COURTNEY HOUSSOS: Then, a couple of weeks later, you're at the property group—

DAVID CHANDLER: The Property Council of Australia event. He was seated at the head table, where I was. He was just across the other side of the table. I just said, "G'day". He said, "I'll see you next week." I said, "See you next week." That's all we said.

The Hon. COURTNEY HOUSSOS: I think you noted in the text message that you forwarded on to Ms Hogan that it's funny how the world works. It's these little coincidences that raised your concerns with an ongoing relationship.

DAVID CHANDLER: I guess another public servant may have been more unsettled by that than me, but it didn't bother me.

The Hon. COURTNEY HOUSSOS: I understand. I've seen the concern. In your resignation letter you say that you had raised these concerns previously. Obviously, in the documents that have been provided to us we've seen that you sent the text messages from John Barilaro and the email from John Barilaro, and you raised this with Ms Hogan. Did you raise your concerns about the relationship between Coronation Property group and the former Minister in any other way?

DAVID CHANDLER: No, it's not my job to do that. I don't work for the Minister; I work for the secretary. I raised my concerns with the secretary, and that's all I felt—we also discussed it. We agreed that it was of no greater moment than a coincidence, and we've left it at that, frankly.

The Hon. COURTNEY HOUSSOS: How many times did you raise them with the secretary?

DAVID CHANDLER: Probably no more than twice. Secretary?

The Hon. COURTNEY HOUSSOS: What was the response to when you raised them?

DAVID CHANDLER: From the secretary?

The Hon. COURTNEY HOUSSOS: Yes.

DAVID CHANDLER: We just noted them. We've got processes in our office to record these things. I've got a legal director, so I went and briefed the legal director. She took a record. We simply recorded it so that we actually had a record of the event. I let the secretary know that we had received the call. We recorded it in the normal way in the event that there was ever an internal audit of the matter. We always leave a very good audit trail of everything we've done. So I just thought that we did the normal course of business.

The Hon. COURTNEY HOUSSOS: And you didn't want to see any action from raising those concerns? Did you want it raised with the Minister?

DAVID CHANDLER: No, I didn't. As far as I'm concerned, it didn't affect what I was doing or what the department was doing. So, apart from recording it, that was the end of it as far as I was concerned. But it did form part of a group of issues that I clustered together to arrive at a decision where I thought my role was becoming unviable, or was unviable.

The Hon. COURTNEY HOUSSOS: Mr Chandler, did the Minister or the Minister's office contact you about any other stop work orders that were issued?

DAVID CHANDLER: No. We've never had a conversation about orders, full stop, I don't think.

The Hon. COURTNEY HOUSSOS: Sorry, the previous Ministers.

DAVID CHANDLER: The previous Minister—I don't believe that we've had a conversation about orders, full stop.

The Hon. COURTNEY HOUSSOS: So it was just this one phone call about Coronation group? That was the only time you were contacted?

DAVID CHANDLER: Correct, yes.

The Hon. COURTNEY HOUSSOS: In your letter you outline that "important pieces of previously canvassed legislation have now run into serious disruption". What were those pieces of legislation?

DAVID CHANDLER: Mr Tansey can inform you all about the full suite of the legislation. But former Minister Anderson, in all of our dialogues—and, I believe, in the crossbench conversations we had with you—we acknowledged the fact that the Design and Building Practitioners Act was a very large piece of first-time legislation, and it was highly likely to have unintended consequences. Minister Anderson assured the industry, and I did as well, that in the event that there were unintended consequences, we will be quick to resolve those.

Two of those issues were clarity around the applicability of the Building Code of Australia, which version of the Building Code of Australia could be locked down at each time of a project. The second piece was about providing some certainty around staged construction certificates. They were the ones that were most pressing. I had all the industry associations saying, "Come on, David. You guys said you wouldn't leave us in the lurch on this and you're not delivering." I really had brand value on the table as well. I wasn't prepared to walk away and say, "Oh, well. I tried my best and didn't pull it off."

But Mr Tansey is aware of the other pieces that made up the suite of things—there were some improvements to the RAB Act, John, as I can recall. There were some issues there about some functionality that we would run into in implementing the RAB Act. There were a couple of other pieces around the DBP Act. They were just tidy-up pieces that, really, were annoying and needed to be addressed and ran into "No"—nothing.

The Hon. COURTNEY HOUSSOS: Was it that you couldn't get a response or that it was an antagonistic response to the changes you were proposing or there was just no will to actually move it forward?

DAVID CHANDLER: My sense—it's only my opinion—is that the Minister wasn't as invested in the legislation as the former Minister Anderson was, as we all had been, as has the industry. You will have to ask the industry their views on their journey through this process, but that investment seemed to have fallen away and industry was becoming quite concerned.

The Hon. COURTNEY HOUSSOS: Quite concerned about the lack of enactment?

DAVID CHANDLER: Well, lack of resolution of things that really went to the good faith around if there were unintended consequences from the big piece of legislation that we put forward, that we would quickly move to clarify and rectify them. I think that was the thing that was most concerning me. We use so much good faith in terms of getting that legislation through on every frontier. To actually then sort of just press the hold button on it was a breach of that good faith, and I really was not comfortable with that at all.

The Hon. COURTNEY HOUSSOS: The Government was banking on your reputation when they hired you, so obviously you were expecting that there would be some support from the Government to pursue these issues.

DAVID CHANDLER: Ms Houssos, I went back and read my job description—at that particular point, I went back and read it—and it really set out a landscape where there was a big role in advocacy, in policy, in industry engagement, dealing with both Ministers and crossbenchers and the industry and, more importantly, the consumers. It is really written large in the first three paragraphs of my job description. I looked at it and thought, "Well, that's what I signed on for and what I'm currently going through is not that." Now, I'm not an elected member of Parliament, so I think, as a hired person working for the secretary, I have a choice and that was, "You're either going to deliver the goods on the basis of what you stood up and said you would do or not" and I just simply said, "I can't see the prospect of delivering and I can see the integrity piece of that falling away." So many people were totally invested in that integrity. That has really weighed heavily on my mind.

The Hon. COURTNEY HOUSSOS: You're talking about crossbench briefings. I should be very clear when we talk about the crossbench in the upper House, we're often talking about the Shooters, Fishers and Farmers or The Greens, but those crossbench briefings are also extended to the Opposition as well. Your letter references, "The episode following the crossbench briefing yesterday is an example of the current issues between me and the Minister's office." What was the episode that you refer to?

DAVID CHANDLER: You are aware that I briefed you on the update on Project Remediate.

The Hon. COURTNEY HOUSSOS: Yes.

DAVID CHANDLER: The reasoning for that was that we were just issuing the second round of the Cladding Product Safety Panel report, and I felt that it was terribly important because we needed to come back and give you a fairly detailed insight into where we were up to. We briefed the Minister on Cladding Product Safety Panel Report 2, and that went fine. I said, "I would like the opportunity to go and brief others in the

crossbench and the Opposition", because I think that's the courteous thing to do. Frankly, COVID really had denied us the regular meetings that we were actually planning on having, which was reporting to you on how we were standing everything up and how we were measuring it. We had been through that COVID break and I wanted to get back to a point—particularly on something like cladding—to say, "At the earliest date, I would like to brief you."

At that briefing with the Minister, I said, "I would like to do that" and the answer was, "Yes, that's fine." That took a bit of time to get that meeting organised; I think we had three or four attempts at doing that meeting, but we did settle the date. On at least two occasions prior to that meeting, I reminded the chief of staff that we had set that meeting up and that we were having it. Only on the Friday before we had that meeting, I confirmed to the chief of staff, "We are having that meeting" and we actually recorded that in the steering committee for Project Remediate. We had the meeting. I thought it was a very open—I think we stayed there till we answered every one of your questions, and that's the style that I want. I don't want to spin or whatever. It's just whatever questions.

I got a call—I think I spoke to the former Minister's chief of staff the following day and said, "That went very well, by the way." Then I was in another meeting a day or so later and I get an SMS from the secretary, saying, "The Minister is very upset about the meeting you've had with the Opposition and crossbenchers. What's that about?" So I left the meeting and rang the secretary straightaway. "What's that about?" I was just so staggered. We had gone through all the protocols of saying we were going to have that meeting and suddenly it turned into, "What in the hell went on?" You took the message from the Minister. All I was doing was responding to your SMS to me saying, "What happened?"

The Hon. COURTNEY HOUSSOS: Ms Hogan, what happened?

EMMA HOGAN: The former Minister texted me to say that she had seen Mr Chandler about to brief the Opposition or the crossbench; I can't recall the exact words. She felt that he had done that without her knowledge or her permission. So I contacted David straightaway to ask, "Give me a call"—I think I tried to call him and he didn't answer, so I texted him and he called me straight back. Once he advised me, "No, no, I have had permission to do this meeting, and I've made the office aware that I was having it", I went back to the Minister and said that I think there had been a communication mishap and that he had taken that meeting feeling that he had full permission from her and her office. That was the end of it. We didn't talk about it again. But Mr Chandler was upset, if you like, and it formed part of his decision because he felt that he had done the right thing.

The Hon. COURTNEY HOUSSOS: Yes, he had gone through the appropriate process. He said, "We're going to have this briefing", which—we've had briefings before.

EMMA HOGAN: In fairness to the former Minister, I don't have any visibility of whether her staff had let her know that Mr Chandler was having the meeting in that moment or that day, so I can't make any comment on that.

The Hon. COURTNEY HOUSSOS: I understand. Ms Hogan, I might just move to you now. Obviously Mr Chandler passed on the text messages that he had received, and he talks about how it was documented internally. Did you ever escalate those concerns that were raised about the Minister's relationship with Coronation Property group and John Barilaro?

EMMA HOGAN: Where he has raised things with me previously?

The Hon. COURTNEY HOUSSOS: Yes.

EMMA HOGAN: No—

The Hon. COURTNEY HOUSSOS: I'm talking about prior to the resignation letter.

EMMA HOGAN: No. Mr Chandler and I meet every fortnight, pretty regularly. We discuss all things that are on his agenda, and we discuss whether or not he needs my help with anything or needs me to get it out of the way—whichever one. He had mentioned this phone call that he had had previously, and I had said, "Did the chief of staff ask you to do anything?" and he said, "No". I said, "All right. Well, keep going. If anything changes, let me know." I didn't take notes about it because it was in the general way in which we operate together in a regular fortnightly meeting. So he had mentioned it to me but he hadn't sort of asked me to do anything with it, and he hadn't expressed it to me in such a way that I felt that at that stage it required any further action.

The Hon. COURTNEY HOUSSOS: But you had a pattern of concerns or a series of concerns had been raised with you by the commissioner. Did you ever raise it with the Minister's office?

EMMA HOGAN: No, I wouldn't say he had raised a series of concerns. I would say that—Mr Chandler just said then he thinks on two occasions. It might have been two. I can recall one—specifically, the fortnightly

meeting that we have, I think, just following this issue occurring, and I don't know what date it occurred on—where he had mentioned his concern verbally to me about the call from the chief of staff. But outside of that, it wasn't like there was a string of things that he raised with me. That was one.

The Hon. COURTNEY HOUSSOS: I understand. The letter was emailed from Mr Chandler's assistant to yourself at 3.39 p.m.

EMMA HOGAN: To me, yes.

The Hon. COURTNEY HOUSSOS: You, within an hour, have escalated it to the—it's a pretty quick succession that it moves through. Let me find my notes. It's four o'clock, and it's sent to Michael Coutts-Trotter, who is the Secretary of the Department of Premier and Cabinet. He then forwards it along to his lawyers, so it's escalating pretty quickly through the senior parts of the public service. In those emails, you make it clear that you've raised these issues with the Secretary of DPC previously.

EMMA HOGAN: I don't think I have all of the same pack that you have in front of me, but Mr Chandler had a one-on-one meeting on the Thursday morning, which was standard. It was our fortnightly meeting. At the beginning of that meeting, he said, "I want to let you know that I've decided to resign." He shared with me the reasons and told me that he would issue me—

The Hon. COURTNEY HOUSSOS: Sorry, Mr Chandler and yourself have a regular meeting every Thursday?

EMMA HOGAN: Mr Chandler and I have a regular meeting. On Thursday 7 July, I think it was, we had our regular meeting scheduled. He verbally advised me that he was going to resign, he wanted time to reflect on his resignation letter specifically and then he would send it to me in writing later that day, which he did. In the verbal discussion that I had with him, given he'd outlined to me what was in the letter—I think he'd actually shown me a draft during our one-on-one meeting. Given what was in that, I said I felt that I needed to seek advice from Mr Coutts-Trotter. He is a very experienced secretary and the Secretary of DPC. I also didn't want to share the conversation any more broadly than that at that time.

I let Mr Coutts-Trotter know that it was coming, and I sent it across to him. I asked him for his advice. I wasn't aware that he escalated it to his own legal advisers. Mr Coutts-Trotter and I had a one on one the next afternoon. I'd asked Mr Chandler not to do anything with the resignation letter for 24 hours, until I had an opportunity to digest it. I was honest and said that I wanted to seek advice from Mr Coutts-Trotter about the Coronation component. Also, I had hoped that I would be able to convince him otherwise—Mr Chandler, not Mr Coutts-Trotter.

The Hon. COURTNEY HOUSSOS: You specifically said to Mr Chandler that you wanted to seek advice from the Secretary of DPC about the Coronation issue?

EMMA HOGAN: About components of the letter, one of which was that. Mr Coutts-Trotter and I had a meeting at one o'clock the next day. We also have a fortnightly regular one on one, and we were scheduled on that Friday, so we used that opportunity to discuss it. I then met with David Chandler again that afternoon and asked him if he had, by any chance, reconsidered. You will note that the letter, he says, is not negotiable, but I asked him whether he'd had an opportunity to reconsider. He said that he would not and that it wasn't negotiable. We then talked about what steps I was going to take next. The steps that I said I would take next were that I would verbally let Minister Petinos know about the letter—sorry, I didn't tell him. I asked Mr Chandler whether he wanted me to share the letter with the Minister or not. His answer was no. He was about to go on a week's leave, and he thought that the letter would only seek to create an inflammatory situation. I chose to honour that, but I did advise him that I would need to verbally let the Minister know that he had chosen to resign.

I let her know on the Friday afternoon. I gave her a rough outline of what was in the letter, without mentioning the letter itself. But I didn't address anything to do with Coronation with her in that verbal conversation because I knew I was seeing her in person on the Monday and I wanted an opportunity to think through how I was going to talk to her about it. I met with her on the Monday, and I talked to her. Again, I didn't make reference to the letter; I just had an opportunity to ask her about Coronation itself. I was satisfied with her answer. After that, I reached back out to—

The Hon. COURTNEY HOUSSOS: Sorry, Ms Hogan, I'm going to stop you there. I'm going to slow you down a little bit. Let me just get this straight. On Thursday afternoon, you get the letter. It gets sent from Mr Chandler's assistant to yourself at 3.39. At 3.50, you forward it to Mr Coutts-Trotter. Mr Coutts-Trotter, at 4.43—so within an hour—sends it along to his lawyers to get advice. And it's of sufficient concern to him that he said they're going to discuss it in the morning. The general counsel is delayed on the trains at 8.30 in the morning and says, "I'm sorry. I've been delayed." Obviously, it's pretty urgent from the Department of Premier and Cabinet.

EMMA HOGAN: I'm not across—

The Hon. COURTNEY HOUSSOS: I understand you're not across that. What I'm interested to know—on Friday, you then met with Mr Coutts-Trotter at one o'clock?

EMMA HOGAN: Yes.

The Hon. COURTNEY HOUSSOS: What advice did he give you?

EMMA HOGAN: He felt that I should raise the concerns that Mr Chandler had outlined to me with the Minister directly. I had said to him that I was talking to Mr Chandler again that afternoon to seek whether or not he was going to proceed with his resignation, that I had a one on one scheduled with Minister Petinos on Monday and that I would address it with her directly then.

The Hon. COURTNEY HOUSSOS: Address what exactly?

EMMA HOGAN: That I would seek to clarify what the relationship with Coronation group was. I did that one on one.

The Hon. COURTNEY HOUSSOS: Sorry, Ms Hogan, I'm going to stop you there. Mr Coutts-Trotter gave you specific advice to say—the three elements of the letter, from my perspective, that are most concerning are the problematic relationship with the Minister's office, the relationship between the Minister and the Coronation Property group and, obviously, Mr Chandler also mentions Toplace, which is the only other developer that he mentions in his particular letter. Did you brief Mr Coutts-Trotter on all three of those elements?

EMMA HOGAN: Mr Coutts-Trotter had a copy of the letter.

The Hon. COURTNEY HOUSSOS: You gave him a copy of the letter at the—of course.

EMMA HOGAN: I had emailed him the letter.

The Hon. COURTNEY HOUSSOS: Yes, of course. Sorry. Did you discuss all three parts?

EMMA HOGAN: From memory, yes. By the time we met on the Friday, I said to him, "This is the approach that I want to take. Assuming David wants to proceed, I'm going to verbally let the Minister know this afternoon of his resignation, and I'm going to outline the primary reasons why. I've got a one on one with the Minister on Monday, and I wanted to speak to her face to face about the concerns that Mr Chandler had raised with me." I did that, but I didn't make reference to the letter itself in the one on one that I had with Minister Petinos.

The Hon. COURTNEY HOUSSOS: Can you be clear? Did you say the Building Commissioner had concerns about the relationship? Or did you say, "I want to get an understanding of your relationship"?

EMMA HOGAN: The way the conversation came about—and I'm conscious that this has now been sent to the ICAC, so I want to be thoughtful in how I respond here. I had my regular one on one with Minister Petinos on the Monday. During that meeting, we were talking about the performance of the department, her office and the different things that we were working through together. I can't quite recall how it came about. I think we might've been talking about media inquiries. I said to her, "Out of interest, with Coronation group, do you have a relationship there outside of knowing Mr Barilaro?" She categorically said, "No, absolutely not. But I have had a meeting with them. I took advice on that meeting, and that's it. I haven't had anything more to do with them."

She said, "Why? Is there a problem?" I said, "Mr Chandler has just mentioned to me that the chief of staff has called him in a close proximity time zone around stop work orders in relation to that. He just seemed a bit concerned about it." She said, "I don't know anything about that phone call. I have taken a meeting with them. I took advice on that meeting, and I've never directed David or anybody to do anything with it." I took that absolutely on face value. I felt that what I was left with was a Minister who has had a meeting with a developer. She is entitled to do that. And I've got a chief of staff who has made a phone call and not made any issues or directions to the Building Commissioner. So I was satisfied with that, and after the meeting I called Mr Chandler straight away. I relayed the conversation and said that I was very comfortable with the answer. Did he want me to take it any further? Did he want me to investigate? Was there anything else he wanted to raise with me? And he said, "No".

The Hon. COURTNEY HOUSSOS: But the resignation still stood?

EMMA HOGAN: But the resignation still stood, and then I relayed that back to Mr Coutts-Trotter as well that that had been the action I'd taken, that I was satisfied. We closed it off. I think he sent me an email—that's in your pack—later that afternoon just closing it out, and I confirmed that we had closed it out. But, yes, his resignation still stood at that time.

The Hon. COURTNEY HOUSSOS: I've got limited time so I might just then come to—you reference the fact that it has been sent to the ICAC, the letter. You obviously made investigations. You asked the Minister about it. Did you ever give the Minister a copy of Mr Chandler's resignation?

EMMA HOGAN: No, I didn't.

The Hon. COURTNEY HOUSSOS: Okay. Did you tell the—

EMMA HOGAN: Apologies. Once it had been SO 52'd, I made sure she had a copy of it. But, no, not before then.

The Hon. COURTNEY HOUSSOS: Okay, right, but that was when she was no longer the Minister.

EMMA HOGAN: She was no longer a Minister by then.

The Hon. COURTNEY HOUSSOS: But you provided her with a copy for her own information.

EMMA HOGAN: I did.

The Hon. COURTNEY HOUSSOS: Did you, in the course of that conversation with Ms Petinos—sorry, you may have said this. Did you say Mr Chandler was going to resign?

EMMA HOGAN: No. I told her on the Friday afternoon verbally that he had resigned. The core reasons that I gave her for his resignation were that the two things that I had felt had tipped him into resignation were the fact that I had conducted this investigation into him as per the article in *The Australian* and that I think he had felt hurt that I had made him, as part of the findings, revisit the Code of Conduct and Ethics, and the call that I'd had from her the day before questioning why he was briefing the Opposition without her knowledge. They were the two things that had probably brought it to a close that day, but the broader issue was that he felt that the Minister didn't have faith in his agenda and the fourth thing was as a result of that he also didn't have faith in their relationship ongoing. I verbally advised her of that on the Friday afternoon, but I didn't talk to the Coronation component until I saw her in person on Monday, and at no stage did I tell her that he'd given me a letter or that this was outlined in the letter itself. I felt very strongly that that letter was to me, and I'm his employer so whilst I wanted to investigate the contents of it, I didn't feel it necessary to share it with her and I wouldn't have done so without his permission.

The Hon. COURTNEY HOUSSOS: What changed between you receiving the letter on the seventh and the quick escalation through to the Department of Premier and Cabinet? You're responding very promptly to all of these concerns, but it's not until 31 July, or actually then 1 August, that it gets sent to the ICAC. What changed?

EMMA HOGAN: I genuinely didn't believe it warranted me referring it to the ICAC under section 11. I genuinely didn't think that one meeting and a phone call from the chief of staff warranted a referral as it relates to corruption. But a couple of weeks later, by that stage things had changed. There were obviously things going on with the Minister and, as I mentioned this morning, I was going on leave and Ms Mann was about to act for the week. There had been a lot of public interest growing in Mr Chandler's reasons for his resignation, and that had become more apparent since this questioning about Mr Chandler's resignation and his reasons for it since the allegations against the former Minister had come to light, and so I knew that it was going to be potentially a difficult week the following week and I was on leave and I didn't want Ms Mann to be left to deal with it.

I had briefed Ms Boyd, who is the chief legal counsel at DPC, on the Sunday morning. She'd been away. I was about to go away and I said, "There's a number of things here that have happened in the last couple of weeks." I walked her through what had happened with Mr Chandler, the action that I'd taken, and just asked her that if it kept going as an issue, that she be available for Ms Mann to provide any advice in the week ahead. It was Ms Boyd who said to me, "I think you've done the right thing. It doesn't warrant any further action under referral under section 11, but it would be normal procedure at DPC and other parts of the sector when we get any letter like that you might consider sending it to the ICAC just as an FYI." And I listened to that feedback and thought, okay, for an abundance of caution I would send it. I talked to my own legal counsel that afternoon and I asked her to prepare a note to be sent the next day because I was going to be on leave.

The Hon. COURTNEY HOUSSOS: My time has expired. I have one final question, which is: The original advice from the general counsel of DPC that came back on 7 July when Mr Chandler first resigned, did that advise you then to send it to ICAC?

EMMA HOGAN: I didn't get any advice from Ms Boyd on 7 July. I only had one conversation with Ms Boyd personally, which was on Sunday 31 July in the morning, and I sent it to the ICAC the next day on 1 August. If Mr Coutts-Trotter received advice from Ms Boyd in that time, I'm not aware of it.

The Hon. COURTNEY HOUSSOS: He didn't tell you in a one-on-one meeting, or at your subsequent one-on-one meeting, that he had advice that it would be normal to send it to ICAC.

EMMA HOGAN: No.

Ms ABIGAIL BOYD: Good afternoon. I'm going to take us to something completely different—just a little break. I wanted to ask, what are the grounds for Fair Trading deciding to prohibit someone from renewing a building licence? In particular, if there has been a case where a particular builder has had findings against them or have had that registration taken away previously, what is the process for deciding to renew that licence? Whose discretion is it?

EMMA HOGAN: Ms Mann, do you want to take that?

NATASHA MANN: I'm happy to take it, Ms Boyd. What would regularly happen is the application would be made to our licensing team. They are then bound by a number of legislative provisions around whether or not they grant the licence, but the main one is section 33B of the Home Building Act, of which you're aware. There's a whole raft of considerations that they will take into account. I would say that the legislation is drafted in a way that it's probably not as clear as it could be. It talks about unreasonable numbers of complaints, but it's not drafted perhaps as clearly as it could be. But that is what they're taking into account when they're making those decisions.

Ms ABIGAIL BOYD: This is something that my office contacted the former Minister about as well. There's a particular builder, Adel Keir, who recently was approved for the renewal of his individual building licence, but this was after the builder was fined for several breaches, and their company was actually forced to surrender their licence and de-register. The defective and incomplete building work resulted in serious spinal cord injury of the individual who contracted him as their builder. This person has now had their building licence renewed. How can that happen?

NATASHA MANN: I'm very familiar with this particular instance, Ms Boyd. When I first became aware of the complainant's, Ms Forwood's, the situation, I effectively set up a hypercare team around her to ensure that we were getting the best possible result for her as a consumer. She put in around about \$128,000 of money of her own and the works were very substandard. We have been working with her very, very closely to get the best outcome, including working closely with icare to ensure that she was able to claim on the Home Building Compensation Fund, which she did, and she was able to get the top claim amount, which is \$340,000, which will enable her to rectify those defects. In relation to Mr Adel Keir, his application, ironically, came in the very same day that I was first meeting with her, so it was processed, I suppose, as these investigations were ongoing. We have, though, I'm very pleased to say just recently issued a notice of intention to cancel to Mr Keir, and he's got time now to be able to tell us why we shouldn't cancel his licence.

Ms ABIGAIL BOYD: But how did that happen in the first place? Is there a breakdown in the communication between—this is a very serious case that's resulted in serious harm. This is something that he's actually been fined for. His company was deregistered, or whatever the words are, and yet he was able to renew his individual building licence. How is that the case? Is there some systemic issue here?

NATASHA MANN: There are a couple of things. First of all, I did want to clarify the spinal cord injury was a pre-existing injury that Ms Forwood had. In this instance there were a number of considerations, but one of them was a timing issue in that his licence was literally being renewed at the time that Ms Forwood had brought it to our attention. So he's been renewed, I think, for another year. As I said, we've just issued—we've now had the benefit of being able to see the defects report and, I must say, I saw it myself and I was quite horrified with the level of defects in there. We have issued that notice of intention now and he will need to answer that, otherwise we will remove his licence from him.

Ms ABIGAIL BOYD: Ms Forwood has informed me that she suffered physical injuries to her neck and back as a result of the defective and incomplete construction. You're not saying, are you, that there was no additional harm caused by this defective work?

NATASHA MANN: Sorry, I am aware that there was a slip subsequent to the spinal cord injury, but I just didn't want it to be inferred that that had occurred as a result of the work. It was a pre-existing injury.

Ms ABIGAIL BOYD: Okay. But we're agreed that this was clearly defective work that created danger, yes?

NATASHA MANN: Yes. We've now only recently seen—she claimed on the Home Building Compensation Fund, and as a part of that process they send out a building inspector and they do a comprehensive report. We've seen that report.

Ms ABIGAIL BOYD: Yes, and he was fined. So there is no issue here as to whether or not this person should have had this building licence renewed, is there?

NATASHA MANN: As I said, section 33B, I think, was one of the issues.

Ms ABIGAIL BOYD: So we do have a systemic issue; we need to change section 33B?

NATASHA MANN: I think there is a legislative issue there, yes.

Ms ABIGAIL BOYD: That's sort of where I was going. That's good to know. So we need to change that. Thank you, that gives me a very clear direction on what I need to do. But in terms of this builder's infringement notices, I understand they're not up to date on the Fair Trading public register; is that correct?

NATASHA MANN: The public register is something that we are working very hard to improve. There is no doubt that it is not a single source of truth. It is not something that I would recommend that consumers rely upon as their sole source of truth. We are working very hard to build it out. We've got a new register that we've started to work on, called Verify.licence where we're trying to surface as much information as we possibly can. But I would still say that there is some information that Fair Trading does not have. When consumers ask me what they should do, I would recommend that they do their due diligence in many ways—open-source searches, ASIC searches, those sorts of things—because the register shouldn't be the single source of truth and it cannot be the single source of truth.

Ms ABIGAIL BOYD: Do we have a disclaimer on the Fair Trading public register saying that?

NATASHA MANN: There is a disclaimer there, yes.

Ms ABIGAIL BOYD: So we say, "Here's a register that you can check to make sure that your builder hasn't got infringement notices, but don't take it as the *Bible* on this because, actually, it's not very up to date"?

NATASHA MANN: Yes. The want, in the end, would be just to build out as much information and surface as much as we possibly can because I think consumers have a right to know. My personal view is I would like to surface everything. I would like to be able to surface when a complaint comes in the door. I would like to be able to surface that, but I think there are legislative things that we come up against in doing that.

Ms ABIGAIL BOYD: So what do I need to change there for that to be better?

NATASHA MANN: Let me come back to you on that. It's quite complex, but I think there are legislative fixes that would make that a lot easier.

Ms ABIGAIL BOYD: So it's not resourcing, it's legislative?

NATASHA MANN: It is legislative, yes.

Ms ABIGAIL BOYD: Mr Chandler, is that something that you have a view on or can you give me any direction as to what needs to change in order for that to be an effective system?

DAVID CHANDLER: Under the secretary's leadership, we have put a huge investment in rebuilding the digital capability of Fair Trading. When I first came in I think I reported there was something like 21 different silos of data that everybody was squirrelling away, repeatedly putting the same thing into—some right, some wrong. We've had a massive rebuild in the digital capability, the secretary and I would say, in the last three years. At the same time, we've also had to reach across into the e-planning platform and have a look and see how that can become the largest single source of truth that exists for our sector because it would be pointless us duplicating what they've got over there. So we've had to do quite a lot of intervention in the design of the e-planning portal because when I first saw it I was reviewing business case 3 for that particular investment, and I did a word search and it didn't mention BRD or Fair Trading once in the business case. I felt that it was appropriate that if we're going to be investing in it we should be pregnant in the document.

We have subsequently become that way, but we have a fortnightly steering committee where we oversee our investment. I have to say that DPIE has done a great job in responding to our needs, but it's required some very basic beginning rebuilds on the story. So that's advanced and it's really going quite well. We're trying to develop that at the same time. We've also had to build the capability to manage the licensing under the Design and Building Practitioners Act. You will recall that there was a—correct me, John—honeymoon period up until the end of February where people could self-register and then, after 1 March, they had to apply in the normal way under the legislation. There were 9,000 people who self-registered. I can report that we've now been back through that 9,000 and 1,000 have been given a show cause as to why they should be registered, so there are a few unhappy campers in that space. I think all of that is going to help us inform the answer to your question. So I reckon early next year we'll be in that position to do that.

Ms ABIGAIL BOYD: So is it resourcing or is it legislation then? Or is it a bit of both?

DAVID CHANDLER: It's not resourcing. The investment has been signed off, we've got all of that. It's just a case now of doing it. There have been some challenges getting the software written. COVID has been a bit of a challenge with some of that, but I think we're making great progress. Secretary, you get regular reports on that, and you and I both sit on the steer cos on those things. It's moving along quite well, but there are some tweakings on the legislation and some of the definitions we can do better on, yes.

Ms ABIGAIL BOYD: Thank you.

The CHAIR: I might start with you, Mr Minns, with some questions about your initial appointment under the former minister, Minister Anderson. How often did you meet with the Minister after you were appointed? Did you have regular meetings?

JOHN MINNS: Minister Anderson?

The CHAIR: Yes.

JOHN MINNS: Well, he was only there for about a week.

The CHAIR: There you go.

JOHN MINNS: After that time, we met once, I think, and also I'd met him once the week before I started.

The CHAIR: Within that very brief window, did he give you an outline in terms of what he saw your role to be and what he wanted you to do, or did he set you on a task?

JOHN MINNS: I think the answer to that is, yes. It also related back to the previous discussions through the recruitment process when I came on board because I had the opportunity to meet with both Secretary Hogan and Minister Anderson through that time. He was supportive of the direction that I suggested we probably needed to take, which was something of a transformative reform-based look at the property sector, which was quite complex and dealing with some fundamental structural issues that were quite different than they'd been any time in the 30 years I've been in the industry. So the primary discussion, as I remember it, that I had the week after I started was, really, I'd just like you to open up the hood, get underneath this. There are many different stakeholders both in the property services sector and also the consumer sector, so the mission at that point in time was really to do the discovery, do the investigation and build out a strategy as a direct result of that.

The CHAIR: He leaves the position, the Minister formerly known as Minister Petinos comes in. How many times did you meet Minister Petinos as part of your role?

JOHN MINNS: It's hard for me to answer that because I don't actually have all the records of government at this stage. I've been out of it for a little while.

The CHAIR: Even just a rough, ballpark figure?

JOHN MINNS: I would say it's probably four to six.

The CHAIR: Four to six times?

JOHN MINNS: Although, I did meet with her chief of staff more frequently than that.

The CHAIR: At any point in time in that eight months or just under eight months that she was the Minister for you, did she express any concerns about your performance or the role that you're doing or the job that you're doing?

JOHN MINNS: Certainly not that I can remember. I think if we ever bumped heads it was probably in the very first meeting we had, where I think she had some definite views on things that the Government was prepared to do or not do. I can't recall the exact details of that. But, no, I don't think there was ever a conversation where there was a performance concern from the Minister or expressed by the Minister.

The CHAIR: Did she ever indicate that she was going to change the position from what Minister Anderson had set up to an independent statutory commissioner?

JOHN MINNS: No, she didn't—not to me.

The CHAIR: When was the first time you heard about this proposal? Was it when she made the announcement on 13 July?

JOHN MINNS: No. Secretary Hogan spoke to me about the fact that the Government was considering options and had been provided with a number of options. That was—good question. On 23 May I had a conversation with Secretary Hogan in relation to that.

The CHAIR: You said "options". That sort of implies more than one. What were the other options besides an independent statutory commissioner? Obviously maintain the other one—the role you're doing. Was there a third option?

JOHN MINNS: I wasn't consulted on that. This was something that was going before Cabinet. I know they'd taken advice from the department, but they didn't take any from me.

The CHAIR: Did you provide any feedback to Ms Hogan in terms of the proposal?

JOHN MINNS: Because there wasn't a proposal, it was difficult to provide feedback. I think I probably asked Ms Hogan her views and she said it's obviously not her decision and this was something that was going to go to Cabinet.

The CHAIR: So around May you got an inkling that something might be changing but you weren't sure what it was. So you officially found out on 13 July when the press release came out from the Minister saying, "We're going to an independent commissioner"?

JOHN MINNS: No. Ms Hogan and I met on 29 June, and she told me that was the decision.

The CHAIR: Was there any discussion about what your role would be in the meantime or in that transition period?

JOHN MINNS: All the way through this process I took the view that business as usual needed to be done until such time it stopped. Without any direction to do differently, that had always been the discussion that Ms Hogan and I had had—that we would continue doing what we were doing. But also at that point I said, "I just want to take some consideration, and I'll provide you a response and some more considered thoughts," which I did, I think that week.

The CHAIR: When did you first find out that your services would be no longer required? I'm trying to put it as politely as possible.

JOHN MINNS: I think that would've been the twenty-ninth, as an indication, with the opportunity to respond to it.

The CHAIR: So on the twenty-ninth Ms Hogan said, "We're going to an independent statutory model" and "you won't be part of that" or "you'll have an opportunity to apply for that position"?

JOHN MINNS: To be fair, I think the conversation probably said, "If you really want to fight for this and you think this is something you want to do, you're welcome to let me know." But I don't think, from either my viewpoint or Ms Hogan's, that was the best outcome that could have been achieved.

The CHAIR: Now that you have been reappointed, the Minister indicated this morning that the Government's intention is still to have an independent statutory commissioner. Where do you see your role to be in this position and what are you going to be doing, given—just reflecting on that previous comment you made—that you might not be the commissioner when it becomes an independent statutory commissioner? I'm just trying to get a sense of—because you seemed hesitant to fight for the role, from those comments.

JOHN MINNS: There were a number of issues from my perspective in relation to fighting for the role. One is that I didn't believe the model, independent or otherwise, was the Holy Grail here. My belief was that the issues that existed around the property services sector were genuinely transformational and that if a time line that was being proposed to deliver legislation and an independent statutory model was going to be delivered within a few months, that would have meant that the vast majority of the other issues around the strategy wouldn't have been able to be attended to or dealt with.

So, from my viewpoint, that was not going to be valuable for me. I also didn't think it would be valuable for government to be involved in that. I also had concerns that without the broader level of industry involvement in what a statutory independent model was going to look like, it was going to be difficult and there simply didn't seem to be time to do any sort of meaningful consultation through that period as well as dealing with some of the other issues that, to me, were actually more important.

The CHAIR: So the topic of an independent statutory role never came up in your work with the Property Services Council?

JOHN MINNS: The Property Services Council?

The CHAIR: It was that group of stakeholders that was set up as part of the—

EMMA HOGAN: The expert panel?

JOHN MINNS: Property Services Expert Panel.

The CHAIR: Yes, sorry Property Services Expert Panel. I think it used to be called Property Services—

EMMA HOGAN: Yes, it's the expert panel now.

JOHN MINNS: I guess peripherally because, of course—I know you go a long way back with this, Mr Banasiak, as well—the fact that it had existed and there'd been conversations around it, it simply wasn't the priority, to either me or the people on that panel, that that was the most important thing that had to happen now. I didn't have a view, particularly coming into government, of what the correct model was for a property services commissioner. I don't have an issue with the fact it may well be the best model, to go with an independent commissioner. But my view has always been that this should be outcome driven. It should be focused on what we need to achieve for the consumers and industry within the State, rather than an end in itself.

The CHAIR: You talked about priorities out of that expert panel. What were those key priorities that were discussed in some of those early meetings?

JOHN MINNS: There are a number, and a lot of these surfaced in the draft strategy once we'd worked around the State and around the various different stakeholders. One that has been discussed at some length recently is the need to transform the strata sector, because strata is an area in New South Wales that has some challenges. We're expecting 50 per cent of people in Greater Sydney to live in strata by 2040. There's a confidence issue around strata, not just around building defects but in terms of issues around point-of-sale representations, education and knowledge, the way strata schemes are established. This was something that, in a much more sophisticated world we've got now than when strata was first envisaged, was a very important aspect of what we're looking at.

Of course, some of that relates to the work of the Building Commissioner—not all of it, because property services has some separate aspects as well. But that was always a critical one. So that was one. Certainly we'd spoken about the need to look at the way the industry was regulated. My view, which has been circulated and discussed both within the department and with the industry, is that I'd like to see it in a far more performance-focused review and I'd like it to address harms that have been identified with a much better data-driven model. This is something that we've discussed on a number of levels and, in fact, was largely supported within government. Ms Mann and I had a number of conversations on it. It had got to the point of arriving at a number of positions. But at that point in time I moved on, so we're hoping to revisit that again once I'm back on deck.

Then there were a couple of other issues. One in particular was education and licensing standards, which have been fraught for some time. I think they're fraught in most jurisdictions in Australia because it's very hard to connect nationally accredited training with performance within the industry. It's something that's been raised very often by industry, but it's also one that we'd have to have a concern that you can't see the performance benefits of a lot of the training that was being done. We have issues with the quality and calibre of some of the training providers. That was always the significant issue, and that also emerged across the State in conversations we had with industry and, yes, while there are a couple of others we've touched on, you know, digital transformation is happening at a very dramatic rate through many aspects of our industry and obviously many aspects of the State.

It's something that the New South Wales Government has been very active with, but we were seeing a very rapid convergence of property technology and financial services technology. We're seeing both opportunities to reduce friction, opportunities to increase consumer engagement, but also some of the risks that are associated with that coming in, particularly when many of these providers were operating in an unregulated space. So it was another key area that we were looking at and that we'd been talking about with the expert panel and a number of the industry associations, consumer groups and others.

The CHAIR: Thank you for that. I will pass to Mr Veitch.

The Hon. MICK VEITCH: Mr Lamont, how many times have you met with the current Minister for Small Business since he came into the role?

CHRIS LAMONT: Twice, I believe, Mr Veitch.

The Hon. MICK VEITCH: How many times did you meet with the former Minister?

CHRIS LAMONT: Every fortnight there was a scheduled session.

The Hon. MICK VEITCH: So a structured routine?

CHRIS LAMONT: Yes.

The Hon. MICK VEITCH: Has that continued on with the new Minister?

CHRIS LAMONT: I think we're still trying to attach diaries together. There was a meeting on the Monday in early August and there was a meeting towards the end of August and I think we're trying to tune in diaries so we can have a regular session going forward.

The Hon. MICK VEITCH: Are you ideally looking at fortnightly? Is that sort of where you would like to pitch? I mean the current Minister has got a fair bit on his plate.

CHRIS LAMONT: Yes. I guess there's an operating tempo that I'm used to, but at the end of the day it is up to the Minister how often he would like to see me. But I think, given the issues that we're dealing with in a post-pandemic recovery, fortnightly would be my preference.

The Hon. MICK VEITCH: Does it have to be the Minister? How often do you meet with the Minister's office?

CHRIS LAMONT: I haven't met with the Minister's office without the Minister to date.

The Hon. MICK VEITCH: Have you done that in the past?

CHRIS LAMONT: Yes.

The Hon. MICK VEITCH: How often would you do that?

CHRIS LAMONT: Probably once a week with both Minister Petinos—usually enabled by Teams or some sort of electronic meeting with Minister Petinos' office and Minister Tudehope's office.

The Hon. MICK VEITCH: So that would be like the chief of staff and—

CHRIS LAMONT: Chief of staff or senior adviser.

The Hon. MICK VEITCH: Okay. Have you had much to do with the Small Business Strategy?

CHRIS LAMONT: I think I originally proposed it last year.

The Hon. MICK VEITCH: Here's your chance—

CHRIS LAMONT: The first Small Business Strategy that I'm aware of that New South Wales had was June 2017. I mentioned to Minister Tudehope about 14 months ago, 15 months ago, that it might be good, because we were in the throes of the pandemic then, to look at revisiting and developing a new small business strategy that had a shorter duration in mind that we would be dealing hopefully with the end of COVID and a rebuilding phase for small business.

The Hon. MICK VEITCH: Okay, so as I understand it, the consultation closed on 19 June or thereabouts. Is there any chance of a status update on the strategy?

CHRIS LAMONT: I think Ms Hogan might be better off giving a status update.

EMMA HOGAN: Yes, so the department is doing the work on putting a strategy together at the moment and we'll give that to Government to consider and they'll decide if they would like to proceed with those recommendations in due course.

The Hon. MICK VEITCH: Ms Hogan, what is your time frame for getting that to Government?

EMMA HOGAN: We're in the process of discussing drafts at the moment with Mr Dominello's office but, given I haven't had any feedback from him yet, I would hate to be presumptuous about when that might come into fruition. But it's imminent and we're working on it at the moment.

The Hon. MICK VEITCH: As I mentioned at one of the previous estimates hearings, I know that the public sector love Gantt charts. So on your Gantt chart how are you progressing?

EMMA HOGAN: We are progressing and at the stage where we're going to give the Minister some recommendations that we think should be in it. We've taken the feedback from Mr Lamont and his expertise in this field. We've also looked at what's happening across the rest of the sector already that might be included in it or linked to it, and we're also looking at the digital services and the service for business portfolio that sits under Minister Dominello that might be of benefit in that strategy as well. We've done the consultation, we've pulled together the outcomes of that. We're in the process of making recommendations and consulting internally on what they will be and I think we're due to give an early edition of those recommendations to the Minister in the next couple of days.

The Hon. MICK VEITCH: Mr Lamont spoke about a shorter time frame for this particular strategy. Has that been picked up in the recommendations?

EMMA HOGAN: Yes.

The Hon. MICK VEITCH: It has?

EMMA HOGAN: Yes. I think the last one—Mr Lamont might correct me—was 2017 to now; I think it was five years.

The Hon. MICK VEITCH: Five years.

EMMA HOGAN: It has been his recommendation that it be shorter, and I think that is wise counsel.

The Hon. MICK VEITCH: Yes, so we're looking at three years, okay, and will it include an envelope of money or request for money as part of this going to Government?

EMMA HOGAN: Does any recommendation for strategy not include a request for money? I think it would be better for the Minister to answer that. I'm conscious that I can't announce Government policy—

The Hon. MICK VEITCH: No, I don't want you to do that.

EMMA HOGAN: It is a matter for them to consider, so we're still in the stages of consulting with the Minister directly.

The Hon. MICK VEITCH: Okay, so within a couple of weeks, imminent essentially—

EMMA HOGAN: I will have the Minister's view in the coming weeks and we'll work out the time frame from there.

The Hon. MICK VEITCH: I think that will do me, thanks. The Chair has probably gone. I don't know about the crossbench, but I think that completes the Small Business Commissioner. If there are any subsequent questions, I'm certain Ms Hogan can—

EMMA HOGAN: We can take them on notice.

The Hon. MICK VEITCH: Thanks, Mr Lamont.

(Mr Chris Lamont withdrew.)

The Hon. MICK VEITCH: Just so you know, I am the Deputy Chair because the others are away. Mr D'Adam?

The Hon. ANTHONY D'ADAM: I want to come back to Mr Tansey. I just want to get some clarification about these exemptions. Is it your understanding that similar exemptions exist in Victoria or in Queensland, in those jurisdictions? What is your understanding of the status?

JOHN TANSEY: I am not aware, Mr D'Adam.

The Hon. ANTHONY D'ADAM: Okay, so you don't know whether a similar arrangement is in place in those other jurisdictions?

JOHN TANSEY: You said Victoria

The Hon. ANTHONY D'ADAM: Yes.

JOHN TANSEY: And Queensland?

The Hon. ANTHONY D'ADAM: Queensland is in the harmonised jurisdiction.

JOHN TANSEY: And Victoria not.

The Hon. ANTHONY D'ADAM: Victoria is not.

JOHN TANSEY: Yes, sorry, I am not aware.

The Hon. ANTHONY D'ADAM: Did we get an answer, Ms Mann, in the break in relation to the notification about safety concerns from Landcom in relation to the Lachlan Line site, which was the site where Christopher Cassaniti was killed?

NATASHA MANN: We're still putting that information together, Mr D'Adam.

The Hon. ANTHONY D'ADAM: We don't have an update on that one yet, okay. I might then move to Ms McCool. I wanted to probe a little bit further in terms of the dry cutting situation. Are you able to advise us

how many notifications or requests for service have been received by SafeWork in relation to unrestricted dry cutting in the last two years?

MEAGAN McCOOL: No, I don't have the requests for service, I just have that we've issued two on-the-spot fines, but we can—

The Hon. ANTHONY D'ADAM: Can you take that on notice?

MEAGAN McCOOL: Yes.

The Hon. ANTHONY D'ADAM: Can you also take on notice how many of those notifications or requests for service actually occasioned a worksite visit?

MEAGAN McCOOL: Sure.

The Hon. ANTHONY D'ADAM: I suppose the follow-up in relation to this is that, if there has only been two fines, how can we have confidence that the enforcement regime in relation to dry cutting is working?

MEAGAN McCOOL: You would probably appreciate we've done two full rounds of the 255 sites and in round two you were looking at up to 80 per cent improvement from the first round. What we are seeing is that, much like I mentioned before, they're using different equipment, which was also rebatable through SafeWork. We are starting to see the case numbers go down, but equally in those case numbers they're coming through at 1 per cent where we've detected them early, so we're seeing a massive improvement over that course of the five years both in compliance education, awareness and, as a result of that, only two on-the-spot fines have been issued for dry cutting. What we're still working on is making sure that they're working below the exposure—

The Hon. ANTHONY D'ADAM: Were those two fines in the context of a fabrication site, like a factory environment, or were they in relation to installation?

MEAGAN McCOOL: I will take that on notice, but it is my understanding that it is in the manufactured stone sites.

The Hon. ANTHONY D'ADAM: You would be aware that one of the ongoing concerns in terms of the enforcement system in relation to dry cutting is that, actually, the bulk of the problem is believed to be in the installation where manufactured stone is transported to a site and there it has to be adjusted to meet the specifications of a particular location, and so the workers then do the adjustments onsite and dry cut in that circumstance where it is less controlled.

MEAGAN McCOOL: Yes. However, we have demonstrated through the SO 52—that was in the past—that 85 per cent of the work is controlled by the manufactured stone site, so for the gap of 15 per cent we have issued section 155 notices to look at the supply chain, and there is a new round of them going out.

The Hon. ANTHONY D'ADAM: If you are not inspecting at the point of installation, how can we know that they are not dry cutting at the installations?

MEAGAN McCOOL: There have been 1,016 construction workplace visits as well, which exceeds the manufactured stone site visits—there were 993. We have been looking at all workplaces, whether, as I said, it is installation, the manufacturing or cutting down of the stone. As I have said, out of all of those visits we have only had two instances of dry cutting.

The Hon. MICK VEITCH: Do those inspections include regional sites?

MEAGAN McCOOL: Yes, the whole State.

The Hon. MICK VEITCH: Can you provide a breakdown for me, thanks, between metropolitan and regional?

MATTHEW PRESS: Can I just mention that Ms McCool—who is getting all the questions and probably forgot what she has been doing in it because she doesn't actually lead chemicals anymore; she leads construction services metro—just had a three-month blitz at the start of this year, going back down the supply chain, for exactly the type of issue that you are talking about. So we are trying to make sure that we are doing those inspections for silica and dust on the construction site. That was a three-month—

MEAGAN McCOOL: January to March.

MATTHEW PRESS: Yes, January to March.

The Hon. ANTHONY D'ADAM: That's your now bailiwick, is it, Mr Press?

MATTHEW PRESS: No, that is Meagan's now bailiwick—construction services metro.

The Hon. ANTHONY D'ADAM: You have moved from construction. So who actually has the chemicals side now? Who is the responsible—

MATTHEW PRESS: That is in my directorate; that is not personally for Ms McCool anymore.

MEAGAN McCOOL: Not me.

MATTHEW PRESS: That had about a thousand interactions with businesses, and you could probably talk more about the specifics.

MEAGAN McCOOL: Yes.

MATTHEW PRESS: So we are heading beyond—

The Hon. ANTHONY D'ADAM: I want to avoid that terminology. You talk about "interactions". That is a very precise form of describing what occurs because an interaction doesn't necessarily mean a visit; it can mean other things, can't it, Mr Press?

MATTHEW PRESS: It can, but I would understand this was—

MEAGAN McCOOL: Yes.

The Hon. ANTHONY D'ADAM: So are you able to break that down? We want to know about site visits, specific inspections, not just interactions.

MEAGAN McCOOL: I can give that now. We have done over 6,000 interactions but, out of that, 2,115 have been visits and we are looking at around 1,500 notices. So out of over 6,000, as I said, just over 2,000 in visits and about 1,500 in notices.

The Hon. ANTHONY D'ADAM: So 1,500 improvement notices. Is that right?

MEAGAN McCOOL: So 1,279 improvement notices, 47 prohibition, the two on-the-spot fines we talked about for dry cutting and 69 where we were not confident that they were meeting the exposure standard.

The Hon. ANTHONY D'ADAM: In terms of those notices, these are all in relation to silica, are they?

MEAGAN McCOOL: They are. However, there is a split between manufactured stone and construction, and we have also been doing foundry sites, tunnelling. We have gone across the whole market. So when I am talking construction, I am talking cutting bricks, cutting concrete; tunnelling, obviously sandstone—cutting through the tunnel; and obviously foundry sites where silica is in the mould.

The Hon. ANTHONY D'ADAM: In terms of the notices, how many of those—how did you decide that only two warranted on-the-spot fines? Presumably there were other breaches. Can you give us a bit more detail about the nature of the types of compliance breaches that warranted the issuing of the notice?

MEAGAN McCOOL: I could take them on notice but, in general, having evidence that they had no dust control on tool extraction, there were no wet cutting processes. Essentially, as I said, there was no way that it was being controlled at the source. That is what constitutes dry cutting—so no evidence of those controls in place.

The Hon. ANTHONY D'ADAM: That's for the fines. So in the other circumstances where there was a less severe form of compliance action, you are saying that there wasn't sufficient information or there wasn't sufficient evidence or the severity—I suppose I am trying to get to the distinction as to why you chose to issue improvement notices as opposed to a fine?

MEAGAN McCOOL: We also have the prohibition. When we issue a fine—so those two on the spot—we would also issue the prohibition. That is a stop work to remove the item from service. It can't be used again. Prohibition can never be lifted. It is that they have to choose a different form of work. So it is complied rather than lifted. When we start looking at other prohibitions, which are around silica, it could have been that they were dry sweeping, it could have been other things other than actual dry cutting or, again, that they were not working below the exposure standard.

When you are looking at improvement, it could have been they had all things in place but there were just some gaps in terms of it working to what we would say is at 100 per cent or adequate. So they would be what we would call minor deficiencies. Some of those can be resolved while we are there; other times we have to come back and check if it needed more work. But where we want to eliminate, as I said, the poor practices, it is either the penalty notice, on the spot, as well as we would issue the prohibition, which stops that work or takes that piece of equipment out of service.

The Hon. ANTHONY D'ADAM: You said that the case numbers are declining. There was some criticism I think of SafeWork in relation to the commissioning of the Golder case finding study—that this was effectively a desktop exercise and not a proper case finding study. I understand that there was an email that was sent by Rebecca Tannous, who was with the Dust Diseases Board—the governance manager—stating the board were concerned about the rise in silicosis and they wanted a case finding study which included subcontractors in onsite joinery and installation settings. Can I ask you are you aware of that email from Rebecca Tannous around the—

MEAGAN McCOOL: I am not familiar with the actual email. However, in relation to that case finding study, it triangulated everything that went through the hospital system, the information that SafeWork had and the information that icare had. That has not been done anywhere else in the country. That was looking at hospital admissions, any deaths. So when you actually look at that, they estimated there was between 1,000 and 1,500 workers, but came out with 1,454. When we have gone through and looked at how many individuals have been screened, it is about 300 off—knowing that we've got another annual report due. We are confident that all of the manufactured stone workers have been screened and, as a result of that, you would have seen the spike as people were screened.

The Hon. ANTHONY D'ADAM: What about the historic cases? Obviously there are those who are working in manufactured stone at the moment. They are obviously easier to find and to ensure screening. But the process that was undertaken for Golder didn't capture those historic cases that, in order to find them, would have necessitated some active going out to workplaces and identifying people who maybe previously worked there and then following them up. Do you accept that the approach that was taken actually may have missed significant numbers of people who may have low levels in terms of the onset of silicosis, undetected at this point in time, walking around, having worked in a manufactured stone workplace, but because of the approach that was taken by SafeWork and now not being detected, do you accept that that may be an issue?

MEAGAN McCOOL: Icare have done some work in, as I said, contacting employers, advising the services that are available to current workers and previous workers. We have done the same. But in terms of Golder, they wouldn't have any powers or rights of entry to get personnel records, so it would have to be a regulator function.

The Hon. ANTHONY D'ADAM: The issue is obviously not Golder. The issue is that SafeWork should have taken a different approach in terms of case finding—a more proactive one and one that was actively searching for cases, rather than relying on a triangulation of data in a desktop approach. Do you accept that that is a fair criticism of the approach that has been taken?

MEAGAN McCOOL: Probably just appreciating that when it was put into the legislation, we had just under six months to complete the study. In terms of, as I said, the study compared to other jurisdictions, it was more superior in that triangulation of data, and it also included all of the visits that we have done in the three years prior where we issued notices to direct people to be screened. So we're confident that workers have been screened, to capture that three-year period, noting that, until it became a notifiable disease—that's where, I guess, that annual report is now critical, because we now get historical information including deaths. That includes information that we've never had previously.

The Hon. ANTHONY D'ADAM: Ms Mann, can I ask you about how many complaints the regulator—sorry, let me just preface that. Is it correct that, in terms of bullying and harassment complaints, because SafeWork is the regulator—it doesn't regulate itself—that those complaints have to go somewhere else?

NATASHA MANN: Yes, that is correct.

The Hon. ANTHONY D'ADAM: Where is that?

NATASHA MANN: Those complaints go to the Resources Regulator.

The Hon. ANTHONY D'ADAM: Are you able to tell me how many complaints have been sent to that regulator in relation to bullying and harassment in the last five years?

NATASHA MANN: I don't have those figures before me but I can find them for you.

The Hon. ANTHONY D'ADAM: Are you aware of cases going to the regulator?

NATASHA MANN: I've only started relatively recently. In my time, I haven't been made aware of any. But I know that there are some.

The Hon. ANTHONY D'ADAM: I want to ask about HSRs, whoever might be able to answer this. They have a right to access information. Is that correct? They've got a power in relation to accessing information that may be pertinent to them discharging their duties. Is that correct?

MEAGAN McCOOL: Yes. In terms of work health and safety issues, yes.

The Hon. ANTHONY D'ADAM: I understand that there was a request put to perhaps you, Ms Hogan, or it may have been you, Ms Mann, in relation to accessing the results for the People Matter survey as they apply to SafeWork by HSRs. Are you aware of that?

EMMA HOGAN: That specific request hasn't been escalated to me. We are able to and do break down PMES results. We can do it by teams of over 30, I think. You have to have a specific number so that people can't be identified. We can break down that information to quite a granular level. But I'm not aware of specifically being asked for that. It could've gone to our chief people officer, Ms Grima. I'm happy to check in the break.

The Hon. ANTHONY D'ADAM: Ms Mann, are you aware of it?

NATASHA MANN: No, I'm certainly not.

The Hon. ANTHONY D'ADAM: It's your area of responsibility, isn't it?

NATASHA MANN: Yes. I'm certainly not aware of that. As Ms Hogan said, we do have those results.

EMMA HOGAN: We're quite transparent about—

The Hon. ANTHONY D'ADAM: On notice can you advise whether that is correct, that there's been a request—

EMMA HOGAN: Sure.

The Hon. ANTHONY D'ADAM: —and, if there has been a request, why it has been declined?

The CHAIR: We do have two minutes. I do note, Ms Hogan, you indicated at the beginning of this session that you had some follow-ups. I just totally forgot to come back to you.

EMMA HOGAN: That's okay. There was a couple of things that we wouldn't be able to get that we'll need to take in the break. But, Mr D'Adam, I think you asked how many work claims there'd been under the SafeWork policy. This was workers comp or injury claims, I think, you were asking. We've had 35 claims under the SafeWork policy over the last three years. Of these, nine were psychological safety claims. Of those claims, in the 2019-20 year, there were four; in the 2020-21 year, there was one; and, in the 2021-22 year, there were four. Mr Banasiak, you asked us about the financial reporting of a couple of specific venues. The team have taken that on notice but we don't have that back yet. If we can by the end of the day, we will, but otherwise it'll be on notice. Mr D'Adam, I think we were also looking at the distinction between aged care and retirement villages, so the team are also doing some work on that, but that's likely to be on notice as well. Mr Chandler, you wanted to update on the occupancy certificates that Ms Houssos asked about.

DAVID CHANDLER: Yes. There's no line of sight to how many interim occupation certificates there are. There will be when we get the ePlanning platform fully functional. But right now you'd have to do quite some heavy scraping to pull that out. At the moment we pull it out on a project-by-project basis as we go in. But there will be a large number of interim occupation certificates out there. I can see that the question that then would flow is, where there's no certifier, what's the impact of that on local government? Again that is part of the conversation we're having with local government.

The Hon. COURTNEY HOUSSOS: Do you have a time frame for when you'll be able to actually get them onto the ePlanning portal?

DAVID CHANDLER: I think it'll take a little longer to get that level of confidence in the ePlanning platform, to go and scrape that information. But—

MATTHEW PRESS: Mr Chair, if I could just add it's because ePlanning portal only became mandatory relatively recently in time. So, for these buildings that had their documentation going to council in the paper form, we don't have that visibility.

The Hon. COURTNEY HOUSSOS: So they're not required to lodge them on the ePlanning portal. So—

MATTHEW PRESS: They weren't previously required to lodge them on the ePlanning portal. The ePlanning portal only came in—

JOHN TANSEY: At the risk of adding to the chorus of voices, interim certificates also started to be faded out from changes to the EP&A Act in 2019. So they're a tapering trail. They would've been visible at that time and since that time predominantly through the planning system, so to councils and, potentially, to the planning department. We're really only now able to access them in the new scope of reforms through ePlanning.

The Hon. COURTNEY HOUSSOS: I know I have asked questions about this in previous budget estimates, but I'm interested. Do you have a plan, Mr Chandler, to go back? I accept what you're saying, Mr Tansey, about them tapering off. But it's clear that there are a number out there. Is it part of your current work schedule that you are going to go back and look for these interim—

DAVID CHANDLER: What I'll undertake to do, as part of Project Intervene, is to have a look and see how we can bolt that piece of work onto the side of it, because it seems to me that's where we're going to run into it most. If I could just take that on notice and I'll come back to you, but it won't be in less than six weeks.

The Hon. COURTNEY HOUSSOS: Okay, if you can give us an update on where it's up to. Can I just say I'd appreciate, and I'm sure other members of the Committee would appreciate, a briefing on Project Intervene as well, offline—that would be really helpful.

MATTHEW PRESS: We do know from the data that Mr Banasiak referred to, that is that survey work, that, in there, about 18 per cent of buildings reported that they had interim occupation certificates. That gives a bit of a sense for, in the buildings completed in the last six years, what the proportion might be.

The Hon. COURTNEY HOUSSOS: Eighteen per cent of the buildings completed in the last—

MATTHEW PRESS: Six years—self-reported that they believed they had an interim occupation certificate.

The Hon. COURTNEY HOUSSOS: On that highly alarming note, let's go.

The CHAIR: With that pause, we'll go get some tea and coffee. We'll reconvene at 3.45 p.m.

(Short adjournment)

The CHAIR: Welcome back after that short break. Before I fire off a couple of questions, Ms Hogan, you have something to say?

EMMA HOGAN: Yes, I just had a message from our chief people officer saying that at the moment they can't recall seeing any specific requests from HSRs for PMES data. All PMES reports are publicly available on the PSC website and PMES deep-dive briefings were offered to DCS teams, including safety. If that changes before the end, I will let you know. But, to her knowledge, there were no specific requests.

The Hon. ANTHONY D'ADAM: Is that to the management, is it, of SafeWork?

EMMA HOGAN: Yes, it would have been offered to DCS teams, including SafeWork. So not just Natasha but throughout the organisation.

The Hon. ANTHONY D'ADAM: What about the workers? Do the workers get access to that information?

EMMA HOGAN: If they specifically request it. Normally we debrief in teams and people are able to ask questions et cetera.

The Hon. ANTHONY D'ADAM: On notice, can you provide to the Committee the SafeWork portion of the PMS survey?

EMMA HOGAN: Sure. We are actually in open survey now, so it would be last year's data.

The Hon. ANTHONY D'ADAM: That's fine.

JOHN TANSEY: I also have advice for Mr D'Adam. You asked about other jurisdictions and audiometric testing. Victoria has it, as you would appreciate, in its own legislation; it is not participating in the national scheme. Western Australia has not adopted it, Queensland has removed it from their legislation and the remaining States and Territories have it as part of the national law.

The CHAIR: Through you, Ms Hogan, to Mr Chandler, picking up on what we were talking about earlier this morning about the voluntary—what was it?

DAVID CHANDLER: Enforceable undertakings.

The CHAIR: Yes, that's it. Voluntary enforceable undertakings.

DAVID CHANDLER: Why don't you just call them the oxymorons?

The CHAIR: Yes, the oxymorons. Is there a view to utilise that strategy when you go forward with Project Remediate in terms of encouraging developers to come to the table a bit more freely to do that work?

DAVID CHANDLER: We are going to use Project Remediate to help inform the whole package of work. We have identified the first developer in Remediate that we think we might run this up the mast with now. Again, what has happened with all of this legislation is that you think, "This is what it really means and this is where you can take it," and then you think some more and think, "No, we can take it even further." We are still on a voyage of discovery but we have identified the first Project Remediate building that we think we will run this up the mast on.

The CHAIR: I won't push you in terms of what that is. I want you to run it up the mast first and then get the respect back before you tell us.

The Hon. ANTHONY D'ADAM: I want to come back to that question around aged-care inspections. As SafeWork, do you receive specific reports in terms of infection rates for workers in relation to COVID?

NATASHA MANN: Not to my knowledge, no.

The Hon. ANTHONY D'ADAM: So you wouldn't be able to look at the aged-care sector and say how many workers are being infected and having workplace transmissions, obviously which is a health and safety concern? Surely that data should be something that is at least monitored in some way by SafeWork.

NATASHA MANN: When you say "infection rates", are you referring to COVID infection rates?

The Hon. ANTHONY D'ADAM: COVID infection rates, yes.

NATASHA MANN: Apologies. During the COVID outbreak there was a requirement for PCBUs to notify SafeWork if one of their workers had contracted COVID.

The Hon. ANTHONY D'ADAM: And that's no longer the case?

NATASHA MANN: It got to the point where there were many representations made because of the high rates of COVID—you know, we started off with fairly low rates. Because of the high rates of COVID, it was becoming impossible for PCBUs to be able to comply with that and so we lifted that requirement.

The Hon. ANTHONY D'ADAM: When was that lifted?

NATASHA MANN: It was around October.

MEAGAN McCOOL: From January, though, hospitalisations and fatalities relating to COVID continued to be notifiable.

The Hon. ANTHONY D'ADAM: So you did get the data in terms of—sorry, what was that? Fatalities and what else?

MATTHEW PRESS: Worker hospitalisations.

The Hon. ANTHONY D'ADAM: Hospitalisations and fatalities of workers gets notified, but not just—

NATASHA MANN: Not contracting. In the beginning it was contracting.

The Hon. ANTHONY D'ADAM: I see. So you still have some oversight in terms of COVID as a workplace disease. That's fair to say, isn't it?

NATASHA MANN: Yes.

The Hon. ANTHONY D'ADAM: Can I come back to the inspection regime? I know there was some confusion earlier on in relation to inspections and desktop assessments, I think was the wording. We were asking about aged-care facilities and you thought we were talking about retirement homes.

NATASHA MANN: I do have that information for you now, Mr D'Adam, if you would like me to share it.

The Hon. ANTHONY D'ADAM: Yes, that would be good, if you could.

NATASHA MANN: First of all, I did want to make that distinction between the retirement village and the aged-care facility. As you would appreciate, the retirement village is where it's primary self-care and residents are looking after themselves. In the aged-care facility, you require the ACAT assessment and there is usually a level of care there in different degradations. That is the distinction. I do have some figures around visits to aged care. This does not include the retirement village figures that I gave you earlier this morning. You asked me from 2020 to 2022 what our numbers were looking like. In terms of requests for service, we had 195 requests for service received and 67 of those were triaged as an inspector response.

The Hon. ANTHONY D'ADAM: So 67 inspector response. That's not necessarily an inspection, is it?

NATASHA MANN: I will come to that. Of the 67, 49 were physical field inspections and 18 were not.

The Hon. ANTHONY D'ADAM: And that's to June 2022, is that right?

NATASHA MANN: That's right. That's from January 2020 to June 2022. From that, there were 23 section 155 notices issued, there were 17 improvement notices issued, there were four section 171 notices issued, one prohibition notice issued and one section 59B notice issued. In terms of incidents, there were 23 incidents triaged as requiring an inspector response. To your question, 21 of those were actual field inspections. So 21 of the 23 were field and two were desktop.

The Hon. ANTHONY D'ADAM: Can I just clarify, these are all Safe Work inspections not Fair Trading inspections because we had that distinction earlier on where—

NATASHA MANN: Yes, these are SafeWork inspections. And then a number of notices were flowing from those inspections as well. In total, if I can give you the aggregated figure, there were 70 field inspector visits, there were 20 desktop assessments and then there were close to 80 notices issued.

The Hon. ANTHONY D'ADAM: Given the vulnerability issue that was flagged earlier, has aged care been a special focus area for SafeWork? Has there been any particular special emphasis placed on compliance in aged care?

NATASHA MANN: To the point I was making earlier, we obviously didn't want to send inspectors in there and be super spreaders in those environments. However, now things have drifted in terms of the COVID situation, and this is very much a very big focus of Safe Work inspections going forward. I mentioned the retirement village complaints activity that we have had recently, and then we also have an aged care proactive compliance program planned for October this year. We are really going out there, we are looking at people handling equipment, how appropriate it is, how they are maintaining their equipment, how they are storing it and so forth.

The Hon. ANTHONY D'ADAM: Rapid testing. Is that—

NATASHA MANN: We will do everything while we are there, but one of the focuses is on the handling of equipment, because we do know that manual handling is one of the top safety hazards in aged care, as you can appreciate. We are planning on doing about 50 visits across New South Wales, and then looking to scale that up in 2023.

The Hon. COURTNEY HOUSSOS: Ms Hogan, I have a few more questions for you on the Building Commissioner's resignation. Can you tell me why you emailed the letter to the Premier's chief of staff on 31 July?

EMMA HOGAN: That's the Sunday. The Premier and the secretary had been on a trade trip and were back, I don't know if they were back the day before or that day, but I knew they were back that weekend. As I mentioned earlier, I had a conversation with Ms Boyd in the morning, which had prompted me to rethink any further action I should take with that letter. I also arranged to have a call with MCT—sorry, Mr Coutts-Trotter—in the afternoon. I also felt that he needed to be updated and briefed on the issues that I was dealing with at the time. During that conversation I did say to him, "Given that I'm going to be away for a week, I wonder if I should share that letter." I had spoken to Mr Chandler in the morning and said that now that the Premier had returned and interest was gaining in that letter, I felt at some point I would be required to share it. He made it clear he was comfortable with me to do so. So I left it open as to whether or not that was required and he, from memory, I think either in that conversation or he called me back, I can't quite recall, and said—

The Hon. COURTNEY HOUSSOS: Sorry, in which conversation?

EMMA HOGAN: Sorry, the conversation that I was having with Mr Coutts-Trotter in the afternoon. I can't remember if it was during that conversation or if he called me back shortly after, because we were talking about a couple of things that day. He asked if I would send it on to the Premier's chief of staff for his information and that, given that Minister Petinos is an employee of the Premier, the employment relationship works in that way, could I do that, and I said yes, and I'd also received permission from Mr Chandler to send it, so I forwarded it to him as an FYI.

The Hon. COURTNEY HOUSSOS: But you just said that the Premier or Mr Coutts-Trotter needed to be "briefed on the issue I was dealing with at the time". But according to the email chain and according to what you've said, you looked into the issues that Mr Chandler raised on 11 July—

EMMA HOGAN: Sorry, sorry.

The Hon. COURTNEY HOUSSOS: You decided that was done, there was nothing to see here, yet on 31 July you email it to the Premier's chief of staff.

EMMA HOGAN: The Premier's chief of staff. I should really—

The Hon. COURTNEY HOUSSOS: A pretty significant escalation.

EMMA HOGAN: I should clarify. The conversations that I was having with Mr Coutts-Trotter on that Sunday were primarily about the fact that there had been allegations raised publicly about my Minister on the Friday and I wasn't there. We had received inquiries about it as well, so I wanted to talk to him about that. I also said during that conversation that speculative interest was gaining in Mr Chandler's reasons for his resignation and that I felt inevitably the letter would be called for publicly, and that had not been the case a few weeks prior, it would be called for publicly and I felt that, did he want—you know, we talked about whether or not I should take any further action and then I forwarded it to the Premier's office that afternoon.

The Hon. COURTNEY HOUSSOS: But you said that Ms Boyd came back from leave.

EMMA HOGAN: Yes.

The Hon. COURTNEY HOUSSOS: And she suggested that you could send it to ICAC.

EMMA HOGAN: That's right.

The Hon. COURTNEY HOUSSOS: Did she suggest that to you in the morning?

EMMA HOGAN: She did, yes.

The Hon. COURTNEY HOUSSOS: The Premier told me earlier today that you had a 45-minute conversation with him about the former Minister.

EMMA HOGAN: Yes.

The Hon. COURTNEY HOUSSOS: Did you tell him about that advice at any point?

EMMA HOGAN: No. And the reason I didn't, I can remember clearly not saying that because I wasn't actually sure that it was the right thing to do to say that I'd sent it for ICAC's information. I wasn't actually sure whether that was a breach of, kind of, confidence or not. So I didn't say anything about that in that conversation in the afternoon, in the late afternoon with the Premier.

The Hon. COURTNEY HOUSSOS: You thought that could be a breach of the confidentiality. You then sent it on—what made you decide to send it then?

EMMA HOGAN: It was primarily that I had spoken to Ms Boyd, whose advice I respect. As I said earlier, I didn't see a reason for me to send it based on what I knew. But when I spoke to her and debriefed her on everything leading up to that day, she said it was open to me to send it as an FYI, which is what DPC would normally do. I haven't been in this situation before and so I felt that that advice was, you know, worth taking on. I asked my legal counsel in the afternoon to draft a letter, and I arranged with my executive officer for it to be sent the next day.

The Hon. COURTNEY HOUSSOS: Did you contact him before you spoke to the Premier or after you spoke to the Premier?

EMMA HOGAN: Before.

The Hon. COURTNEY HOUSSOS: Before you spoke to the Premier, you decided you were going to send it?

EMMA HOGAN: As an FYI, yes.

The Hon. COURTNEY HOUSSOS: But you didn't tell the Premier about it in the meeting?

EMMA HOGAN: I did not. I didn't.

The Hon. COURTNEY HOUSSOS: Why did you then confirm to the Premier's office on 7 August that you had sent it?

EMMA HOGAN: The following week on the Saturday night I received an email from the Premier's chief of staff asking if I had sent it. I didn't respond straightaway because I was on leave and I also, again, wasn't sure if it was—I hadn't sought advice on whether it was appropriate to tell the Premier's office that I had forwarded it. But the next morning it was made clear to me that it was okay to do that, and so the next morning I responded and said yes, I have sent it as an FYI. I was clear that I hadn't sent it under section 11 and that, you know, we continue to get media inquiries about it, and given that I had now sent it I was not going to be saying anything further. I didn't think that was appropriate nor fair to the former Minister.

The Hon. COURTNEY HOUSSOS: But, to be clear, you received the email. I have seen the email that was sent to you on the Saturday night.

EMMA HOGAN: Yes.

The Hon. COURTNEY HOUSSOS: And then you replied pretty early on Sunday morning, I recall.

EMMA HOGAN: Yes.

The Hon. COURTNEY HOUSSOS: You said you got some advice, or you reflected on it. Did you speak to your legal counsel?

EMMA HOGAN: I didn't speak to my legal counsel, but I actually had a—I can't remember if I had a call or a text message from Ms Mann saying, "Ms Boyd's asking whether or not you forwarded David's letter to the ICAC. Did you?" As soon as I knew that she was asking, I knew that it was okay to say to the Premier's office that I had sent it, so that's what I did.

The Hon. COURTNEY HOUSSOS: Mr Chandler, I just wanted to ask you about the investigation that the former Minister instigated after the article that appeared in *The Australian* on 24 June. As I said to the newspaper at the time, I think it is a symptom of a different problem. I am, like the Chair, all for you collating a list of dodgy certifiers that you think shouldn't be acting any further. I wanted to ask you about the investigation that the former Minister launched. You said earlier, and in your resignation letter, that there was an investigation into the allegations around Toplace. How is that investigation different to the one that was initiated by the former Minister Petinos?

DAVID CHANDLER: I put it together as simply context that this job involves people attacking my character, and I just put that as another exhibit of saying this could have been something that the former Minister may have elected to say, "I accept the fact that you didn't mislead"—you folk—"but I may not be confident in the Building Commissioner." I wasn't going to have a situation where that occurred and then we tried to rewrite history afterwards. So I decided I would put it in writing before the event. That's simply all it was. I think the Toplace matter was just an exhibit. I could have referred to the Icon letter. I just wanted to make it clear that this job attracts people who think the way to deal with you is to actually challenge your character and your reputation. They forget to play the ball instead of the player.

The Hon. COURTNEY HOUSSOS: Yes, absolutely. I understand that. So it was a fundamentally different process. The investigation of the Toplace allegations, though, occurred under previous Minister Anderson?

DAVID CHANDLER: It occurred directly within the department. We informed Minister Anderson, but it occurred within the department. It was a case where we were in a meeting in the department. Toplace representatives came to a meeting in our offices at McKell, and they put this proposition on the table. They didn't show us the email; they did tell us the name of what the trust account was that this money was supposed to be sent to. We immediately left that meeting and immediately engaged our legal people, and we set in train an internal audit. That audit went off to say to—the people who conducted it rang Toplace and said, "Is there any veracity at all to this email? Can you give us anything substantive about it?" And the answer was, "No, we don't have it", so that was the end of the matter.

EMMA HOGAN: I don't think they wanted to participate with it, and so our internal audit—I, from memory, advised them that it was open to them to refer it to the appropriate authorities if they didn't wish to deal with us directly.

The Hon. COURTNEY HOUSSOS: Okay, I understand.

DAVID CHANDLER: Which they did, I understand.

The Hon. COURTNEY HOUSSOS: I'm sorry, which they did?

DAVID CHANDLER: I understand they did refer it to ICAC, but I don't know. I'm not offended by them doing that at all, because it would then have to run the gauntlet of "Is it true?"

The Hon. COURTNEY HOUSSOS: Yes, absolutely.

DAVID CHANDLER: No problem with me about that.

The Hon. COURTNEY HOUSSOS: Ms Hogan, did you issue a reprimand to Minister Petinos or did you have any kind of disciplinary action against her about her behaviour towards a staff member or a departmental staff member when she was a Minister?

EMMA HOGAN: No.

The Hon. COURTNEY HOUSSOS: Did you raise concerns directly with her about the way that she was behaving towards a Customer Service employee?

EMMA HOGAN: I raised concerns with her about some behaviours that had occurred, yes. But obviously I'm not her employer, so it's not up to me to make any reprimands or disciplinary action of that nature. But I did feel, in the spirit of the secretary and ministerial relationship, that it was up to me to provide her with feedback as to where I thought we were working well together and where I thought things could be done differently or better. I took it upon myself to do that with her directly.

The Hon. COURTNEY HOUSSOS: And when was that?

EMMA HOGAN: In early May.

The Hon. COURTNEY HOUSSOS: This is what you were speaking about this morning. I understand.

EMMA HOGAN: Yes, so I spoke to her specifically on such matters in early May, and I raised some things with her again at a later date but in a different format.

The Hon. COURTNEY HOUSSOS: When was that?

EMMA HOGAN: July.

The Hon. COURTNEY HOUSSOS: When in July?

EMMA HOGAN: Early July—I don't have an exact date.

The Hon. COURTNEY HOUSSOS: Can you take that on notice for me?

EMMA HOGAN: Sure.

The Hon. COURTNEY HOUSSOS: You said you raised them in a different format. What was the different format?

EMMA HOGAN: The first time I spoke to her, I wanted to raise specifically some issues, which I did. Again, I don't want to get into a blow-by-blow account.

The Hon. COURTNEY HOUSSOS: No, of course not.

EMMA HOGAN: Later on we were in a regular one on one, and I checked in on how we both thought things were going. I took an opportunity to mention some things again then.

The Hon. COURTNEY HOUSSOS: How did she respond?

EMMA HOGAN: She responded well. She was grateful that I'd been honest with her and, yes, she responded professionally.

The Hon. COURTNEY HOUSSOS: That's probably a good time to talk to you, Mr Minns, about your letter in response to the termination letter that was issued to you. I have to say I'd characterise that as a more muted version than what we got from Mr Chandler, but you are pretty clear:

It is unfortunate there has been a lack of political leadership, will, or capacity to engage with Property Services at anything beyond a superficial level since my first week in this role.

That first week was actually when you were under previous Minister Anderson, is that correct?

JOHN MINNS: Correct.

The Hon. COURTNEY HOUSSOS: But it's pretty clear that you were pretty frustrated with the lack of progress on the reform program that you had.

JOHN MINNS: I guess there was very limited engagement with the program. That was an issue from my perspective. I was happy to continue on the path that I'd been recruited to from day one but, at a number of levels, I would have preferred if there was a higher level of engagement, even if it was debate on the contents of it. That is probably reflected in the letter.

The Hon. COURTNEY HOUSSOS: Yes, I think it's much the same concerns. You obviously had difficulties in the working relationship with the Minister's office. Like I say, it was slightly more muted than Mr Chandler. Were you given any specific undertakings to come back into the role?

JOHN MINNS: Before coming back, starting next week?

The Hon. COURTNEY HOUSSOS: Yes.

JOHN MINNS: Yes, there were a number of conversations that we had. I guess there were a couple of issues. One was, from my viewpoint, I expressed that I thought I would be surprised if the Government would revert back from a previous decision. The second issue was a number of conversations that I had both with Ms Hogan and then at a meeting with Minister Dominello a couple of days later where I felt it was important that we weren't simply dealing with form over function. From my viewpoint, what had been critical as part of this process is that for consumers in New South Wales to deal effectively with the property services industry, we need them to be empowered, we need an accountable industry and we need a trusted industry.

Simply building a new regulatory model or statutory model, in my view, wasn't going to do that on its own. We needed to be able to deal with some of the really key issues and the problems that had been identified. I was very positive at the end of the meeting with Minister Dominello that he was prepared for us to continue on that program, and that was the basis that I considered it and said that, yes, I was prepared to come back on board.

The Hon. COURTNEY HOUSSOS: I understand. You're obviously starting again on 12 September. The Minister said this morning that he doesn't anticipate that the legislation will go through before the end of this parliamentary term; it will go into the new parliamentary term. How do you intend on consulting with the industry more broadly about that legislation and about the approach going forward?

JOHN MINNS: Some of that would be speculative, in my opinion, because we haven't had the opportunity to have that conversation. This has all happened fairly quickly, Ms Houssos, as you would imagine. However, there are a number of conversations we've had in relation to the Property Services Expert Panel over a number of months where I've felt it needed to be refocused. My view—and I'm expressing a personal view at this stage because I haven't had the opportunity to talk to Ms Hogan about it—is that the expert panel should be a very important conduit to government in terms of what the model should look like, how it should be progressed and probably most importantly what it's trying to achieve—what the outcome is that is needed to be driven. I never believed that there would be time, if legislation was going to Parliament this year, for that to happen in a meaningful way. Given that that's now been deferred, I'm a lot more positive that it will be an engaged, considered response from all stakeholders.

The Hon. COURTNEY HOUSSOS: Mr Minns, in the announcement that Mr Chandler would be returning into the role, the press release said that the two of you would be working closely together. Do you have specific projects that you're working on together?

JOHN MINNS: We've had a number of conversations over the previous time. Specifically strata, I think, is an area which is very important. Not every part of the Property Services strata plan and Project Transform, which is one of the projects that we're operating on in the strategy, covers that. But specifically in the areas of things like resilience and sustainability, which of course is critical to future confidence in the industry, that's a direct relationship. We're just working through, and I think Mr Chandler has spoken about, a number of case studies that are being run at the moment that we want to be able to use to illustrate and determine a forward plan on that.

Issues such as insurability, which is one of the really key issues which is of concern to all of us at the moment with strata schemes in the State—a significant part of that relates to the capacity to deal with building defects, both historical and emerging. In those two areas, in particular, it becomes important. I've also got some very specific areas that are perhaps less of Mr Chandler's concern around point-of-sale representation and contractual information.

There's a lot there at the moment. Do people know what they need to? We need to do a much better job with education and knowledge for the sector, whether it's real estate agents, strata managers or other practitioners, but also for consumers. People like the Owners Corporation Network and others are being very supportive in that process as well. So there are a number of areas that we need to look at in ensuring there's equity in establishing strata schemes. All of those issues together mean that they will need to be a significant collaboration with the Office of the Building Commissioner.

The Hon. COURTNEY HOUSSOS: Mr Chandler has been generous in providing fine briefings and we could probably sit here all afternoon and talk about strata law reform. But can I just please invite you to provide those kinds of briefings for the Opposition and the crossbench? That would be very helpful in terms of us understanding that reform program and where that's going towards. I think you're exactly right. Are you concerned about the increasing prevalence of strata schemes—maybe it's not increasing and maybe you have a different experience—having to go offshore to get their insurance that they are required to hold under law?

JOHN MINNS: I think the answer to that is, yes. One of the things that was very important—we actually had a strata round table a couple of weeks ago in Sydney. That was in my capacity as a private citizen or industry representative. However, I was very well supported—

The Hon. COURTNEY HOUSSOS: Is this the one that had been arranged before you finished in the role?

JOHN MINNS: It was. But I believed it was important, but it was supported by DCS and, in fact, Ms Hogan and Ms Mann both attended the session. What we were looking at there was the whole gamut. It was literally bringing industry leaders together across the entire sector, from consumer groups to industry practitioners to the insurance companies to the lenders, financiers and others, all in the same room, and it was essentially to surface some of these issues, because we understand that insurance companies aren't going to turn around tomorrow and say, "We've got a great strategy. Therefore, premiums are coming down." But if we don't have a strategy where industry and consumers understand what makes a triple-A rated building from the insurance viewpoint, then we never get to deal with that. If we don't deal with that, the issues around confidence and affordability which are besetting the sector are going to work absolutely against the migration that we're seeing to strata happening at the moment.

So we're very keen to be able to work on all those issues. And, ideally, I can't get in there—and neither can the Building Commissioner—and fix existing historic building defects or deep defects that resolve all insurance issues, but we would hope that there's a strategy that would enable all of those things to be taken care of much better but also for people owning within those projects to make better decisions in terms of what they invest in preventative maintenance and what they invest in capital expenditure every year, and just ensure that we've got a good framework and a good structure to work with to hopefully prevent some of those problems coming up in five, 10 or 20 years down the track.

The Hon. COURTNEY HOUSSOS: One of the crucial challenges for strata schemes being confronted with these defects, especially once they get into a major defect category around structural defects or fire or something that is beyond the capacity of just an ordinary layperson, is then they need some support in being able to navigate through that. Is that something that you or Mr Chandler would be interested in providing?

JOHN MINNS: I'd be interested. Mr Chandler, do you want to touch on this because you've been looking at a lot of those more recently than me.

DAVID CHANDLER: Part of Project Intervene is the development of a future toolkit to enable strata schemes to more efficiently and clearly lodge their defect complaints with Fair Trading because it has been a bit of a mixed bag. Only 15 per cent of stratas let Fair Trading know that they've got defects, so we've got to turn that around and really get a much bigger response. So we'll have a toolkit available to assist owners corporations. We'll be launching that project at the end of this month. Again, we can brief you on that because it's going to be something that you'll be able to use too. So when you have a constituent ring up and say, "What do I do?", the toolkit will be available to say, "Go in this way." And that will be the most sensible way for you to proceed. Working with Mr Minns, these are things that we'd started to put some shape on six weeks ago and we'll now get back into putting the rest of the body around it.

The Hon. COURTNEY HOUSSOS: I understand. Mr Chandler that figure of 15 per cent—that's from your survey that you did a few years ago?

DAVID CHANDLER: We did last year, so it's the one we'll re-run again next year. So 39 per cent of buildings claimed they had one or more serious defects in their common property. "Serious defects" is defined under the Design and Building Practitioners Act. Only 15 per cent of those buildings affected with that reported that to Fair Trading, for a range of reasons. We've got to turn that around.

The Hon. COURTNEY HOUSSOS: Whoever needs to take this on notice, are you able to give me—I'm pretty sure I asked for this at the last estimates—the number of defects that were reported to Fair Trading. Can we do it in the last few financial years? So we will do it for, say, 2021-22, 2020-21 and 2019-20—how many actual defects were reported.

DAVID CHANDLER: Yes.

The Hon. ANTHONY D'ADAM: Can I ask is this a mandatory requirement that they have to notify?

DAVID CHANDLER: We are looking to create a situation where, before owners corporations go off to NCAT, they've actually got to advise Fair Trading and get some form of a ticket before they move on. I think we've had a very weak triage arrangement at Fair Trading. I'm not going to put any other character on it except to say that, historically, I can see why a large number of owners corporations haven't gone down that route. We've been prepared to say that if it's off to NCAT, then it's not our job. Someone else is looking after it.

What we're now doing is we're pushing along with a matter irrespective of whether it's in the courts or in NCAT. We just simply use the RAB Act, which basically says, "That can be over there, but we're going to do this." So we're finding that we're making some inroads by simply getting on with it. We're going to tidy up that

landscape, and now that Mr Minns is back and we can have that more direct engagement with the strata community, I think we'll make some good inroads into it.

The Hon. COURTNEY HOUSSOS: Mr Chandler, we talked about Auburn Road this morning.

DAVID CHANDLER: Is that 93?

The Hon. COURTNEY HOUSSOS: Yes, 93 Auburn Road. This is something that I made representations to you on and you have stated publicly that it's the worst you'd ever inspected and it's what compelled you to convince the State Government to give you the powers to clean up the industry. Is it still the worst you've ever seen?

DAVID CHANDLER: It would be in the top five.

The Hon. COURTNEY HOUSSOS: Okay. Given the thousands of buildings that have been built across the city, that's pretty damning analysis. You stated that you'd go from top to bottom when your powers came into force on 1 September of that year. How far are you in progressing that process?

DAVID CHANDLER: There have been 160-odd RAB Act audits since that legislation stood up.

The Hon. COURTNEY HOUSSOS: Is 93 Auburn Road one of those audits?

DAVID CHANDLER: Yes, 93 Auburn Road has been one of those.

The Hon. COURTNEY HOUSSOS: Where's that up to?

DAVID CHANDLER: Where 93 Auburn Road is up to—of course, you're aware that the Merhis Group now are in liquidation. There are multiple people who've moved on the group, so there are different people who've got different pieces of it. So in regards to Hassall Street—

The Hon. COURTNEY HOUSSOS: Sorry, Mr Chandler, I just want to talk about 93 Auburn Road.

DAVID CHANDLER: In that receivership is actually Goldenia. So Goldenia is the developer of 93 Auburn Road. In addition to that, there's a side facility that must have been organised where 14 of the apartments were used as security that were in 93 Auburn Road. So there's a liquidator appointed over those 14.

The Hon. COURTNEY HOUSSOS: But they don't have an occupation certificate.

DAVID CHANDLER: That's right. So three of those are commercial and the rest of them are residential. They don't have an occupation certificate and there's a prohibition order on the building that stops those getting an occupation certificate. We met with the liquidator who wanted to see if we could fast-track lifting the occupation certificate and we said we could easily do that if he was prepared to pay for all of the defects. Obviously, he felt 14 of 240-odd apartments was a disproportionate share for him to pay. The answer to your question is the prohibition order will be there until those matters are substantially resolved. Merhis is no longer there.

The Hon. COURTNEY HOUSSOS: Sorry, Mr Chandler, I'm aware and I'll get that in a moment, but I just want to ask you where's it at now? Is that a stalemate? You've gone to the liquidator to say—

DAVID CHANDLER: Stalemate it may be, but where we're at now is that we're taking action in the court to stop the winding up of the company.

Mr Winton has just commenced those proceedings because the first thing we want to do is make sure that it doesn't just disappear into the ether. We want to make sure that at least the entity is there so that we can look at it to the extent that we can possibly—so it might be able to be extracted. The most immediate action is to work with Cumberland council, which they are doing in a most constructive way, to issue orders to the owners corporation to fix those things which go to the safety and the robustness of the building. At this stage, if nothing changes, the owners corporation will receive council orders, because it is the jurisdiction that has the say here, to rectify their defects. They may have to take out a strata loan to do that.

The Hon. COURTNEY HOUSSOS: That means that ultimately the owners corporation is going to have to pay for the defects?

DAVID CHANDLER: At this stage that's what it looks like.

The Hon. COURTNEY HOUSSOS: There is no way that you can be pursuing the Merhis group, the Merhis brothers?

DAVID CHANDLER: I really have imagined every possibility, to be honest with you, and I have to say I can't see one. We will continue to search but I believe at this stage 93 Auburn Road will fit into a group of buildings for which no-one will be responsible other than the people who own the building.

The Hon. COURTNEY HOUSSOS: On what date did you first issue orders on 93 Auburn Road?

DAVID CHANDLER: I have got it in here, but rather than me paging through here I will attempt to give you the date before I leave the room.

The Hon. COURTNEY HOUSSOS: Years ago now?

DAVID CHANDLER: Certainly 18 months ago.

MATTHEW PRESS: March, maybe.

DAVID CHANDLER: March 2021.

The Hon. COURTNEY HOUSSOS: March 2021, so 18 months, let's say, roughly. In November 2021 the developers Mark and Khalil Merhi removed their names as directors and officeholders of Goldenia Developments, which you talked about is the developer that actually built 93 Auburn Road. Did that ring any alarm bells to you?

DAVID CHANDLER: Yes, of course it does. We have built up now quite an understanding of the business models for each of these, I guess, riskier developers but in the case of the Merhi model, what they did was they regularly changed the directors around in their companies. They might be there for six months or 12 months and then they swap them around again. That's a typical model for Merhi. We were aware of that. It was very concerning, but it's very difficult to stop that.

The Hon. COURTNEY HOUSSOS: I understand that you have difficulty ensuring that they don't switch themselves around, but what action can you take? We have got these guys who have built an apartment building that has massive defects. You have just said it is in the top five worst buildings that had prohibition orders issued using your powers, and now basically these two people have nicked off overseas, as they have previously when they have been under investigation. The only people who will be left holding the can will be these poor people who purchased into this apartment building who, let's be frank, do not have the capacity to be paying for the scale of remediation that's going to be required.

DAVID CHANDLER: Ms Houssos, you and I share the same disquiet over this. There is one happy story here. I am not happy about it. Again, there is another developer that came in and met with us and said they were committed to getting on with things. Effectively the meeting that I had with Mark Merhi, which was attended by Frank Sartor at the same time, they were pleading that if I lifted the order on Hassell Street they may have enough money then to go back and fix 93 Auburn Road. They were two quite different entities, different directors and we said we are sort of not interested in that sort of promise. We'll deal with 93 Auburn Road and we'll deal with Hassell Street separately.

The pleading at the time was that I was probably being a bit too heavy-handed, and might I imagine that I might cause one of the entities to fail. I said I can't be conscious of that, you're going to get orders and you're going to fix the work, and that's what happened on Hassell Street, which ultimately got to the point where the banks lost patience and took the company. But we certainly had a meeting where Mark Merhi and his adviser made it very clear to me that if we were less hard on them, they would be prepared to move money from one place to the other to try to fix defects. That was a completely unbelievable proposition, so we left it at that.

The Hon. COURTNEY HOUSSOS: Yes, I think that is unbelievable but my question to you, Mr Chandler, is how can this change? How can we make sure that there are not more apartment owners in the same position as these poor owners at 93 Auburn Road that are stuck with vacant retail underneath. They have got 11 incomplete units and they have got massive bills for remediation? What's going to happen?

DAVID CHANDLER: We are going to find a number of these buildings, Ms Houssos, in the next year and that's why it's important that we use this period of time to discover them and have a look. There is going to be a number of them in that situation. There's one at Wollie Creek, which is a similar sort of one where we have been, and both the builder and the developer there have disappeared. We have also taken the accreditation off the certifier. That doesn't do much to fix this building. I can see a number of these types of buildings emerging where the story is not a pretty one.

The Hon. COURTNEY HOUSSOS: How many units are there in the one at Wollie Creek?

DAVID CHANDLER: Can I correct it on the record—

The Hon. COURTNEY HOUSSOS: Of course.

DAVID CHANDLER: I would say, nominally, 50.

The Hon. COURTNEY HOUSSOS: You have said that they're going to be uncovering these buildings and we accept that you are doing insurance and ratings for developers and builders, and all of these things that are forward facing.

DAVID CHANDLER: That's right. That's the future.

The Hon. COURTNEY HOUSSOS: Exactly. What are we doing to address these historical defects? What are we doing to ensure that these poor people who bought into these apartment buildings in good faith—what protections are we giving to them? They are left holding the can for these dodgy developers. Mr Chandler, I have been asking you for years whether you've got enough powers and enough resources. This is a clear deficiency.

DAVID CHANDLER: I can't extract value out of insolvent businesses. It is just not possible, so if the business is wound up—ASIC has really got to come in and do some lifting here. I have been probably even slightly curtailed by—my call-out to ASIC is that they have got to come and do some lifting here. We have got people like Raylen, for example, who have gone belly up and left huge issues behind them.

The Hon. COURTNEY HOUSSOS: I am misunderstanding, ASIC, did you say?

DAVID CHANDLER: ASIC, the federal body.

The Hon. COURTNEY HOUSSOS: Yes.

DAVID CHANDLER: I don't believe they do any lifting in this space and when we do refer a matter to them that is in the federal jurisdiction, it is immediately closed down by saying, "We are looking at that matter but we can't tell you anything about it." Then it disappears into a black hole for years. I referred one of the Raylen insolvent companies to them back at the end of 2019. After numerous inquiries, it was simply, "No, we can't tell you anything about it." That's one of the pieces of work we've got to do, is work out how at the federal level we can actually get the people who are accountable for directors' and corporations' legislation in the country to start to take a tougher hand.

The Hon. COURTNEY HOUSSOS: Have you suggested that that should have been a subject at the building Ministers' meeting?

DAVID CHANDLER: It has been raised with former Minister Anderson. It was about to move into that conversation but at the time with the change of Ministers it just didn't happen. It hasn't happened since. We do need to resurrect that and that will be one of the things in the coming months I will speak to the secretary because it's quite difficult for a State jurisdiction to start making representations to a federal body, so we will need to think through that.

The Hon. COURTNEY HOUSSOS: The national building ministers' forum would be the appropriate place to be raising those kinds of issues. I accept that you are saying that there are limited things you can do in that space but there has to be something more than these poor apartment owners who are going to be left in exactly the same position as Mascot Towers residents who are facing financial oblivion. There has to be something better that we are doing for people.

DAVID CHANDLER: I agree, and we will prosecute every single thought process we can. For example, another piece of work we could look at is when people do what are called restructures of convenience, for example, the way that the Icon group restructured Icon old co and sold the business into Icon new co that the people who restructured that business should be, in my view, barred from leaving their statutory duties behind in the restructure. That's another piece of work that I'll do some work on in the coming months. These are big pieces of new work, but that's one area where I think we have really got to think about the powers. I can now see a number of insolvencies out there where there are various forms of winding up and there are various forms of DOCAs, which is a deed of company agreement, where people are getting in there and just simply doing these restructures to really get out of jail and leave the business behind.

I think we've got to start to think about other people who are doing these restructures. Should they not have some degree of responsibility, that they can't leave the statutory warranty obligations behind? That's an area where I'll be back to you and saying that's somewhere I think we could do some more work. We'll do everything in our power during this Project Intervene exercise to actually shake the tree. I've had two developers in in the last week who were quite surprised to be called back. Both of them pleaded that their builder had let them down. I don't play the air violin to them anymore because I've got to correct my behaviour. Sorry, Secretary.

The Hon. COURTNEY HOUSSOS: I don't know if Hansard can record the laughter of everyone.

EMMA HOGAN: Please don't.

DAVID CHANDLER: Please don't record that. But I want you to understand that I've had a couple of very grim-faced developers in to see me in the last couple of weeks saying, "Guys, we're coming back to you using the RAB Act. You are the last man standing. Sorry about your builder going broke, but you're coming back to fix this building," and they know they are.

The Hon. COURTNEY HOUSSOS: Okay. I think there's more work to do in this space.

DAVID CHANDLER: There is.

The Hon. COURTNEY HOUSSOS: We'll keep talking about that. Ms Hogan, I want to move on to a different issue. Who was appointed to be the Property Services Commissioner in between the period that Mr Minns was terminated from the role and when he came back?

EMMA HOGAN: I had asked Mr Chris Lamont, who's the Small Business Commissioner, to act in the role for a period of five months. We had confidence at that time that legislation would be up by the end of the year. I had asked him, given his experience in the Small Business Commission and his previous government experience, to act in that role.

The Hon. COURTNEY HOUSSOS: When did he commence in that role?

EMMA HOGAN: He was meant to commence on 8 August. I had made the arrangements for him to commence a few weeks before that. He had been on leave and I had been on leave. We both came back on 8 August, so we had arranged for him to commence then. But, by the end of the week, he had let me know that he didn't want to proceed with the role.

The Hon. COURTNEY HOUSSOS: What was the reason that he gave for the short period?

EMMA HOGAN: He felt that the arrangements with the department weren't right for him to implement. I think there were three things that happened for me that week. One was that, obviously, I'd had a change of Minister. The second was that it had become clear to me, after conversations with Minister Dominello, that the legislation would not get through this year. It would be, in fact, next year. Mr Lamont decided not to pursue the role. I respect that. He's entitled to make that decision. And I decided what to do next from there.

The Hon. COURTNEY HOUSSOS: It's a pretty short time for him to be acting in the role.

EMMA HOGAN: Yes.

The Hon. COURTNEY HOUSSOS: He's obviously got a long history of—how long has he been the Small Business Commissioner for?

EMMA HOGAN: I think a couple of years. The Small Business Commission has obviously only been in the DCS portfolio since Christmas, so I'm not 100 per cent sure. I'd have to take it on notice.

The Hon. COURTNEY HOUSSOS: Sure. I want to ask about the Long Service Leave Act. I don't know who administers that.

EMMA HOGAN: The Long Service Leave Act?

The Hon. COURTNEY HOUSSOS: Yes. This is for the construction industry.

EMMA HOGAN: Do you have information on that, Ms Mann?

NATASHA MANN: I've got a little bit of information, yes.

EMMA HOGAN: Perhaps to Ms Mann.

The Hon. COURTNEY HOUSSOS: I want to ask if it's true that individuals who have had money paid into their account under the long service leave corporation are going to lose their money if there's no interaction for five years.

NATASHA MANN: That's quite a specific question. Can I take that one on notice?

The Hon. COURTNEY HOUSSOS: Of course. And if you can tell me if it's true that sick leave doesn't count towards tenure of service?

NATASHA MANN: Yes, I will do.

The Hon. COURTNEY HOUSSOS: Great, thank you very much. There's a regulation that's being rewritten at the moment around third-party rent collectors. This is in residential tenancies. Ms Mann or Mr Tansey,

it might be to you. Maybe it might fall under you, Mr Minns, when you came into the role. There are current protections for people who use third-party rent collectors. Is that correct?

JOHN MINNS: I'm not familiar with it in enough detail to answer.

The Hon. COURTNEY HOUSSOS: That's all right. Can you take it on notice for me and tell me if the regulation is being rewritten, what are the protections currently and what is going to be changed under the new—this is a new thing that—

JOHN TANSEY: I'm not aware of any work that we are doing in the cluster on that regulation. I'm happy to check with colleagues.

The Hon. COURTNEY HOUSSOS: Yes, that would be really helpful. It's a relatively new thing within the industry, apparently, that as a condition of lease you have to use a third-party rent collector. You can't go and pay it at the office, use a cheque or pay it into a bank as a bank deposit anymore. You have to use these third-party rent collectors. They charge a fee and there are also some other protections that you lose if you use this particular platform. I'm interested to know about the status of that.

JOHN MINNS: There is probably more than one platform attempting to—I think we touched earlier on the convergence of financial services technology and property technology which is happening at the moment. There are one or two platforms that are, in effect, instantly disbursing funds in order to do that. There are specific contracts with the people who are paying, the people who own the property and the agency itself which are often separate. We're now starting to look at one of the really key areas in Project Beyond, how you enable innovation and reduce friction in processes while, at the same time, ensuring that consumers are protected. So that is an area of work that I think we need to do as a government. It is important; it's just going to be a question of prioritising it.

The Hon. COURTNEY HOUSSOS: I understand. My earlier information was that the regulation is literally being rewritten at the moment. If you've got any other information around that, that would be helpful.

JOHN TANSEY: We'll check.

The Hon. COURTNEY HOUSSOS: Then perhaps we can continue talking about it. Because I think you're right, Mr Minns, there's an emergence of new players which are changing the way that it works, and I'm concerned about the lack of consumer protections as part of that.

JOHN MINNS: Just as an observation, there are over 600 proptechs in Australia at the moment in a whole variety of different areas of that space. Being able to deal with each one individually and make a determination, particularly when they're often sitting outside the licensing regime, is difficult. But I do think that it's important that we have a framework that allows us to deal with that both from an empowerment viewpoint and a consumer friction viewpoint, but also from a consumer protection viewpoint. It is important work that we need to do. Mr Tansey will probably be able to clarify that, but I'm not aware of any actual work that's going on in that space at the moment.

JOHN TANSEY: I'm actually just wondering—sorry, I'm being pedantic here—about the discussions around the property stock regulation which we're currently working on rather than residential tenancies. But if I can get anything in the session, I'll come back to you now.

The Hon. COURTNEY HOUSSOS: I've got a few final things and then I'm going to pass to my colleague to wrap up. I want to ask about heavy vehicle licensing. Who shall I direct those questions to?

JOHN MINNS: The transport Minister?

The Hon. COURTNEY HOUSSOS: Sorry, the licensing of heavy vehicle and car bodywork. I should have been more specific.

JOHN TANSEY: Motor vehicle and repairers. That's us, not the Minister.

The Hon. COURTNEY HOUSSOS: It's all right. My understanding is that there's a differentiation for mechanics with their licensing but there's not for bodywork, between car and heavy vehicle bodywork. Is that correct?

JOHN TANSEY: A man has got to know his limitations. I might need to take some advice on that level of detail on the repairers and dealers.

The Hon. COURTNEY HOUSSOS: Certainly.

JOHN TANSEY: I think I'm broadly aware of where you're going. I think there are some questions being asked in industry about availability of suitably qualified people to work on heavy vehicles, as distinct from ordinary cars.

The Hon. COURTNEY HOUSSOS: I'm just interested to know if there is currently a differentiation between the smash repairers who do the heavy vehicle bodywork and the car bodywork, because I understand there's a differentiation for mechanics. The concerns that were raised with me were about the standards of repair and the increasing proliferation of heavy vehicles on the road that are not having the required levels of work that's done. If you can provide me with some information on notice, that would be helpful. Is there any requirement for currently licensed car mechanics to upskill for electronic vehicles?

JOHN TANSEY: Again, I might need to seek some specific detail but, more broadly, one of the issues the team and I have been talking about is that. I think, in short, the current regulatory framework is for combustion engines, and the rapid uptake and where it might go with electrical vehicles is going to probably challenge that regulatory framework. People working on cars are going to be electricians, not mechanics. There is nothing currently in the Act, which has been remade recently, that's immediately changing that, but I think it's absolutely right to identify it as a quickly emerging issue.

The Hon. COURTNEY HOUSSOS: I am happy for you to take it on notice, but if you can tell me if you are currently doing any work, is there a consultation plan in place, if you're looking into it, if you're talking to TAFE or to someone about the fact—

JOHN TANSEY: We can do that.

The Hon. COURTNEY HOUSSOS: I mean, we've got the Treasurer and the Premier overseas talking about hydrogen going into vehicles, and yet our mechanics are still not even trained about electric vehicles that are increasingly on our roads. From the licensing component, it seems like that's the key compliance part.

JOHN TANSEY: Yes, we're happy to take that on notice.

The Hon. COURTNEY HOUSSOS: Of course.

JOHN TANSEY: We need the broader policy considerations. We will look at things including but not limited to that licensing framework.

The Hon. COURTNEY HOUSSOS: I just wanted to ask about digital licensing. Who is that?

EMMA HOGAN: It would depend, but ask your question.

The Hon. COURTNEY HOUSSOS: I'm interested to know: Has there been a large take-up? Have you got figures around whether people are doing it?

EMMA HOGAN: We've got multiple digital licences in play. I would have to take the specific numbers—I think the white card was the first one to roll out. I think that has had significant uptake, but there have been a number of others since.

NATASHA MANN: There has been great take-up of that, Ms Houssos—about a million-plus new licence applications each year. We're looking to digitise 130 licences, and we're on that journey now. We're putting more and more online; it's very, very popular. We're reducing those times for applications from four weeks to 10 minutes. It's a really huge reform and other digital reform in this space that we are very proud of.

The Hon. COURTNEY HOUSSOS: Are you able to tell me how many applications you've had?

EMMA HOGAN: We would have to break it down by licence, I think, or by licence type that has been lodged so far, but we're happy to take it on notice.

The Hon. COURTNEY HOUSSOS: You can just take all of this on notice. That's fine.

NATASHA MANN: I do have some information, if you want it. We have 219,000 holders of the white card, more than 31,000 high-risk work licences and more than 28,000 contractor licences who have all downloaded the licence in the app. So it's a good take-up. That's collectively—

The Hon. COURTNEY HOUSSOS: Can I have a total number?

NATASHA MANN: Yes, so 280,000 customers have taken the decision to download the digital trade licence into their app.

The Hon. COURTNEY HOUSSOS: Out of how many licences issued?

NATASHA MANN: I will get that information for you.

The Hon. COURTNEY HOUSSOS: Yes.

NATASHA MANN: I guess, just some good feedback—as you know, Minister Dominello likes the thumbs-up feature and we have an average of 82 per cent thumbs-up for their experience across those licences.

The Hon. COURTNEY HOUSSOS: I can't finish without talking about Project Remediate. Mr Chandler, have we removed some cladding?

DAVID CHANDLER: I can assure you that we have. We have started two buildings—one is about six weeks away from completion, and the other one is a little longer because it's a bigger building. We have another three start very shortly, and then the numbers ramp up—12, 15, 17 in the months coming. The volume of work is now on the up, but it was a case of "get set before you go". I know it was a long "get set".

The Hon. COURTNEY HOUSSOS: Let's leave the past behind.

DAVID CHANDLER: I can tell you that there is cladding coming off now and it's not going back on.

The Hon. COURTNEY HOUSSOS: That is good to know, given the previous history. Mr Chandler, can you take them on notice and tell me how many you've got commencing over the coming months—what you've got in the future pipeline of how many each month?

DAVID CHANDLER: I'm sure that we'll be able to share those reports with you, going forward. I'll just clear that with the secretary and the Minister, but I'm sure that we'll be able to show you the fortnightly report we provide on that.

The Hon. COURTNEY HOUSSOS: Excellent. Great. In that now-infamous briefing that you provided to the Opposition and crossbench about Project Remediate, you talked about protections you were putting in place to ensure that subcontractors got paid so that no-one was going to be left—well, you were taking the best steps possible to ensure that subbies were going to get paid.

DAVID CHANDLER: Trade contractors; I don't like "subcontractors".

The Hon. COURTNEY HOUSSOS: Sorry. Thank you. What protections are you putting in place to ensure that larger companies aren't—and I'm not going to use the right terminology here—taking out the contracts and then offloading the work to smaller builders and then taking the profit margin?

DAVID CHANDLER: That is because you wouldn't be competitive and get the work if you play that game, I can assure you. We are digging into people who work in this space. I've been meeting the contractors taking this work on just to understand exactly who is there. There are people who aren't normally in this remediation space. We're making sure that the scale of projects that we're offering are offered to the appropriate-size organisation for different projects. There are some very complex, big projects coming up. We will reach into the larger players in the remediation space, but I'm sure that there is no-one taking on work here because we are awarding them one at a time, by the way, so we are not bundling them up. They are all being awarded one at a time. As you will appreciate, every owners corporation is very, very focused on how much it's going to cost them, so we've actually had to give them very detailed per-project granularity there. I'm happy to really bring you into that so you understand exactly how we are managing that.

The Hon. COURTNEY HOUSSOS: Another briefing would be great.

DAVID CHANDLER: Sure.

The Hon. COURTNEY HOUSSOS: I have two final questions. You talked about a recycling program that you had entered into. Is that going to ensure that all of the material that's taken off is going to be recycled, or is that going to do a proportion?

DAVID CHANDLER: I can tell you that 96 per cent of all of the cladding that will come off will be recycled. I understand the figure for the balance of the materials is about 80 per cent. I will confirm that in these notes. I've got the information here, but I won't waste time now. Some of the material that's going to be less recyclable is just a very hard challenge, like some of the insulation material that has got mould in it or something. There's some material that will be very difficult to recycle, but about 96 per cent of all of the aluminium will be recycled.

The Hon. COURTNEY HOUSSOS: But we'll ensure that none of it is going to be resold or sold on to anyone else?

DAVID CHANDLER: We've entered into a preferred supplier agreement where we have a line of sight to what they do. We'll actually go out and watch it get distributed. The good thing about the aluminium—it looks as though it gets ground up and feeds into manufacture of steel.

The Hon. COURTNEY HOUSSOS: Excellent.

DAVID CHANDLER: So we'll be watching that. All of the other components are spit out the line as well. It's a very interesting project for us to be doing, and we're going to make sure that this is a success story.

The Hon. COURTNEY HOUSSOS: Okay. I'm going to pass to my colleague to wrap up, and I'll put the rest of mine on supplementary. Thanks very much.

DAVID CHANDLER: Can I just make one comment before you leave, because I know this is your portfolio. This has been a really challenging time for my team.

EMMA HOGAN: Oh, David.

DAVID CHANDLER: I'm sorry. We're currently rebuilding. They are an amazing team. What these people have achieved in three years is unbelievable. We've got another big year ahead. I can tell you they're firing up now and well into it. But I just want to call them out and say they're the best you could get.

The Hon. COURTNEY HOUSSOS: Thanks very much, Mr Chandler.

The Hon. ANTHONY D'ADAM: I might move on to a different topic, then. I wanted to just come back to the SafeWork people matter survey results. I think I asked for last year's results on notice. I'm wondering if I might also be able to ask for last five years' results.

EMMA HOGAN: We could take you back to 2019, since we were the Department of Customer Service. Prior to that I think SafeWork was in DFSI maybe. I'm not sure, but I'll go back as far as—

The Hon. ANTHONY D'ADAM: As far back as you can.

EMMA HOGAN: —we can take that.

The Hon. ANTHONY D'ADAM: Is it possible to burrow down a little bit deeper in terms of specific directorates, namely the investigation and emergency response directorate and the metro operations and strategic intervention section, for as far back as we can get?

EMMA HOGAN: We'll do our best, but we have certain parameters around what we're able to share.

The Hon. ANTHONY D'ADAM: Obviously, if there's more than 30 respondents—

EMMA HOGAN: There has to be a specific number of respondents.

The Hon. ANTHONY D'ADAM: And if it's under 30 obviously I can accept that.

EMMA HOGAN: Also, we would need to check whether the names that you're asking for were called those things in the past. We will have a look into that.

The Hon. ANTHONY D'ADAM: As far back as reasonably possible within that five-year window. That would be appreciated. Can I ask about requests for service? Is there a taxonomy in terms of how you record the source of the request, Mr Press or Ms McCool?

MATTHEW PRESS: Which requests?

The Hon. ANTHONY D'ADAM: Requests for service. When you receive a request for service, do you record the source—whether it's from the public, from a HSR or from a worker? This is for SafeWork queries.

MEAGAN McCOOL: Generally, it's a name rather than an HSR or a title such as that. That's whether it comes through the Speak Up app, through the online way or over the phone. We have six categories that it's triaged under.

The Hon. ANTHONY D'ADAM: What are those six categories?

MEAGAN McCOOL: Category one is a serious incident—so we're talking a fatality. We respond to that within 48 hours. After that, it's still a serious incident. It's still responded to by an inspector. I'll get the time period on that. Category three can either be an inspector response or desktop or over the phone, but it's still an inspector. When you start to get to category four, you're talking about an admin response. That could be that it's not in statute, not within our jurisdiction or there's not enough evidence for us to pursue.

The Hon. ANTHONY D'ADAM: But there's no classification in terms of the source?

MATTHEW PRESS: There's no field for that, so it would only be captured if it was in the, I guess—

The Hon. ANTHONY D'ADAM: If you get reports from a workplace, you don't know whether it's from someone who might be an HSR or someone who is just an ordinary worker?

MATTHEW PRESS: It's not captured as a specific field, unless it's communicated and perhaps relevant to the observations around that request.

The Hon. ANTHONY D'ADAM: In terms of requests for service, are you able to provide for the 2021-22 year how many requests for service were received and the subcategories in terms of that taxonomy that you've just described? In terms of the ones where it requires an inspector response, are you able to break that data down by—the categories, I understand, you use are "field-based activities". Within that there are action types: "visit"; "same visit"; "follow-up visit"; "visit, assist"; "visit, no interaction"; "verification, field"; and "advice provided, external field". Perhaps you can elaborate on what those last two categories mean. If you could provide that breakdown for those—we're talking about requests for service and, within that, the six categories for the inspector response, and then the ones that require some kind of field-based activity. And then a breakdown in terms of that for the 2021-22 year, and the same in relation to notifiable incidents. That data should then give us the information about, for notifiable incidents, how many field inspections were generated as a result of that. Am I correct in assuming that?

MEAGAN McCOOL: Yes. To give you some quick figures for 2020-21, when you start to look at reactive, out of a total of just under 60,000 out of everything we do, there are about 9,500 where it's reactive—so unplanned. That's requests for service and other interventions which are also reactive, so about another 11,000. All up, say, 20,000 out of the 60,000 are on the basis of a request for service.

The Hon. ANTHONY D'ADAM: What's the other category in the reactive? What falls into that category? You said "requests for service", and then you said that there was another category. Can you just repeat that?

MEAGAN McCOOL: We class it as "reactive workplace" and "reactive interventions other". I'd have to get a definition on that, but they are still where they're unplanned. That could be, as I said, from a complaint or an inquiry where we haven't done that from a proactive reason—so a surprise visit or where we've actually planned it.

The Hon. ANTHONY D'ADAM: On notice, you'll provide the definition behind that?

MEAGAN McCOOL: Yes.

The Hon. ANTHONY D'ADAM: And are you able to, either now or on notice, clarify what is meant by "verification, field" or "advice provided, external field"?

MEAGAN McCOOL: "Verification, field" is where an inspector has gone out and actually attended the workplace. Sorry, the second one was?

The Hon. ANTHONY D'ADAM: How is that different from a straight visit? The categories that I was advised are "visit"; "same visit"; "follow-up visit"; "visit, assist"—I'm not sure what that means—"visit, no interaction"; "verification, field"; and "advice provided, external field".

MEAGAN McCOOL: I'll have to have a look—

The Hon. ANTHONY D'ADAM: If you could provide definitions for each of those categories, that might be useful as well. In terms of the question that I asked earlier around aged care, Ms Mann provided information about 195 requests for service and 67 inspector responses. Are you able to provide, for that 67, the dates and location? Obviously not to the level of specificity that identifies but perhaps suburb is the level that you've provided in the past—so the date of the visit and the—

NATASHA MANN: The suburb.

The Hon. ANTHONY D'ADAM: —suburb.

NATASHA MANN: Yes, I can do that.

The Hon. ANTHONY D'ADAM: That's all I've got.

The CHAIR: Before we close, I always offer the chance to, I guess, lessen the homework load, if anyone has any answers they want to give back now.

The Hon. MICK VEITCH: Spoken like a true former schoolteacher.

The CHAIR: Less homework for us to—

EMMA HOGAN: Mr Tansey has an update.

JOHN TANSEY: I have a bit more advice to the question that Ms Houssos asked. It's the Property and Stock Agents Regulation that has just been made. It previously had a provision in it that provided that an agent

must not use the services of a collection agent to collect rent, unless the agent complied with guidelines the secretary may issue. In fact, no secretary has ever issued guidelines. The other question, and this is a matter of design, is we believe this is really an issue related to tenancy because the Residential Tenancies Act requires that there must be a fee-free way of paying rent. If, in fact, this is starting to arise as a new service offering, it would probably be the Residential Tenancies Act where you'd want to look at it. We would need to do something to consult on that. I think the other part of your question was, by doing that, do people evade their obligations? I don't believe that's the case at all. You can't contract out of the obligations between a tenant and a landlord in the Act simply by using an intermediary to collect your rent.

The Hon. COURTNEY HOUSSOS: That's very helpful. Thank you very much.

EMMA HOGAN: Did anyone else have any updates? Then I thank the Committee for a respectful hearing.

The CHAIR: Thank you for your candour. In terms of the questions that are remaining on notice, the secretariat will be in touch. You'll have the standard 21 days to get back to us. Thank you all for your time.

The Hon. MICK VEITCH: You didn't ask the Government.

The CHAIR: Oh, does the Government want to ask any questions? Mr Poulos, I see light bulbs.

The Hon. PETER POULOS: No. Just for the Secretary could I take this opportunity, on behalf of the Government, to thank both you and the departmental officials for your attendance today. I have had the benefit of knowing some of your departmental officials in another life. I find them, both in the past and from what I've observed today, to be a group of individuals who maintain the highest standards of integrity. We certainly thank you for what you do for this State every single day and, collectively, your teams. Thank you very much.

EMMA HOGAN: That's very kind. Thank you.

(The witnesses withdrew.)

The Committee proceeded to deliberate.