

REPORT ON PROCEEDINGS BEFORE

**PORTFOLIO COMMITTEE NO. 6 – TRANSPORT AND
CUSTOMER SERVICE**

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BUDGET ESTIMATES 2019-2020

At Macquarie Room, Parliament House, Sydney on Monday 28 October 2019

The Committee met at 17:00

PRESENT

Ms Abigail Boyd (Chair)
The Hon. Mark Banasiak (Deputy Chair)
The Hon. Mark Buttigieg
The Hon. Catherine Cusack
The Hon. Sam Farraway
The Hon. Courtney Houssos
The Hon. Shayne Mallard
The Hon. Daniel Mookhey
The Hon. Peter Primrose
Mr David Shoebridge

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The CHAIR: Welcome to the budget estimates supplementary hearing for the portfolio of Better Regulation and Innovation. Before I commence, I would like to acknowledge that we meet on the lands of the Gadigal people who are the traditional custodians of this land. I would also like to pay respect to the Elders past and present of the Eora nation and extend that respect to any other Aboriginals present.

Today's hearing is open to the public and is being broadcast live via the Parliament's website. In accordance with the broadcasting guidelines, while members of the media may film or record Committee members and witnesses, people in the public gallery should not be the primary focus of any filming or photography. I would also remind media representatives that you must take responsibility for what you publish about the Committee's proceedings. The *Guidelines for the Broadcast of Proceedings* are available from the secretariat.

All witnesses in budget estimates have a right to procedural fairness according to the procedural fairness resolution adopted by the House in 2018. Any messages from advisers or members' staff seated in the public gallery should be delivered through the Committee secretariat. I remind the witnesses and the officers accompanying you that you are free to pass notes and refer directly to your advisers seated at the table behind you. Finally, could everyone please turn their mobile phones to silent. I would also like to remind all witnesses, with the exception of Mr Dunphy, that you do not need to be sworn as you have been sworn at an earlier budget estimates hearing of this Committee.

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ROSE WEBB, Deputy Secretary, Better Regulation Division, and Commissioner of Fair Trading, Department of Customer Service, on previous affirmation

DAVID CHANDLER, NSW Building Commissioner, on previous oath

ANDREW GAVRIELATOS, Executive Director Specialist Services, SafeWork Operations, Department of Customer Service, on previous affirmation

PETER DUNPHY, Executive Director, NSW Fair Trading, Specialist Services, Department of Customer Service, affirmed and examined

The CHAIR: As there is no provision for any witness to make an opening statement, we will begin with questions from the Opposition.

The Hon. DANIEL MOOKHEY: I thank the officials for their attendance at our evening estimates hearing.

Mr DAVID SHOEBRIDGE: The early evening.

The Hon. DANIEL MOOKHEY: Early evening estimates hearing. Commissioner Chandler, you previously said that the Government has a moral responsibility to take the lead on the issue of flammable cladding. Do you therefore support government assistance for owners of buildings with high-risk flammable cladding?

Mr CHANDLER: The matter is currently being considered by the Government. It would be inappropriate for me to comment further at this stage.

The Hon. DANIEL MOOKHEY: Are you participating in the policy-making processes of the Government with respect to that particular question?

Mr CHANDLER: Yes, I am.

The Hon. DANIEL MOOKHEY: So have you provided submissions or advice to the Government on this directly or through the department?

Mr CHANDLER: Both.

The Hon. DANIEL MOOKHEY: When you say "directly", has it been directly to the Minister?

Mr CHANDLER: To the Minister's office and, of course, in the normal process of things, one discusses it with the Minister.

The Hon. DANIEL MOOKHEY: When was the last time you had a discussion with the Minister's office on the question of whether or not there should be public assistance available?

Mr CHANDLER: Last week.

The Hon. DANIEL MOOKHEY: And what did the Minister's office say to you?

Mr CHANDLER: The Government is currently considering a range of options. So I think it would be appropriate if it announces them when it is ready to announce them.

The Hon. DANIEL MOOKHEY: Do you know when the Government will be ready to announce its policy in this respect?

The Hon. CATHERINE CUSACK: Point of order: Policy questions need to be directed to the Minister.

The Hon. DANIEL MOOKHEY: It was not a policy question.

The Hon. CATHERINE CUSACK: You are asking about—

The Hon. DANIEL MOOKHEY: No, I am asking does he know when the policy is going to be arriving. That is all.

Mr CHANDLER: The answer is no.

The Hon. DANIEL MOOKHEY: The answer is no. Okay, thank you. Is Ms Bronwyn Weir still engaged by you?

Mr CHANDLER: Yes.

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The Hon. DANIEL MOOKHEY: Has her contract been renewed?

Mr CHANDLER: I am proposing to extend her contract for a period of time while we are advancing the drafting of regulations following the legislation but there is a number of initiatives that are complementary to the work that we have done so far that I would like to have her advice in following up on.

The Hon. COURTNEY HOUSSOS: So does that mean the original terms of her contract have been fulfilled?

Mr CHANDLER: At this stage they have not been but I am proposing that they are.

The Hon. COURTNEY HOUSSOS: I think the original term of the contract was 10 days. Is that right?

Mr CHANDLER: It was 10 days. She has been up here attending a number of additional visits to advise the Minister and also to advise members of the Opposition, so I think she has just about completed her original—

Ms WEBB: I think the answer is that she is close to finishing the 10 days and we are just in the process of some procurement for some extra days.

The Hon. DANIEL MOOKHEY: Are we looking at another 10-day period? Is it going to be indefinite? Is it a monthly retainer that is being looked at?

Ms WEBB: As far as I know, that procurement decision has not been made yet.

The Hon. DANIEL MOOKHEY: Do you have the ability to make that decision by yourself, Mr Chandler, or do you require ministerial approval?

Mr CHANDLER: Approval by the Secretary would be sufficient.

The Hon. DANIEL MOOKHEY: Ms Weir has said that she certainly thinks, in her personal opinion, that the Government should be assisting people who have got flammable cladding on their premises. Is that a view that Ms Weir has relayed directly to the Government, to the best of your knowledge, or to you?

Mr CHANDLER: There are multiple ways the Government can assist people in this situation. In some areas Ms Weir and myself may be of differing views but, broadly, we are of the same mind.

The Hon. DANIEL MOOKHEY: Since we last met each other at the earlier estimates hearing and since you have come to the position, have you been able to ascertain whether or not, three years after the issue of flammable cladding became quite controversial, in the wake of the Grenfell disaster, every resident living in an apartment with flammable cladding has been told?

Ms WEBB: I think that is a matter for the department. As I think we answered a question that we took on notice last time, we have done a large number of mail-outs. We have explained to both real estate agents and to landlords their obligation to tell people about health and safety conditions. We are also looking into the use of the Rental Bond Board database to also be able to email affected residents. So we are taking a multiple, many, diverse, every possible opportunity to make sure that tenants are aware.

The Hon. COURTNEY HOUSSOS: Sorry, you said you are looking at the Rental Bond Board, so that means that there are residents who are living in buildings with flammable cladding that may not have been contacted?

Ms WEBB: We did a letterbox drop. We have told everyone about their obligations. Despite all those activities, there may be some who have not found out about it, and so, as an extra measure, just to supplement all those other measures we took, we can advise people by the Rental Bond Board as well.

The Hon. COURTNEY HOUSSOS: So you have or you are looking to do that?

Ms WEBB: We are planning to do it.

Mr DUNPHY: We are looking at sending out a further letter and also looking at when the rental bonds are updated with cotenants, that we would also contact them as well. So it is just another avenue to make sure we have covered off every avenue. The commissioner also mentioned that he did personally provide letters to every resident.

The Hon. DANIEL MOOKHEY: But it has been three years. It is only now that the New South Wales Government is looking at using the rental bond data to communicate directly with tenants. Is that correct?

Ms WEBB: We were quite confident about all the other measures we took but, given the large number of questions that we have had about it, we thought why not take that extra measure and use the rental bond as

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well? We are confident that everyone should know by all the measures we have taken but we can do this extra measure through the Rental Bond Board so we are going to do that as well.

Mr DAVID SHOEBRIDGE: You have only done one letter drop. When was that?

The Hon. DANIEL MOOKHEY: When was that letter drop? And when is the letter drop that you just referred to?

The Hon. CATHERINE CUSACK: Can I clarify? I am confused. The honourable member just said it has been three years. I am wondering what he is talking about when he says "three years".

The Hon. DANIEL MOOKHEY: It has been three years since the Grenfell Tower burnt.

The Hon. CATHERINE CUSACK: That was in 2017.

The Hon. DANIEL MOOKHEY: Yes, and we started to ask these questions the year before. In fact, Mr Primrose was.

Mr DAVID SHOEBRIDGE: There was a large building that was an inferno in Melbourne in 2014. Mr Mookhey is being generous.

The Hon. CATHERINE CUSACK: I am simply asking what incident you are referring to.

The Hon. DANIEL MOOKHEY: Can I return now to questions to the department. When is the next mail-out going out that you refer to?

Mr DUNPHY: That is being organised at the moment. We would expect that that would happen as soon as we are able to physically do it.

Ms WEBB: Next week.

The Hon. DANIEL MOOKHEY: Did you say next week, Ms Webb?

Ms WEBB: That would be our anticipation.

The Hon. DANIEL MOOKHEY: Just to confirm, that letter is going to every tenant that you know of in any building that has been identified as having cladding? Or just high-risk cladding?

Ms WEBB: The buildings that have been identified as high risk and that are high-rise residential.

The Hon. DANIEL MOOKHEY: Have you got a draft of the letter that you could table to the Committee?

Ms WEBB: Not with us.

The Hon. DANIEL MOOKHEY: Can you take that on notice?

Ms WEBB: We can take it on notice.

The Hon. DANIEL MOOKHEY: Thank you. What about public buildings? Have you required all the public buildings that have it, which I think we last learnt was about 17, to include any disclosures on the buildings? Or how are you telling the users of those buildings that there is high-risk flammable cladding?

Ms WEBB: The Cladding Taskforce has made it clear to owners and occupiers of buildings that they have an obligation to tell people who are in those buildings about the potential high risk.

The Hon. DANIEL MOOKHEY: One of them is SafeWork NSW. What have you done?

Ms WEBB: We are not the owners of the building, we just have a tenancy in part of the building and we have made sure all staff members know about it. We have put extra precautions in our fire management plan and we are acting in close coordination with the owners of the building and the council as to the next steps.

The Hon. DANIEL MOOKHEY: When you say you have let all the people—your employees—know about this, did you email them?

Ms WEBB: I understand that there were meetings and emails. There was a general email to the whole department as well as to those specific employees. I think we have taken many measures to make sure they are aware of it.

The Hon. DANIEL MOOKHEY: As of this week, what are the latest figures as to how many buildings have been identified as potentially high risk?

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Ms WEBB: I will get Mr Dunphy to answer that.

Mr DUNPHY: On current figures there are 445 high-risk buildings which have been identified, including all of the classes. Out of those, we know there are 274 to 294 which have a residential component. Then there are 120 high-rise buildings—buildings which are nine storeys or higher.

The Hon. DANIEL MOOKHEY: And they are not residential?

Mr DUNPHY: They are residential.

Mr DAVID SHOEBRIDGE: Did you say nine storeys or higher?

Mr DUNPHY: Nine storeys are higher. The 120 is a subset of the 274 to 294.

Mr DAVID SHOEBRIDGE: When you previously talked about high-rise, you were talking about nine storeys and higher?

Mr DUNPHY: When we talk about the number of residential buildings, we talk about the 445 buildings altogether. Out of that, there are about 274 to 294 which have residential component. They might be mixed use buildings. Then in terms of targeting the very high-risk high-rise buildings, there are 120 that are nine storeys or higher.

The Hon. COURTNEY HOUSSOS: So there are 325 that are under nine storeys?

Mr DUNPHY: Not all residential. There are 445 buildings altogether, covering non-residential as well.

The Hon. COURTNEY HOUSSOS: Yes.

Mr DUNPHY: There is a subset of the 445, which is 274 to 294, which have some residential component.

The Hon. COURTNEY HOUSSOS: And of them 120—

Mr DUNPHY: Of those, 120 are nine storeys or over. The rest you can take as being under nine storeys.

The Hon. DANIEL MOOKHEY: How many of them have been subject to rectification orders?

Mr DUNPHY: We do not have the number.

Ms WEBB: We would have to take that on notice.

The Hon. DANIEL MOOKHEY: When we asked you this in the main estimate hearings, you have come back on notice and said that the Department of Planning itself has directed 15 or 16 rectification orders for the buildings for which it has jurisdiction. You said you are in the process of contacting councils to find out how many they have issued.

Ms WEBB: I understand that we have some numbers but I do not have them here.

Mr DAVID SHOEBRIDGE: You told *The Sunday Telegraph* that it was 56, the Sunday before last.

Mr DUNPHY: We can clarify that. The number does change weekly. But we certainly can provide you with the figure of how many rectification orders have been issued. That does not mean that there is not action being taken. Councils can issue an order or the owner can take their own action in terms of complying with a development application.

The Hon. DANIEL MOOKHEY: Are you doing a ring around to the councils? How are you finding out whether or not they have issued rectification orders? Are they required to tell you when they issue a rectification order?

Mr DUNPHY: They are required to tell the task force and we do regularly get figures from the council for the task force.

Ms WEBB: We also have a working group that has identified those councils—particularly the number of high risk ones they have been visiting to find out more details.

The Hon. DANIEL MOOKHEY: Apparently your last meeting of the task force was 10 days ago and you have another one next week. So what figures were reported to that meeting about the amount of rectification and where we are up to in terms of the rectification process?

Ms WEBB: We can take that on notice.

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The Hon. COURTNEY HOUSSOS: Can you report that back? We have two hours here. Can you make some investigations and come back to us?

The Hon. DANIEL MOOKHEY: Have you been informed by any strata committee that they are not in a financial position to undertake rectification?

Ms WEBB: I am not aware of that.

Mr DUNPHY: I am not aware of that.

The Hon. DANIEL MOOKHEY: How would they tell you?

Ms WEBB: I guess they could write us a letter.

Mr DUNPHY: By correspondence.

The Hon. DANIEL MOOKHEY: We went through this extensively with the Minister last time. We were trying to establish clearly how could a member of the public get in touch with the task force and how could a strata committee report. He made some reference to the ability to use a phone line or a hotline. To the best of your knowledge, how does a member of the public contact the task force?

Ms WEBB: Ring the Fair Trading contact number and someone would answer it and take that message.

The Hon. DANIEL MOOKHEY: Given you are about to mail potentially thousands of leaseholders, what is the contingency plan for when they want to talk to someone about what is going on?

Mr DUNPHY: We do the same with all of our call centres. If there is a particular request for information—so when we had the Mascot Towers we put a special line on so people can actually contact that line to get that information—we would do the same again.

The Hon. DANIEL MOOKHEY: Are you advising tenants to contact their landlords and seek rectification from their landlords? Presumably, if I am a tenant and I get a letter saying there is a problem then one of the first people I am going to call is my landlord and ask, "What are you doing about it?"

Ms WEBB: Exactly.

The Hon. DANIEL MOOKHEY: Is that what you are encouraging them to do?

Ms WEBB: That is one of the things that they can do. Yes.

The Hon. DANIEL MOOKHEY: Is that something you are encouraging them to do in your letter?

Ms WEBB: I think it depends on whether they already know, but we would certainly put that as an option—that they should find out from their landlord, the strata committee, the owners corporation and the strata manager.

The Hon. DANIEL MOOKHEY: Have you got any steps in place in case a landlord takes any adverse action against a tenant who raises this question?

Ms WEBB: As in cancelling their lease or something?

The Hon. DANIEL MOOKHEY: Yes. Or otherwise using a no-fault eviction as a way of getting them out and bringing someone else into the building. What steps are in place to monitor how landlords react? Have you told landlords you are about to mail the tenants?

Mr DUNPHY: They are already aware.

Ms WEBB: They are already aware and we have been mailing them.

The Hon. DANIEL MOOKHEY: What steps are in place in case a tenant suffers any adverse action?

Ms WEBB: With any tenant dispute, people can come to Fair Trading and ask for assistance with tenancy disputes.

The Hon. DANIEL MOOKHEY: But other than the general ability to seek limited support in a tenancy dispute and the ability to go to the NSW Civil and Administrative Tribunal [NCAT], are there any specific or discrete measures that have been put in place for tenants in this scenario?

Ms WEBB: Not that I am aware of.

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The Hon. COURTNEY HOUSSOS: So you just said that you would refer tenants to the owners corporation or to the strata committee?

Ms WEBB: We would give them the range of options of people they could find out further information from. As I understand it, some strata committees and strata managers have probably spoken already to tenants so they may already have this information.

Mr DAVID SHOEBRIDGE: Probably?

The Hon. COURTNEY HOUSSOS: Do tenants really have any standing with the strata committee?

Ms WEBB: Yes, because they are living in the building. If you live in the building as a tenant, you are subject to various requirements and things that happen. If there is an electricity problem in the building, the strata committee will deal with the tenants as well as the landlords.

The Hon. CATHERINE CUSACK: There is a tenant representative now on strata committees.

Mr DUNPHY: We do fund the Tenants' Union of NSW \$11 million each year to provide services to tenants, and we work closely with them in ensuring that independent advice and support is provided, including assisting them with NCAT. Fair Trading also has a mediation service so if we are aware of a particular issue, we will make sure that our mediators are available to provide assistance and support in terms of any tenancy issues.

The Hon. DANIEL MOOKHEY: Where are we up to in terms of Ultimo TAFE? Has a rectification order being issued in terms of Ultimo TAFE?

Ms WEBB: I will take that on notice.

The Hon. DANIEL MOOKHEY: What notices have been provided to the students of Ultimo TAFE?

Ms WEBB: I will have to take that on notice as well.

The Hon. DANIEL MOOKHEY: This was subject to extensive questioning in the last one and you—and the Minister—took a lot on notice. We have now come back for supplementary estimates. We actually did not get any answers on notice. Can we get some answers before 7.00 p.m. as to what is being told to people at Ultimo TAFE?

The Hon. CATHERINE CUSACK: Point of order: I understand that this is a serious issue. But there is a level of aggression and badgering—

The Hon. DANIEL MOOKHEY: To the point of order: No there is not.

The Hon. CATHERINE CUSACK: Further to the point of order: There is. I would ask that the questioning be respectful to the witnesses. If members have frustration, they should try to express it more calmly. It is an important issue I understand. The witnesses are endeavouring to provide information and they need to be treated respectfully.

The Hon. COURTNEY HOUSSOS: Further to the point of order: That is a total mischaracterisation of the questioning and the way it is being done. It is being done in a respectful manner and it is unfair to say it is being done in an aggressive or a badgering way.

Mr DAVID SHOEBRIDGE: Further to the point of order: Being insistent is not being disrespectful.

The CHAIR: Order! Just to be clear, if we could extend the maximum respect while also asking questions. Thank you Mr Mookhey.

The Hon. DANIEL MOOKHEY: With courtesy, can we get an answer by 7.00 p.m. as to precisely what is going on at Ultimo TAFE?

Ms WEBB: I do not want to give that guarantee because I think Sydney City Council would be involved with what is going on with Ultimo TAFE and I cannot guarantee that we could raise the relevant—

Mr DAVID SHOEBRIDGE: I think it is a best endeavours scenario.

The Hon. COURTNEY HOUSSOS: Can I just ask, who sitting here sits on the cladding task force?

Mr DUNPHY: I attend the cladding task force.

The Hon. COURTNEY HOUSSOS: Can you tell us—as part of the cladding task force—has the issue of Ultimo TAFE been discussed?

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Mr DUNPHY: Not in the meetings I have been at. Certainly the Department of Planning, Industry and Environment [DPIE], which is looking at the government buildings, is providing updates in terms of what it is doing with the portfolio of 34 government buildings. But we do not get into the specifics of individual buildings, so I am not familiar with the specifics that are occurring in relation to a particular address.

The Hon. DANIEL MOOKHEY: Of the 14 or 15 rectification orders that have been issued by DPIE, can you come back to us on notice and tell us on what buildings?

Ms WEBB: We would have to ask DPIE about that before we agreed to that, but we could take it on notice to ask them.

The Hon. COURTNEY HOUSSOS: Mr Dunphy, what are you talking about at the Cladding Taskforce if you are not talking about specific buildings?

Mr DUNPHY: The Cladding Taskforce looks at the policies in terms of what we are doing to ensure that all buildings are identified and that there is in place an appropriate plan to assess. We look at the assessment processes and how that is being carried out. We look at what has been occurring at the New South Wales fire brigade in terms of the pre-incident planning and what actions have been put in place in terms of individual pre-incident plans for particular buildings—but, again, generally.

The task force also looks at the communication strategies in terms of mail-outs, contact with the councils, contact with owners' corporations and strata bodies. We look at the referrals to consent authorities. There are different avenues for that. Some are to the council, some are to DPIE as a State-significant development and also because they are government buildings. So it depends on who the consent authority is being referred to. We look at what the consent authorities have been doing in terms of the triaging of the actual properties that have been referred to them. Then we look at the notices and the orders of assessment and where they are up to in terms of the consent authorities issuing those.

The Hon. DANIEL MOOKHEY: Sorry, can I just interrupt you there? Is Mr Chandler on the task force now?

Mr CHANDLER: I have attended the first meeting that has occurred since we last met. I attended the task force meeting on Thursday week ago.

The Hon. DANIEL MOOKHEY: On October 18. But are you actually formally a member of the task force?

Mr CHANDLER: I am ex officio of the meeting.

The Hon. DANIEL MOOKHEY: You are ex officio. Has the Minister attended a meeting?

Ms WEBB: Yes. There was an ad hoc meeting last Thursday and the Minister attended that meeting.

The Hon. DANIEL MOOKHEY: Right, ad hoc.

The Hon. CATHERINE CUSACK: Can I just ask that he complete the answer to the question?

The Hon. DANIEL MOOKHEY: No, we thought that the answer was completed and we are allowed to direct the questioning—

The Hon. CATHERINE CUSACK: No, you apologised for the interruption. I just wondered if he could finish his answer.

The Hon. COURTNEY HOUSSOS: Well Catherine, if you want to ask questions then you can take your time.

The Hon. CATHERINE CUSACK: No, no. I am sitting here—

The CHAIR: Order!

The Hon. CATHERINE CUSACK: —as a member of the Committee. You have asked a question and they are entitled to complete their answers.

The Hon. COURTNEY HOUSSOS: Well you have successfully wasted our time.

The CHAIR: Order! We are now going to move on to Mr Shoebridge.

Mr DAVID SHOEBRIDGE: Mr Chandler or Ms Webb: Had you completed your answers? Is there anything else you wanted to say?

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Ms WEBB: I think it was Mr Dunphy—

Mr DAVID SHOEBRIDGE: He was on his phone, so I assumed he was.

Mr DUNPHY: Just to close off on that, the other things that we look at are what fire safety audits have been issued, consider what reports have been issued in terms of those buildings and then also what rectification orders or actions have been taken in relation to the buildings. We do not get into the specifics of buildings, which is why I am not able to talk to you about a specific building and an address. We are looking overall at how the process is being managed and addressed through the consent authorities and through the communications and the action plans.

Mr DAVID SHOEBRIDGE: Thank you, Mr Dunphy. That was very helpful. Can I just ask you about the high-risk buildings for flammable cladding? You said there were 445. Is that right?

Mr DUNPHY: That is correct, yes.

Mr DAVID SHOEBRIDGE: You said 120 of those are nine storeys or higher?

Mr DUNPHY: Yes.

Mr DAVID SHOEBRIDGE: That has been your definition of high-rise on all occasions when you have been answering questions about high-rise in this Committee: nine storeys and higher?

Mr DUNPHY: I am not—

Ms WEBB: I think we had a high-risk high-rise residential number that we have been given and I think that—

Mr DAVID SHOEBRIDGE: So that is high-risk high-rise residential?

Mr DUNPHY: That is correct. I think from the delivery unit, which has been assisting the cladding support team, it has tried to triage some of it further to see which are the top priority ones that need the top focus. While all of them have a strong focus, that was identified as probably the highest risk buildings and the ones that needed to be called out in terms of special attention.

Mr DAVID SHOEBRIDGE: Given the usual definition for multistorey buildings starts at starts at four storeys and above, how many of those high-risk buildings are four storeys or above and contain residential?

Mr DUNPHY: As I mentioned before, out of the 445 high-risk buildings, which are all classified as high-risk, there are 274 to 294 which are residential buildings that would meet that criteria of—

Mr DAVID SHOEBRIDGE: Four storeys or more.

Mr DUNPHY: Four storeys or more.

Mr DAVID SHOEBRIDGE: Are you saying that none of the buildings in the high-risk buildings are below four storeys?

Ms WEBB: That is my understanding of where the risk starts to happen. "High-risk", by definition, is more than three storeys or four storeys.

Mr DAVID SHOEBRIDGE: Is more than three storeys?

Ms WEBB: Yes.

Mr DAVID SHOEBRIDGE: So you are saying that there is an unknown number of additional residential buildings three storeys or below with flammable cladding that are not on that list?

Mr DUNPHY: At the beginning of the process, for the identification process the task force looked at thousands of buildings, which were of all categories and all sizes, or all heights and all storeys. There was a process done of data extraction through the data analytics centre, the DPIE and also from—

Mr DAVID SHOEBRIDGE: Mr Dunphy, I do not want to go through that process. I wanted a simple answer about whether or not there is an unknown number of buildings three storeys or below that have flammable cladding that are not on the register.

Ms WEBB: I do not know—

Mr DAVID SHOEBRIDGE: Or do you know how many buildings have flammable cladding that is potentially dangerous to residents that are three storeys or below? If you know the number, please tell me.

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Ms WEBB: No, we do not know that number now. I am not saying it is unknown, though, because we might be able to calculate it.

Mr DAVID SHOEBRIDGE: You might be able to calculate it?

Ms WEBB: If we look back through the data of the thousands we could go back perhaps and find out.

Mr DAVID SHOEBRIDGE: Initially there were 4,000 or so of these buildings identified and then, to understand, part of winnowing out the data was everything three storeys or below was just automatically removed—

Mr DUNPHY: I understand—

Mr DAVID SHOEBRIDGE: —as not being high-risk? It is a pretty simple question. Is that part of the winnowing process?

Mr DUNPHY: It was part of the risk assessment process and I think—we will just confirm this—but I understand that the fire brigade did look at all the buildings before it came down to that list of 445. There was an assessment of all of the buildings that made up that 4,000.

Mr DAVID SHOEBRIDGE: See, Mr Dunphy, you have not actually—I asked a pretty simple question and I do not understand how you have answered it, so I am going to ask it again: Has every building three storeys and below that was identified as having flammable cladding or potentially having flammable cladding and being in that initial tranche of 4,000 been automatically removed by reason of the fact they are three storeys or less?

Mr DUNPHY: They have been removed on the basis of risk. They were not deemed to be high-risk.

Mr DAVID SHOEBRIDGE: But is part of it—so there is not a single building three storeys and below with flammable cladding on the list because you say there was a risk analysis that said those buildings are not high-risk. Is that correct?

Mr DUNPHY: That's right.

Mr DAVID SHOEBRIDGE: Could you please provide on notice the number of residential buildings three storeys and below that were removed for that reason?

Ms WEBB: We will definitely try and do that, yes.

Mr DUNPHY: Can I also say that some of those—

Mr DAVID SHOEBRIDGE: If it is relevant, Mr Dunphy.

Mr DUNPHY: No, we are happy to have a look at it. The other issue is that some buildings may not be clad in flammable cladding but there may be a smaller quantity of it. There is a whole range of reasons why buildings would not have been put on the risk register.

Mr DAVID SHOEBRIDGE: Which is why I asked you whether or not by the simple fact that it is three storeys or less it was removed from the register. I was seeking a simple answer from you. I still do not understand your answer. I think the answer is, "Yes, if they are three storeys or less they were removed automatically". Is that correct?

Mr DUNPHY: On the basis of risk, yes.

Mr DAVID SHOEBRIDGE: Could you provide a copy of the risk assessment that was given to you that allowed you to remove every one of those buildings from the high-risk register?

Mr DUNPHY: I was not a member of the task force when this was done, but we can—

Mr DAVID SHOEBRIDGE: When I say "you" I mean the collective entities in—

Mr DUNPHY: We can certainly have a look to see what was done in terms of a risk assessment.

Mr DAVID SHOEBRIDGE: Well surely you had it in writing before you signed off on removing a thousand or 2,000—

Ms WEBB: My understanding was it is Fire and Rescue NSW that did those risk assessments.

Mr DAVID SHOEBRIDGE: Rather than rely upon your understanding, can you provide the risk assessment that allowed you to remove—

Ms WEBB: We can ask Fire and Rescue NSW whether we can provide it.

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Mr DAVID SHOEBRIDGE: But you would surely keep a copy of a risk assessment that you relied upon to clear a thousand, 2,000, 3,000 buildings of being not high-risk? You wouldn't not keep a record like that in your department would you, Ms Webb?

Ms WEBB: I think the cladding task force is a task force of numerous government agencies.

Mr DAVID SHOEBRIDGE: Which Mr Dunphy is on.

Ms WEBB: We are taking advice from members such as Fire and Rescue NSW. Whether Fire and Rescue NSW was required to hand to every task force member a copy of the risk or whether it just advised that it had done those assessments—

Mr DAVID SHOEBRIDGE: Who is the lead agency on the task force?

Ms WEBB: We convene the task force.

Mr DAVID SHOEBRIDGE: Are you the lead agency? Who keeps the records of the task force?

Ms WEBB: Yes, our department does.

Mr DAVID SHOEBRIDGE: I think we have kind of got to answering the question, haven't we? Surely a competent secretariat of the task force would keep the relevant risk-assessment documents. Surely that is part of your record-keeping of the task force.

Ms WEBB: We would keep the advice from Fire and Rescue NSW that there was no risk. Whether we saw or the task force was given the actual risk assessment we would take on notice.

Mr DAVID SHOEBRIDGE: Ms Webb, you said, if I understood you correctly, that as soon as the department was aware that the SafeWork building on Macquarie Street in Liverpool had combustible cladding, staff were advised. That was your evidence, was it not?

Ms WEBB: That is my understanding, yes.

Mr DAVID SHOEBRIDGE: When did the building owner first notify the register or any government department or any council that the building had flammable cladding on it?

Ms WEBB: I cannot give you that date, I think, based on the records that I have.

Mr DAVID SHOEBRIDGE: Was it before 17 October of this year?

Ms WEBB: I will have to take that on notice, the exact date.

Mr DAVID SHOEBRIDGE: Is it true that the first written advice given to staff was on 17 October from an email from the Deputy Secretary for Corporate Services, Jeannine Biviano?

Ms WEBB: My understanding is that the local staff became aware of it before that formal email was sent out.

Mr DAVID SHOEBRIDGE: What is your understanding based upon, and in what manner were they notified?

Ms WEBB: I saw an email trail, which suggested that some of the local staff members had become aware of it.

Mr DAVID SHOEBRIDGE: "Some" had become of aware of it?

Ms WEBB: That is my understanding.

Mr DAVID SHOEBRIDGE: Do you want to tell me what "some" had become aware means? Was it a rumour at the coffee urn? Was it a discussion over lunch?

Ms WEBB: No, I think they had been told. I will have to look back at the email trail—I am doing this from memory. I apologise if I end up telling you on notice that I have got it slightly wrong.

Mr DAVID SHOEBRIDGE: Mr Gavrielatos?

Ms WEBB: But, as I understand it, they found out from the building owner. The building owner notified the local staff about it and so then the local staff and the health and safety representatives [HSRs] there told some of the—told staff about it. Then Ms Biviano sent a formal message out as well to just confirm that.

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Mr DAVID SHOEBRIDGE: You are going to come back and provide a very clear date or the first time that you are aware that any government agency or any council was first notified that this building had flammable cladding on it?

Ms WEBB: We can find that out, yes.

Mr DAVID SHOEBRIDGE: And then you are going come back and tell us on notice when the staff were first formally notified?

Ms WEBB: When staff first became aware or formally notified?

Mr DAVID SHOEBRIDGE: Formally notified.

Ms WEBB: Formally notified would definitely be the email from Mr Biviano.

Mr DAVID SHOEBRIDGE: On 17 October?

Ms WEBB: Yes.

Mr DAVID SHOEBRIDGE: Then, Mr Gavrielatos, when were you first aware that there was flammable cladding on SafeWork's building at Macquarie Street in Liverpool?

Mr GAVRIELATOS: I became aware of it the day before 17 October, on 16 October. Then the next day a formal advice went out to all staff.

Mr DAVID SHOEBRIDGE: In what circumstances were you made aware?

Mr GAVRIELATOS: I was made aware via an email.

Mr DAVID SHOEBRIDGE: From whom?

Mr GAVRIELATOS: From Corporate Services.

Mr DAVID SHOEBRIDGE: Did they say how long they had known?

Mr GAVRIELATOS: No, they did not.

Mr DAVID SHOEBRIDGE: Did you ask them?

Mr GAVRIELATOS: I did not. My concern was about getting a message out to staff. I was involved in getting that message out to staff.

Mr DAVID SHOEBRIDGE: How were they made aware?

Mr GAVRIELATOS: How was who made aware?

Mr DAVID SHOEBRIDGE: Corporate Services.

Mr GAVRIELATOS: I do not know how they were made aware.

Mr DAVID SHOEBRIDGE: Did you not think to interrogate how long this issue had been known before staff were advised? I assume you would take the safety of your staff and their right to have knowledge, as any landlord or occupier would have an obligation, as Ms Webb said earlier—I assume you would take that obligation seriously.

Mr GAVRIELATOS: Absolutely, I would take it seriously and I did. That is why my immediate concern was to make sure that we formally informed staff of that. I asked as to what other things had been put in place to ensure the safety of staff. I was advised that appropriate bodies had been advised, that the safety plans were in place. We then just wanted to make sure that all staff were aware.

Mr DAVID SHOEBRIDGE: Ms Webb, you are going to come back and advise us when SafeWork was first notified. Correct?

Ms WEBB: Yes. When someone from SafeWork first found out.

Mr DAVID SHOEBRIDGE: Mr Gavrielatos, Ms Webb says that there was informal notice to staff prior to the issuing of the 17 October letter. Were you aware of that informal notice to staff?

Mr GAVRIELATOS: I am aware that HSRs have brought it up with Corporate Services and that is how I became aware of it.

Mr DAVID SHOEBRIDGE: Did you inquire about how HSRs, which is—

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Mr GAVRIELATOS: Health and safety representatives.

Mr DAVID SHOEBRIDGE: —health and safety representatives, became aware?

Mr GAVRIELATOS: I did not inquire how they became aware. My immediate concern was to make sure that we actually put out the information so that staff were aware that there was an issue and that we had proper safety plans in place. I was told by Corporate Services that those plans were in place.

Mr DAVID SHOEBRIDGE: There was a rumour heard by the health and safety representatives—an informal scuttlebutt and rumour. That was the basis on which you became aware, Mr Gavrielatos. Do you think that is an appropriate notification basis?

Mr GAVRIELATOS: I do not—

Ms WEBB: I do not think it was an informal scuttlebutt and rumour. It was the health and safety representatives who became aware, as they should, raising it with Corporate Services.

Mr DAVID SHOEBRIDGE: So staff health and safety representatives are telling their employer and the occupier of the building about flammable cladding, not the other way around. Do you not see a problem with that when we are talking about a government agency, one as notionally on the pulse of safe work as SafeWork? Do you not see a problem that it came to you through the health and safety reps rather than through your Corporate Services?

Mr GAVRIELATOS: I do not see a problem in HSRs raising health and safety issues. One of their primary roles is to raise those issues. They did that and we responded. If you are asking whether we would have liked to have known earlier, yes, sure, we should have but again an HSR plays that role where they raise health and safety issues.

Mr DAVID SHOEBRIDGE: Ms Webb, you said earlier that landlords and building owners have an obligation under the law to notify it promptly. You have not even checked whether or not your own landlord complied with that law, have you? You have just taken it.

Ms WEBB: As I understand it—

Mr DAVID SHOEBRIDGE: You and Mr Gavrielatos have made no inquiries as to whether or not SafeWork's own landlord has complied with the law?

Ms WEBB: My understanding is that following the immediate action we took, which was to make sure that the staff were informed and that, as Mr Gavrielatos said, safety management plans were in place, inquiries were made with Property NSW to find out the sequence of events and about the notification. I am not privy to what has happened since but we can definitely take on notice and find out some more about that.

Mr DAVID SHOEBRIDGE: You referred to an email chain. Can you please provide us with a copy of the email chain?

Ms WEBB: I will have to check with the people involved because it is their personal email.

Mr DAVID SHOEBRIDGE: Feel free to remove their phone numbers—

Ms WEBB: Names.

Mr DAVID SHOEBRIDGE: —in providing that redacted copy. Mr Chandler, this Friday, 1 November, will be three months you have been in the job. Is that right?

Mr CHANDLER: It feels like it, yes.

Mr DAVID SHOEBRIDGE: That is good. You are not looking significantly older, Mr Chandler, so that is good. You are surviving the first three months. It will be three months this Friday, will it not?

Mr CHANDLER: It will be, yes.

Mr DAVID SHOEBRIDGE: You said you would have a work plan ready and published within three months. Are we going to get one on Friday?

Mr CHANDLER: No, you will get one when it has been submitted to the Minister. I expect you will get it early in the new year.

Mr DAVID SHOEBRIDGE: What happened to the three-month commitment that you gave to have a work plan done within three months?

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Mr CHANDLER: I have prepared a work plan, which is currently being socialised with industry and in the relevant parts of government. We are on schedule for that.

Mr DAVID SHOEBRIDGE: You are not on schedule for three months because three months is this Friday and you have just said it is going to be adopted sometime in the new year. So you are not on schedule for that, Mr Chandler. That is just not true.

Mr CHANDLER: The content of the work plan is well advanced and well discussed. I think we are travelling very much on schedule.

Mr DAVID SHOEBRIDGE: But your schedule was that you would have it adopted within three months and published within three months. That expires on Friday. You are not going to meet that deadline, Mr Chandler.

Mr CHANDLER: I said it would be published as soon as the Government had received it.

Mr DAVID SHOEBRIDGE: No, you said three months. You may wish you had not said three months but you said three months and you are going to miss the deadline.

Mr CHANDLER: Yes, I will.

Mr DAVID SHOEBRIDGE: Why?

Mr CHANDLER: Because there is an appropriate process before it is appropriate for me to publish a document that is yet to be signed off by Government.

Mr DAVID SHOEBRIDGE: Because you have not got it signed off within the three months that you said you would?

Mr CHANDLER: It has been a busy three months, hasn't it?

Mr DAVID SHOEBRIDGE: I do not know. I have not seen your work plan. Has it been a busy three months?

Mr CHANDLER: It has been and you will see it in the fullness of time, Mr Shoebridge.

Mr DAVID SHOEBRIDGE: What does "being socialised" mean?

Mr CHANDLER: I have met with nearly 50 industry organisations and representatives in that period of time. What I have been outlining to them is the sorts of things that will form part of the implementation plan of transforming the construction industry in New South Wales to one where public confidence can be reinstated. It has been pretty important to all of them and to me that they have all had an opportunity to discuss that. I am sure you would have had feedback to that effect.

Mr DAVID SHOEBRIDGE: I have had significant feedback anxious to know what your role is and waiting for your work plan but we are not going to see that until the fullness of time some time in the new year. Is that right, Mr Chandler?

Mr CHANDLER: Correct.

Mr DAVID SHOEBRIDGE: Do you want to hazard a date that we could hold you to so that we have some accountability here?

Mr CHANDLER: I said in the early new year.

Mr DAVID SHOEBRIDGE: Does the early new year expire at the end of March, does it expire in the first half?

Mr CHANDLER: It will really boil down to a number of things but the first thing it will do is to follow full submission to government, then agreement by government to that work plan and then authorisation to release it publicly.

Mr DAVID SHOEBRIDGE: This is the problem with having no statutory autonomy—you cannot even get your work plan signed off in time.

Mr CHANDLER: My existence will be part of the legislation that is going through.

Mr DAVID SHOEBRIDGE: What legislation are you talking about?

Mr CHANDLER: My powers will be crystallised in the current Design and Building Practitioners Bill.

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Mr DAVID SHOEBRIDGE: If you did a global search of the "Design and Building Practitioners Bill", how many times would the phrase "Building Commissioner" turn up?

Mr CHANDLER: You would see the phrase "Secretary" multiple times.

Mr DAVID SHOEBRIDGE: How many times would you see the phrase "Building Commissioner" turn up if we did a global search of that bill?

Mr CHANDLER: My powers will actually come from the secretary.

Mr DAVID SHOEBRIDGE: Mr Chandler, it is a very simple question. How many times would we find the phrase "Building Commissioner" turn up in that bill?

Mr CHANDLER: You may find it once.

Mr DAVID SHOEBRIDGE: I do not think we would find it, would we? It does not give you any powers, it does not give you any statutory authority and it does not give you any autonomy, does it? You cannot even get your work plan signed off.

Mr CHANDLER: Mr Shoebridge, are you going to allow me to answer you?

Mr DAVID SHOEBRIDGE: That is it. The bill gives you no autonomy, it gives you no status, it gives you no powers. Correct or wrong?

Mr CHANDLER: May I speak? Is that possible?

The CHAIR: You may. Go ahead.

Mr CHANDLER: That would be great, thank you very much. I already have powers granted to me by the secretary to do almost everything that I will wish to do in this role except for interrogation of existing or finished buildings. Those powers will be extended under this legislation. But right now I have no constraint and I have all the powers and all of that in writing such that in the event that I appear on any site or any workplace I have right of entry to conduct any of the investigations that I feel are necessary or appropriate at the time.

Mr DAVID SHOEBRIDGE: Mr Chandler, you cannot even make a decision to extend Ms Bronwyn Weir's contract. You cannot even do that, can you, without secretarial sign-off?

Mr CHANDLER: Is that inappropriate?

Mr DAVID SHOEBRIDGE: It is a proposition to you.

Mr CHANDLER: Is it inappropriate that I clear this matter with the secretary?

Mr DAVID SHOEBRIDGE: I would have thought that if a commissioner genuinely has autonomy that they could extend the contract of a key staff officer without having to go cap in hand to the secretary, but that is not the case, is it?

Mr CHANDLER: It is an external engagement. It is appropriate, as a courtesy at least, that it be referred and discussed with the secretary.

Ms WEBB: Departmental procurement guidelines would require that of any senior officer in the department.

The Hon. COURTNEY HOUSSOS: Mr Chandler, how many staff do you have reporting to you at the moment?

Mr CHANDLER: Six at the moment.

The Hon. COURTNEY HOUSSOS: Are any of those building inspectors?

Mr CHANDLER: No.

The Hon. COURTNEY HOUSSOS: Do you publicly disclose your diary?

Mr CHANDLER: No, I do not.

The Hon. COURTNEY HOUSSOS: Can you provide us on notice with a list of those 50 stakeholders that you have met with?

Mr CHANDLER: Yes.

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The Hon. COURTNEY HOUSSOS: Have you provided the Minister any advice about the Mascot Towers?

Mr CHANDLER: Yes.

The Hon. COURTNEY HOUSSOS: Has that been in writing or verbally?

Mr CHANDLER: Both.

The Hon. COURTNEY HOUSSOS: Have you provided him with a list of different options for how owners should be assisted?

Mr CHANDLER: Not at this stage. The thing that we have initiated is we have engaged an external technical adviser, as was engaged with Opal Tower, to actually go and provide a detailed technical overview of the circumstances there and the necessary actions to get that building returned to a state of occupancy. That is currently underway and we should have that report in the next three weeks, maybe four.

The Hon. COURTNEY HOUSSOS: Do you have an exact date for when it is due?

Mr CHANDLER: The work requires a good deal of investigation; it is fairly complex. Professor Hoffman is leading that piece of work. I speak to Professor Hoffman once a week, maybe twice a week at the moment. I have a special project resource available to make sure that anything that he needs is found. He has had an extensive need for documentation, for soil testing, and he and his other colleagues are working their way through that. As late as last week I think there was some additional information that he needed. They are working on a report back to us, which will then be available to the Minister, it will be available to the residents of Mascot Towers and it will also be available to Bayside Council.

The Hon. COURTNEY HOUSSOS: Will that be publicly released?

Mr CHANDLER: I am sure it will be.

The Hon. COURTNEY HOUSSOS: Will that be your recommendation?

Mr CHANDLER: Absolutely.

The Hon. COURTNEY HOUSSOS: How quickly will it be released?

Mr CHANDLER: If it is going to be made available to residents how could it not be a public document?

The Hon. COURTNEY HOUSSOS: You made it clear.

Mr CHANDLER: We are going to make it available. I chaired a meeting with many of the stakeholders about four weeks ago to negotiate an approach to bringing all of the information to the table that was necessary for Professor Hoffman to do his work. There were owners present, there were lawyers present from the owners, the strata manager was present from the owners and the building manager was present at the meeting. I think there was a technical person to advise the owners, there was also Bayside Council, Mr Dunphy and I were there, and I chaired the meeting. We agreed a protocol that enabled everybody to bring all of the information that Professor Hoffman indicated that he would need to the table. That required some of the parties to agree that they would put that information in on a privileged basis.

So it is subject to the privileged nature of some contributions to the information, because you would be aware that there is potential litigation involved between the parties. But I have to say it has been very open and I have not had any pushback at this stage from anybody who has been asked to provide material, including the development next door at 27 Church Street.

The Hon. COURTNEY HOUSSOS: Have any of your recommendations to the Minister included any short-term assistance—apart from the existing financial arrangements for rental assistance—for the tenants or for the owners, or is that all waiting until Professor Hoffman's work is completed?

Mr CHANDLER: It would be inappropriate for me to propose any form of action on behalf of the Government without having all of the facts. That is why I recommended to the Minister, and it was agreed, that in fact we engaged an external expert to come in and provide that overlay. Up until that point in time it was very difficult for anyone really to see the extent of the problem and the way forward to actually bring that building back to a state where it was fit for occupancy. In the absence of seeing all of that information available clarity it would be impossible for me to write such a further recommendation.

The Hon. COURTNEY HOUSSOS: Mr Chandler, I appreciate that you are undertaking a process but, at the same time, the Mascot Towers residents are in a particularly parlous state of affairs. The last time you were

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here during the budget estimates hearing I asked you a series of questions about a letter that they had written to you, saying that they were in a dire financial situation. From memory, at least 30 per cent—or higher than that—of owners of Mascot Towers had no other ability to raise money to undertake rectification works, yet they were advised that the rectification works had to begin immediately. Subsequently, the owners have been forced to take out a loan—

The Hon. DANIEL MOOKHEY: Strata.

The Hon. COURTNEY HOUSSOS: The strata has been forced to take out a variable interest rate loan at 7.7 per cent.

Mr CHANDLER: I think it is 7.5 per cent.

The Hon. COURTNEY HOUSSOS: It is still a pretty high interest rate.

Mr CHANDLER: It is. That loan is still in the process of being finalised. I think it is fair to say that the pressing nature of some of the work that was proposed is less pressing than it was made to be. I think that there is a general recognition that in fact having the expert overview of what is going on has asked a range of useful questions that the parties have perhaps come to terms with better.

The Hon. COURTNEY HOUSSOS: I want to stop you there. Your view is that there is not an urgency for works, they do not need to be undertaken before summer. Is that correct?

Mr CHANDLER: I think that conjuncture is probably not correct.

The Hon. COURTNEY HOUSSOS: Have you told the residents?

Mr CHANDLER: The residents know all of this. Last week at their meeting they also rescinded the previous levy; so they are not going ahead with that. The immediate work is some grouting beneath the slabs, and that work should commence, I think, this week or early next week and then there is a period of observation to see what impact that will have. I would expect that we would have Professor Hoffman's report by the time that observation is available. I am spending a lot of time on this project; I do not want you to think for a moment that it is not getting the attention that it needs.

The Hon. COURTNEY HOUSSOS: I am not saying that it is not getting the attention it needs. I am saying that there is quite an urgency required.

Mr CHANDLER: The owners are very grateful for the input that we are making. Let us get Professor Hoffman's report and we will have a way forward, but I think some of the highlighting of the emergency that has been declared is probably less so at this stage.

The Hon. COURTNEY HOUSSOS: We can agree to disagree on that point, Mr Chandler. On 16 August you said to the building inquiry that you would be making recommendations within a fortnight to deal with Mascot Towers. Have those recommendations been—

Mr CHANDLER: I did not say that at all. I was talking about cladding.

The Hon. COURTNEY HOUSSOS: Do you want me to read the transcript to you?

Mr CHANDLER: Sure.

The Hon. COURTNEY HOUSSOS: You said, "I have been asked to look at a couple of alternatives", in response to a question from the Hon. John Graham about low-interest loans to affected strata titles. You said:

I have been asked to look at a couple of alternatives. When I put my recommendation up in a fortnight, that will be one of the options, but I have been asked to consider one or two variations of that.

Mr CHANDLER: That was to do with cladding, not to do with Mascot Towers.

The Hon. COURTNEY HOUSSOS: No, it was to deal with historical defects.

Mr CHANDLER: There is obviously a confusion and we will correct the record, but I was speaking of cladding.

The Hon. DANIEL MOOKHEY: Let me get this right, you have not provided any recommendations to the New South Wales Government?

Mr CHANDLER: In regard to Mascot Towers?

The Hon. DANIEL MOOKHEY: Yes.

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Mr CHANDLER: No, I have not, other than that we appoint an expert to actually provide a level of insight—

The Hon. DANIEL MOOKHEY: But were you not meant to be the expert?

Mr CHANDLER: I am not the expert. I have never claimed to be an engineer.

The Hon. DANIEL MOOKHEY: When the Government appointed you they said that the way in which they would restore confidence in the building system was because Professor Chandler is on the beat, and that that was "excellent news welcomed by the people of New South Wales". But effectively what you are telling us is that you have now appointed someone else as the expert, when the Government had said that you are the expert and we are meant to be relying on you to fix this problem.

Mr CHANDLER: With due respect, I am not going to respond to that question because you are mischaracterising the situation of my role. I am not an engineer; I do not hold out that I am a technical expert in regard to some of these matters. We have done the appropriate thing and have gone out and sourced an external expert to provide the input that this project needs and, at the same time, to provide a level of technical insight that both Bayside Council and the owners need.

The Hon. COURTNEY HOUSSOS: But, Mr Chandler, the thing that has been consistently provided to us is that there is a need for urgency on this action. Instead, you are characterising that the residents are grateful for the assistance that you are providing but you are pushing out the time lines. The advice that this Committee was given was that there was a need for rectification works to begin imminently. Did you provide any recommendation to the Minister on what should be undertaken for those residents or is it only this report that we are waiting another month for?

Mr CHANDLER: Could we just correct one comment? The two-week commitment that I gave at the last hearing was in relationship to the cladding. Let us put that on the record and stay with that please. Now we move on to the fact that in dealing with the many representations I had from various members of Mascot Towers, I determined that the best thing to do to try and provide some sort of credible and engineered insight into what the actual circumstances were was to engage an external consultant, which is exactly what the Government did in Opal Tower, and it was that external advisory that provided the confidence for that project to proceed to a point now where it is not far from being completely restored and that the owners will end up with a 25-year guarantee for the structure of their building. That will not be available on this occasion, but I think before we move forward on Mascot Towers we really needed to be possessed with the very best insight into what the issues were and what was appropriate to be done. That process has settled down some of the urgency and the information that has been previously put out in the media.

The Hon. COURTNEY HOUSSOS: Was your advice to the Minister that there was no urgency?

Mr CHANDLER: No, it was not at all.

The Hon. COURTNEY HOUSSOS: Was your advice to the Minister that the residents of Mascot Towers were simply making this up?

Mr CHANDLER: It was not that at all. I am not in the business of throwing rocks at these people.

The Hon. COURTNEY HOUSSOS: The Minister came out and said some pretty inflammatory things.

Mr CHANDLER: Hold on a second. The Minister said what he said; I want it to be clear what I said, okay? What I said to the Minister was this project needs a proper and professional overview of what everybody is saying and the way forward. That is what I recommended to the Minister in regard to Mascot Towers, that is what is in place and we are now waiting for that report. I speak to Professor Hoffman, as does Mr Dunphy, once or twice a week and we will be possessed of that report in the next three or four weeks.

The Hon. DANIEL MOOKHEY: Do you have an expected date about when you think is the earliest possible for Mascot Towers to recover its occupancy certificate?

Mr CHANDLER: I have got some dates in my mind but it would be pointless me canvassing them here.

The Hon. DANIEL MOOKHEY: Why would it be pointless canvassing them here? You are the Building Commissioner and we are asking you what is the earliest—

Mr CHANDLER: Why don't we get the report—

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The Hon. DANIEL MOOKHEY: Are you waiting for the report to come to confirm your existing view? Will the report tell us when Mascot Towers—

Mr CHANDLER: The report will tell us what needs to be done.

The Hon. DANIEL MOOKHEY: So sitting here now, do you think the rectification of Mascot Towers is an urgent issue?

Mr CHANDLER: I think it would be good to get it repaired as soon as possible.

The Hon. COURTNEY HOUSSOS: Mr Chandler, you made quite the point at your first appearance at the building inquiry, talking about the fact that you had been out there for an inspection and you had formed some views initially about—

Mr CHANDLER: I said the work was poor.

The Hon. COURTNEY HOUSSOS: That is exactly right.

Mr CHANDLER: Correct.

The Hon. CATHERINE CUSACK: I want to take a point of clarification.

The Hon. COURTNEY HOUSSOS: It is a point of order or it is not—

The Hon. CATHERINE CUSACK: Are you asking a question about a building inquiry or about budget estimates?

The Hon. DANIEL MOOKHEY: To the point of clarification, the member was in the midst of asking a question—to be fair, the witness stopped the member from being able to ask the question, so it is entirely possible that the member was going to clear that up. Can we just go on with the question?

The Hon. CATHERINE CUSACK: Can I respectfully, as a member of this Committee, seek clarification about the building inquiry that she is referring to?

The Hon. COURTNEY HOUSSOS: For the member's clarification, there is currently an inquiry being undertaken by the Public Accountability Committee into the building industry, building regulation and building defects in this State, at which Mr Chandler appeared on 16 August. I can read his testimony for Mr Chandler and for the Hon. Catherine Cusack in which the Hon. John Graham, on page 17 of the transcript, said:

Mr Chandler, in the past you have said that the Government could or should offer low-interest loans to affected strata titles dealing with historical defects. Is that still your view?

In response, Mr Chandler said:

I think that is one of the answers. As I say, I have been asked to look at a couple of alternatives. When I put my recommendation up in a fortnight, that will be one of the options, but I have been asked to consider one or two variations of that.

Mr Chandler, it was clearly about the defects.

The Hon. CATHERINE CUSACK: Point of order: This matter is being inquired into by another committee and those questions that the member is raising are matters that should be pursued either without or on notice through that committee. This Committee is inquiring into the budget estimates for the current financial year and we should not be traversing into the inquiries of other committees that have been set up in that way.

The Hon. PETER PRIMROSE: To the point of order: There is no standing or sessional order or any precedent which would uphold that.

The CHAIR: That is correct. Is there anything else that you wanted to add to that point of order?

The Hon. CATHERINE CUSACK: No.

The CHAIR: That is my understanding as well, that there is nothing to prevent this line of questioning. Continue.

The Hon. COURTNEY HOUSSOS: Mr Chandler, it is clearly about historical defects; it is not about cladding. Have you made your recommendations?

Mr CHANDLER: Those comments were drawn in respect of cladding.

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The Hon. COURTNEY HOUSSOS: Mr Chandler, with respect, they were about historical defects. That is what the transcript that I read out clearly shows. Have you made any recommendations on historical defects?

Mr CHANDLER: I will correct any misunderstanding of that. The comments were in respect of cladding.

The Hon. COURTNEY HOUSSOS: You are saying that you have made no undertakings to report back to the Government around the issue of historical defects?

Mr CHANDLER: I have made a recommendation to Government regarding the restoration of buildings that have been affected by cladding and the options that might surround that.

The Hon. DANIEL MOOKHEY: Have you made any like advice in respect to historical defects?

Mr CHANDLER: No.

The Hon. DANIEL MOOKHEY: Have you been asked to provide any advice?

Mr CHANDLER: No.

The Hon. DANIEL MOOKHEY: So sitting here right now, the New South Wales Government that is dealing with a loss of public confidence, that has appointed you, brought a bill in to restore public confidence and you are telling us that you have provided no advice whatsoever to the Minister about precisely how to do that. That is the evidence.

Mr CHANDLER: At this stage the only projects that are pressing are the cladding projects and Mascot Towers. Sorry, and Gadigal Avenue.

The Hon. DANIEL MOOKHEY: Have you undertaken any inquiries to see whether or not there is a wider defect issue affecting the buildings in the city or State?

Mr CHANDLER: I am out there at the moment inspecting buildings to form my own view on the extent of defects. There are some buildings that have got some significant issues.

The Hon. DANIEL MOOKHEY: So there are some buildings that have some significant issues.

Mr CHANDLER: Okay, but let us be clear about this—

The Hon. DANIEL MOOKHEY: How many have significant issues.

Mr CHANDLER: I do not know the number that may have significant issues.

The Hon. DANIEL MOOKHEY: But you have inspected them and you have told us that there are some buildings that have significant issues.

Mr CHANDLER: Hold on. I have been out and had a look at a building last week, for example, that has significant issues.

The Hon. DANIEL MOOKHEY: What is wrong with it?

Mr CHANDLER: But I am not going to name the building to start with.

The Hon. DANIEL MOOKHEY: What is wrong with the building?

Mr CHANDLER: The building, in my view, I am very concerned with the certification of the building for occupancy, not so much that it is incomplete—

The Hon. DANIEL MOOKHEY: How many people are living in it?

Mr CHANDLER: There are 200 apartments in the building.

The Hon. DANIEL MOOKHEY: If there are 200 apartments in a building that you have got serious concerns about, do those 200 apartment owners know that there is serious concern?

Mr CHANDLER: Yes they do.

The Hon. DANIEL MOOKHEY: How did you tell them?

Mr CHANDLER: When I inspected the building the strata manager was there. The strata manager undertook to actually have a meeting of owners and inform them that there were issues to do with their building.

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Mr CHANDLER: Is that the policy: You are going to turn up to a building, inspect it and then maybe phone and tell the strata committee. Is there a policy that you are following here? Is there a plan to inspect? What is the strategy here?

Mr CHANDLER: The first thing I am doing is going and having a look at some of these buildings to work out what the nature of the issues are and how the issues may be best addressed going forward?

The Hon. COURTNEY HOUSSOS: How do you determine these buildings? Is it just if they write to you and then they are lucky enough—

The Hon. DANIEL MOOKHEY: Or are you walking down the street?

Mr CHANDLER: Not at all. This building was referred to me by the New South Wales fire brigade.

The Hon. DANIEL MOOKHEY: Is this all covered by your work plan?

Mr CHANDLER: Yes, it will be.

The Hon. DANIEL MOOKHEY: And will we be able to see your work plan given it has already gone out to industry consultation?

Mr CHANDLER: You will see it early next year.

The Hon. DANIEL MOOKHEY: Not before?

Mr CHANDLER: No.

The Hon. DANIEL MOOKHEY: It is the case that industry has seen it but you are not prepared to share it with anyone else?

Mr CHANDLER: I have been socialising the ideas for that work plan on an informal basis because at this stage they are not government policy.

The Hon. DANIEL MOOKHEY: We are trying to get to precisely what the government policy is and what exactly it is that you do. Right now, you said that that building came to your attention from the fire brigade. How many other buildings have been reported to you by the fire brigade or by any other government agency or, for that matter, anyone else who said, "Hey. We think there is a problem with this building." How many reports have you got? And how do you report it? Do I call you up?

The Hon. CATHERINE CUSACK: Which question do you want him to answer?

The Hon. DANIEL MOOKHEY: All of them.

The Hon. CATHERINE CUSACK: Can we just do them one at a time?

Mr CHANDLER: You could make a submission on the commissioner's website. There is no buildings that have been reported to me that are of the nature of the one that was reported to me by Fire and Rescue NSW, which I went and saw last week. There are another two buildings that I will visit in the next week or two with them.

The Hon. DANIEL MOOKHEY: So there are another two buildings.

Mr CHANDLER: There will be at least another two buildings, yes.

The Hon. DANIEL MOOKHEY: At least another two that has come through from Fire and Rescue NSW?

Mr CHANDLER: Yes.

The Hon. DANIEL MOOKHEY: Has any other government agency brought any other ones to your attention?

Mr CHANDLER: Not at this stage, no.

The Hon. DANIEL MOOKHEY: Have you asked any other government agency that might have—

Mr CHANDLER: What other government agency—

The Hon. DANIEL MOOKHEY: Sorry, I just need to ask the question Mr Chandler. Or any council or any other consent authority or certificate issuing authority to refer anything to you?

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Mr CHANDLER: I would have thought that if anybody had a pressing matter they would have referred it to me. I have been out and met with a couple of councils—Liverpool council, city council—

The Hon. DANIEL MOOKHEY: So your policy is that they have to report to you. There is no proactive procedure or protocol that has been issued as to how anyone would even do that.

Mr CHANDLER: My task will be to develop a risk assessment over the top of the buildings that are to be made and then to work out what is the best way of attending to that. One of the first areas is, I think that we could perhaps re-point some of the work within our existing resources to the front end of projects as opposed to the back end of projects. We have already started that conversation.

The Hon. DANIEL MOOKHEY: What does that mean?

Mr CHANDLER: We spend a lot of resource after a project has been identified as having problems. What we want to do is to see what opportunities are there for us to get at the front end and see where these problems are occurring earlier. The Office of Fair Trading has really been a respondent to complaints. What I would like to move away from complaints to, in fact, getting ahead of that and working with all of the people who could contribute to us being able to intervene early.

The Hon. DANIEL MOOKHEY: Can I ask you to confirm something you said earlier to Mr Shoebridge. Under the proposed bill that you made reference to, you said that it would provide you with all the powers you need except for the ability to enter into existing buildings, is that correct?

Mr CHANDLER: No. I said I have all the powers I need at this stage, except for entering into buildings that have been built. The new legislation will provide those additional powers to the Secretary to grant to me to go in and inspect them. You might read in the legislation that I also have powers—once I have those powers, to actually call in the documents relevant to that building, to open up works and inspect works if it is necessary. You will see in the legislation that, in fact, I get the additional powers that go beyond going onto a building site. For example, one of the issues that we had at Mascot Towers—

The Hon. COURTNEY HOUSSOS: It will not be that you will have the powers; it will be that the Secretary has the powers and then he can then delegate them to you. Is that correct?

Mr CHANDLER: Correct.

The Hon. COURTNEY HOUSSOS: So there is still no existence of the Building Commissioner in legislation anywhere, even after this bill passes. Is that right?

Mr CHANDLER: It is a position that is created by the Secretary.

The Hon. COURTNEY HOUSSOS: Can I ask you to clarify, you are saying that you have made no recommendations to the Secretary or to the Minister on the issue of historical defects?

Mr CHANDLER: I have made recommendations regarding cladding. I have not made any recommendations regarding any other historical defects.

The Hon. COURTNEY HOUSSOS: Are you familiar with their Deakin University study?

Mr CHANDLER: Yes I am.

The Hon. COURTNEY HOUSSOS: That showed that 97 per cent of buildings in New South Wales have defects?

Mr CHANDLER: Are you familiar with the basis of that research?

The Hon. DANIEL MOOKHEY: You have to answer the questions put to you, Mr Chandler.

Mr CHANDLER: I am familiar with it but what I would like to do—and I have already spoken to the producer of that research as I have to others who have presented information. It is easy to come to a conclusion that every building has a defect. It is the level of defect—

The Hon. COURTNEY HOUSSOS: Is it your testimony—

Mr CHANDLER: Hold on. Are you going to let me finish the question or are you going to keep talking at me?

The Hon. SHAYNE MALLARD: Point of order: Let the witness answer the question.

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The Hon. COURTNEY HOUSSOS: To the point of order: My question was, "Are you familiar with the study?" to which he answered, "Yes." I would now like to ask a question.

The Hon. SHAYNE MALLARD: He is elaborating on why the study is different to what you are asking. He is still answering the question.

The Hon. COURTNEY HOUSSOS: He has answered my question. I am allowed to direct the questioning as I see fit.

The Hon. SHAYNE MALLARD: You are cutting him off before he is finished.

The CHAIR: It would be good to allow the witness to have the end of that thought expressed before the next question is asked.

Mr CHANDLER: I would very much appreciate it, if you do not mind.

The CHAIR: Continue.

Mr CHANDLER: The research actually points to buildings having defects and 85 per cent of buildings having defects. Yes, all buildings have defects. What we really need to do is to have a look at the nature of the defects and the substantiveness of them. I think that is where we should be directing our efforts—to identifying those buildings that have got substantive issues that go to their fitness for purpose and their occupancy.

The Hon. COURTNEY HOUSSOS: Your trusted advisor Bronwyn Weir, the very respected Bronwyn Weir who undertook the Shergold Weir report, has said that she herself would not purchase a newly built building. Is it your testimony to this Committee that there is actually not a problem with historical defects?

Mr CHANDLER: Do you think I can be able to give you a full answer to this before we have an interjection into it?

The Hon. DANIEL MOOKHEY: We have limited time, Mr Chandler.

Mr CHANDLER: Hold on. Could someone please give—

The Hon. DANIEL MOOKHEY: We have the right to direct the questioning.

Mr CHANDLER: Well you may but I would like to give the answer.

The Hon. DANIEL MOOKHEY: You are a witness—

The CHAIR: Order!

The Hon. DANIEL MOOKHEY: You need to remember that you are a witness. You are not in the chair.

Mr CHANDLER: I am not looking to be in the chair. I would just like to have the courtesy of giving you the answer you want.

The CHAIR: Order!

Mr CHANDLER: I am not going to tolerate you speaking to me like that, I am sorry.

The Hon. SHAYNE MALLARD: Point of order—

The CHAIR: Order! It is imperative that we show the utmost respect to our witnesses. I understand that you need to ask your questions. I absolutely agree that you get to ask your questions and that the witness must answer the questions. These are not Ministers in front of us.

The Hon. DANIEL MOOKHEY: They should not act like that.

The CHAIR: Please show them the respect they are due. It is crossbench time but neither of us are asking any more questions. So you have more time. Take a breath and continue questioning.

Mr CHANDLER: May I answer the last question, please? You asked me a question about whether I would buy an off-the-plan apartment in New South Wales.

The Hon. COURTNEY HOUSSOS: No, that was not the question. The question was—your previous testimony to this Committee was that there is not a problem with defects in New South Wales.

Mr CHANDLER: No, I did not say that. I just said there is an adequate level of insight into the degree of defects in New South Wales. That is quite a different matter. In regard to responding to Ms Weir's comment

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that she may not buy an off-the-plan apartment, we are not at all in agreement on that. I have actually publically said that. There are very many responsible high quality developers and builders out there that do not present a problem at all with the projects they have created.

Therefore I would be quite confident to buy an off-the-plan apartment, but you would need to do your homework to determine who you are dealing with. In fact, you will find that one of the conversations that has already been started with owners corporations and representatives is how we might actually provide prospective purchasers with some more information regarding questions that they ought to be asking at the point of deposit. The deposit is the point where the bargaining power of the purchaser is the highest. I have already initiated conversations with owners corporations as to what we might do there.

The second thing that I think has got to be called out is that we are doing too light a touch on pre-settlement inspections. Really, one of the things that the owners and their legal representatives could do more thoroughly is to revisit the whole concept of pre-inspection of apartments before they are settled, because if there was, in fact, a more detailed process of pre-inspection, then there would be some pushback for the settlement process to occur. I would not hesitate in saying to you that 60 per cent, 70 per cent of developers out there are building entirely high-quality product.

I am not going to name those firms in this forum, but we have a really good platform of high-quality, brand-interested developers out there who are producing high-quality product. If people were prepared to do a little bit of research to work out who might be risky and who is less risky, then they would find many, many choices that they should be confident with.

The Hon. COURTNEY HOUSSOS: So, Mr Chandler, your advice to home owners is to become experts themselves, to conduct more inspections, to get more information, and that there is not a role for government to regulate this industry properly?

Commissioner CHANDLER: There is a role for everybody to do what would be appropriate. If I was in the market for a \$750,000 apartment, I would certainly be looking at who was the builder and I would certainly be wanting to have a better look at the apartment and the building that the apartment was in before I settled.

The Hon. COURTNEY HOUSSOS: The testimony that Mascot Towers residents gave to the building inquiry was that they had done every piece of due diligence that they possibly could, yet your answer is that in some way they had not undertaken that due diligence in an appropriate way, that this is not a failure of government to regulate properly?

Mr CHANDLER: I am not going to argue with the level of inspection that was undertaken by members of Mascot Towers that attest to the fact that they have done detailed due diligence. I do not know the extent of the due diligence that they have undertaken, so it would be pointless me commenting on it.

The Hon. COURTNEY HOUSSOS: Mr Chandler, your previous testimony was that home owners need to take it seriously: If they are going to spend \$750,000 on an apartment, then they need to inspect a little bit more closely. The implication from that, Mr Chandler, is that they are not doing it at the moment.

Mr CHANDLER: I think a lot of people are settling on apartments that they probably should go and spend a little bit more time having a look at before they settle.

The Hon. COURTNEY HOUSSOS: Is that an answer that you are providing to the Minister?

Mr CHANDLER: Is that an unreasonable expectation?

The Hon. COURTNEY HOUSSOS: Is that the advice that you are providing to the Minister, Mr Chandler?

Mr CHANDLER: It is a comment that I have made to the Minister, to say that I think we need to draw the lawyers who represent these owners—to get them to look at ways they might be able to exercise a bit more visual—

The Hon. COURTNEY HOUSSOS: This is absolutely remarkable.

Mr CHANDLER: What do you mean? That is not a very respectful comment to make. I am trying to give you—

The Hon. MARK BUTTIGIEG: With all due respect, Mr Chandler, it is remarkable because I would have thought that the consumer in New South Wales, when buying a property like that, would expect the

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Government to regulate so that they do not have to go to the nth degree to buy a property. That is my experience of the average consumer in New South Wales. Is it not yours?

Ms WEBB: There are some new laws coming in shortly that will increase the amount of disclosure required for off-the-plan sales and the disclosures that have to be made in the contracts. They are coming into effect on 1 December. They will also be increasing the powers of consumers. I think what Mr Chandler is getting at is that there is a lot of regulation and we are doing more, but there are also things that consumers, as well, can do. I think both parties have to play a role.

The Hon. DANIEL MOOKHEY: Do you accept that the grant of a certificate of occupancy is the regulating authority saying the building has been built properly and it is safe, and that a consumer should be able to rely on a certificate of occupancy? Do you accept that?

Ms WEBB: I think that is absolutely one thing they should rely on, but I think—

The Hon. DANIEL MOOKHEY: Mr Chandler, do you accept—

Mr CHANDLER: Yes, I believe that they should. But the reason that we are introducing new legislation and taking a much harder line in this process is that, in fact, some of those certificates of occupancies probably need to be put under a higher level of testing.

The Hon. DANIEL MOOKHEY: But that is not necessarily the fault of the consumer.

Mr CHANDLER: No, it is not.

The Hon. DANIEL MOOKHEY: Are you suggesting in the answer that you just gave that the onus is now on the consumer to peer below a certificate of occupancy to discover whether there is any building issues?

Mr CHANDLER: On the project I visited last week, out of 200 people, I understand, that have settled on the apartments in this building, only one owner and their solicitor took it upon themselves to actually go and physically inspect the property, and that party refused to settle. I think in the light of some of the uncertainty, what would be wrong with owners actually taking a level of interest to go and have a look at the buildings that they are settling on? I do not see a problem with that. We can risk-assess the market, we can get out and look at complaints about buildings, but everyone should have a hand in a little bit of "buyer beware".

The Hon. DANIEL MOOKHEY: A buyer who gets given a certificate of occupancy, which certificate of occupancy says that the building has been built properly in accordance with legal standards, what mistake have they made by relying on that certificate of occupancy?

Mr CHANDLER: I would just say to you that if I was spending \$750,000, it is my personal opinion that, in fact, I would be down there having a look at the building. I hope other people do that going forward.

The Hon. DANIEL MOOKHEY: So it is just—

Mr CHANDLER: We will be out there regulating and—

The Hon. MARK BUTTIGIEG: Are you seriously suggesting, Mr Chandler, that the average consumer has the wherewithal to inspect a building and determine whether it has got defects?

Mr CHANDLER: The average consumer does not have the ability to enter into a contract for sale and actually conduct the legal due diligence that they might do. There are plenty of lawyers who have a lot of expertise in coming after these projects once their defects—

The Hon. MARK BUTTIGIEG: But your response then was that you expect the consumer to go out and physically inspect the building and determine whether or not it has got any defects, as opposed to relying on the occupancy certificate.

Mr CHANDLER: I think that it is—

The Hon. MARK BUTTIGIEG: This is unbelievable, with all due respect.

Mr CHANDLER: I am sorry if you think it is unbelievable. But I think that it is not an unreasonable thing, if someone was spending \$750,000, to actually go and have a physical look at a property and make sure that all of the things that they thought were there, were there.

The Hon. PETER PRIMROSE: So you would also believe that it would not be unreasonable for a government agency that was moving into a building to be—caveat emptor—aware that there was flammable cladding?

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Mr CHANDLER: I do not know about any details about that project, so I am not going to comment further on it.

Ms WEBB: And I do not think a conclusion has been reached about whether the cladding is flammable or not, but it is certainly being looked at.

The Hon. PETER PRIMROSE: But you do not know, do you?

Ms WEBB: No, we do not know.

The Hon. MARK BUTTIGIEG: I have a couple of questions on the licensing and regulation regime with respect to electrical work, perhaps to Ms Webb or Mr Dunphy, but I am happy for anyone to answer. At the substantive budget estimates hearings there were concerns raised by the Electrical Trade Union [ETU] that there was a whole range of unlicensed work occurring in New South Wales. Has the department done anything to follow up on those claims? I understand there has been specific incidences relayed to the department regarding that.

Ms WEBB: We certainly checked our records to see what matters the ETU had brought to our attention. I think in some of the cases the matters had been resolved, but in some of the cases we could not find any evidence to show that unlicensed electrical work was happening. But we have certainly followed up the ones that the ETU have brought to our attention.

The Hon. MARK BUTTIGIEG: Are you in a position to outline the correspondence that was had between the ETU and the department?

Mr DUNPHY: Yes. We did a search of what correspondence we had received and we could not find any record of where correspondence had not been followed up. So we have certainly been working closely to try and establish if there are any further outstanding issues with the ETU and to see whether there is anything further that we can follow up on that. But in terms of what was provided, we believed that we had followed up on those. Having said that, we do continually do compliance activities and we are actually working very closely with SafeWork to target electrical safety with Fair Trading and SafeWork and working with the industry stakeholders to identify a range of safety issues including issues of licensing as well.

The Hon. MARK BUTTIGIEG: I might draw your attention to a series of emails which from perusal have not been responded to with regard to specific unlicensed work that has been carried out. Can I ask you how many investigations and prosecutions have been conducted in relation to companies that used unlicensed electricians to carry out electrical work for the financial year 2018-19? Investigations and prosecutions, do you have figures to that effect?

Ms WEBB: I think we might have to take that specifically on notice but we certainly can do that?

Mr DUNPHY: In terms of prosecutions we can certainly provide that.

The Hon. MARK BUTTIGIEG: With respect to that previous line of questioning, the department has been provided on a number of occasions with evidence of companies unashamedly advertising for unlicensed electricians but there has been no evidence of action from the department, from what we can see. What is the process for fulfilling the regulatory role at the moment? The Electrical Trades Union [ETU] and other stakeholders bring these things up to you. What is the process of response for chasing that down?

Ms WEBB: We certainly would pursue any complaint of that nature to find out more. We did a due diligence check to see if we could find the particular ones that were mentioned and we did approach the Committee secretariat for a copy of the emails but they were not provided to us. We are happy to continue to follow them up. Our normal process would be absolutely if someone brought to our attention someone allegedly doing unlicensed electrical work to follow it up.

Mr DUNPHY: We do have a team within the investigation team, the building compliance and enforcement team, which does follow up any non-licensing issues. We do routinely take prosecution action against all sorts of trades for unlicensed work. That is actually a fairly major part of the investigation and enforcement actions we do take.

The Hon. MARK BUTTIGIEG: You do not have those incidents or those investigations or prosecutions to hand?

Mr DUNPHY: I do not have the number for electoral. I can provide those on notice.

The Hon. MARK BUTTIGIEG: As to the testimony that the secretariat was unable to provide the emails, was there any attempt to retrieve those emails internally?

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Ms WEBB: Absolutely. We did a massive search to try and find them.

The Hon. MARK BUTTIGIEG: My understanding was the correspondence was had between a Ms Valery Griswald, who was then replaced by Siobhan Flores-Walsh who was acting in that role. Was that not relayed to you?

Mr DUNPHY: We would need to look at the correspondence to track that down. I am pretty sure everything was tracked down that we could possibly.

Ms WEBB: Including correspondence to both Valery and Siobhan.

The Hon. MARK BUTTIGIEG: As recently as 17 October there is a company called Ozcorp who have been advertising on Seek for unlicensed electricians required for night shifts in Newcastle, 10.00 p.m. start Sunday.

Ms WEBB: My previous testimony was in relation to the matters that were raised by the ETU at the previous hearing.

The Hon. MARK BUTTIGIEG: You are not aware of that particular one? This is only a week and a half ago.

Ms WEBB: Definitely that one would be in the process of being followed up at the moment.

The CHAIR: I do caution the member in relation to adverse mentions.

The Hon. MARK BUTTIGIEG: Sure. Who would actually go out and proactively research these reports of incidents? Is it electrical inspectors?

Ms WEBB: Yes. The building inspectors and investigators.

The Hon. MARK BUTTIGIEG: In respect of electrical inspection specifically, are they general building inspectors or qualified electricians?

Mr DUNPHY: We have qualified electricians who carry it out. We have a number of investigators who have building qualifications generally. If we need specialist expertise, like plumbing expertise, if it is a non-licensing issue, if it is a technical issue, they will be supported by either our electrical inspectors who have got qualifications in electrical work or plumbing for instance, inspectors who have plumbing qualifications, and they will support the investigations. The investigations team, if there was a matter raised last week they would be assessing that and that would be the subject of investigation if there was information there that identified that there were issues.

Ms WEBB: I think we provided the building inquiry the number of inspectors with all those qualifications. I have only got my estimates answers here, not my building inquiry answers. We can certainly find them again.

The Hon. MARK BUTTIGIEG: Again, in terms of licensed electricians inspecting that sort of work, are you able to tell us how many of those you employ?

Ms WEBB: Yes. As I said I am pretty sure we gave that answer to the building inquiry. But we just do not have our building inquiry responses here, we only have our estimates. We can follow that up.

The Hon. MARK BUTTIGIEG: The Electrical Trades Union [ETU] officials have made applications through the building and compliance enforcement forms to the Department of Fair Trading to report unlicensed electrical work being carried out on a number of occasions and there has been no evidence of investigations or prosecutions provided on these matters. Are you able to tell us why the investigations have not been instigated? I am talking about the secretary of the Electrical Trades Union emailing a senior officer within the department and not having any responses.

Ms WEBB: I cannot talk about a specific matter. If we conduct an investigation we might not disclose to other parties that we are conducting that investigation because we are trying to preserve the evidence. But we would always at some point be able to disclose what happened. We can take it on notice and follow up on specific issues.

The Hon. MARK BUTTIGIEG: In terms of that going on, because it is pretty clear it is, you have a couple of problems and one is companies pretty brazenly advertising for unlicensed electrical work. They actually say it in the advertisement and then on top of that you have instances where there has been physical inspections by the Electrical Trades Union that shows that unlicensed work has been done. Is that a concern to the department?

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It has been three or four weeks since the budget estimates hearings first raised this. Presumably you had conversations with these people whose substantive role is to enforce this?

Ms WEBB: I think when the ETU gave its evidence to the building inquiry we at that point did a search because they had talked about previous correspondence. That was the correspondence that Mr Dunphy and I were just mentioning. In relation to correspondence that we have received since our appearance and the ETU's appearance at the building inquiry, I would have to take that on notice. We were not aware if it is since that time. We are acting on it but we have not brought any of those answers here today.

The Hon. MARK BUTTIGIEG: Would it be unfair or uncharitable of me to suggest that notwithstanding the fact that these issues have been highlighted the department still—there are some parallels here with the previous line of questioning with regard to historical defects in buildings and claddings—does not seem to have any desire to take a proactive approach?

Ms WEBB: As Mr Dunphy said, we have a proactive program on electrical safety that we have been engaging both SafeWork and Fair Trading together. We have had a couple of meetings with many stakeholders, including the union members. We are engaging in a very proactive program at the moment as well as responding to specific complaints we have received and getting informing from a range of sources about unlicensed activity. I absolutely do not concede that we are not taking it seriously. In fact, this is one of our priority areas for this year.

The Hon. MARK BUTTIGIEG: I take you on your word, Ms Webb. I do not mean to suggest that you are being disingenuous about this. The secretary of the Electrical Trades Union, who is a major stakeholder in this field of work, is telling us that there has been no response. That fellow would not cause trouble for the sake of it. He is very concerned about his members and the welfare of the trade. Is it of concern to you that is occurring? What will you do to rectify it?

Ms WEBB: Absolutely happy to take it on notice now you have told us that he has had further communications, to make sure that is responded to. If you can give us more detail, even better, but we will make sure we are responding to him, yes.

The Hon. MARK BUTTIGIEG: I am very happy to provide you with all the detail.

Ms WEBB: That would be great.

The Hon. MARK BUTTIGIEG: Just as a matter of correlation, are you aware of how many electricians the department's website suggests there are in New South Wales roughly? Do you have a rough idea of the figure?

Ms WEBB: We would have to take that on notice.

The Hon. MARK BUTTIGIEG: I can tell you it is over 40,000 electricians.

Ms WEBB: I accept that is probably right.

The Hon. MARK BUTTIGIEG: Would it surprise you to hear that Ausgrid, which is the major franchise holder for electricity distribution in New South Wales, has only received something in the order of 8,000 certificates of compliance for work, which is the paperwork that the electrician submits after they have done electrical work? That sort of correlation seems very, very low. In fact, if you just do a simple mathematical calculation it equates to about a quarter of a job per electrician per year in New South Wales. Does that suggest to you that you have got a major problem in terms of compliance with electrical people submitting compliance certificates? Just as a follow-up, Ms Webb, I would have thought that would be a fairly simple metric that the department would have applied by now to determine whether or not the self-assessment rating is actually working. Would that be fair?

Mr DUNPHY: In terms of the compliance certificates for electrical work, they are provided to a number of different parties, including Fair Trading, so we do receive the compliance certificates for electrical work. We certainly get more of a quantum than the one that you have suggested has gone to one of the providers, and it depends on which provider, it depends on who would be receiving—

The Hon. MARK BUTTIGIEG: Sorry, Mr Dunphy, you are saying you have those figures available?

Mr DUNPHY: We do have them. I do not have them off the top of my head.

The Hon. MARK BUTTIGIEG: Do you know roughly? Clearly, you say it is over 8,000.

Mr DUNPHY: It is certainly over 8,000.

The Hon. MARK BUTTIGIEG: Let us double it and say it is 16,000.

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Mr DUNPHY: I thought it was higher than that.

Ms WEBB: I would have thought so too, the ones that are lodged with us. But we will definitely take that on notice.

Mr DUNPHY: I thought it was quite comparable to the figures that you quoted in terms of the numbers of electricians. But we can certainly verify that.

The Hon. MARK BUTTIGIEG: I suppose my point is that we seem to have a major systemic issue here because, let us be generous and say it was 40,000, that would mean that each licensed electrician in New South Wales has submitted one certificate of compliance per year. Does that not concern you?

Ms WEBB: I understand exactly what you are saying. I think we would have to just take on notice, to establish the 40,000 figure, to establish whether all of those 40,000 are actively engaged as electricians, rather than people who hold a licence. And then we could check that against the numbers that we get and we can probably do some calculation as to how many the average electrician is spending. So I think we just need to take it on notice and look into both how many of these licensed people are active electricians and how many certificates we are getting.

The Hon. MARK BUTTIGIEG: I am not trying to be tricky here—

Ms WEBB: No, I am understanding the point you are making.

The Hon. MARK BUTTIGIEG: I am pointing out that this method of self-regulation and, without being flippant, tick and flick from the department is clearly not cutting it. Would you accept that?

Mr DUNPHY: I would not call it self-regulation, because we do actually actively enforce compliance in the industry. What we do know is that with most notification systems there are always challenges with compliance in terms of people providing data or information. That is something that we are monitoring and it has not been that long since the department has received certificates of compliance for electrical work. So it is a fairly new feature in terms of us receiving all of the certificates of compliance. But it is something that we are conscious of and we will continue to monitor and to enforce and implement strategies to improve that information because it is important information.

The Hon. MARK BUTTIGIEG: You undertake to come back to us with those figures that are being reported and any reasons why you think it might be low?

Mr DUNPHY: Yes, sure.

The Hon. MARK BUTTIGIEG: I take you to some responses to the budget estimates questions. Apparently there were three electrical inspectors in NSW Fair Trading's electrical and gas unit. There was a question regarding how many inspections had taken place, and the answer was:

The information about these inspections, including the number of installation inspections conducted has not been captured by NSW Fair Trading as the electrical and gas unit was not the primary agency responsible for the investigation.

That was a response to some supplementary budget estimate questions that were put on notice.

Mr DUNPHY: There was another question I think, which we did answer, and I need to get to the bottom of it, but certainly in terms of those three inspectors—and they are the ones who receive the compliance certificates for electrical work—and their focus has been on the smart meter inspections. We know for 2018 they actually conducted 4,654 inspections for that year. This year I think they have now done over 1,900 inspections. So they certainly have been doing inspections in those areas.

The Hon. MARK BUTTIGIEG: But that was on, you said, smart metering?

Mr DUNPHY: It is in response to receiving the compliance certificates for electrical work. Their focus has been, because initially all we received were the compliance certificates for electrical work for smart meters, so our focus has been, and now more broadly looking at following up in terms of inspections for all—

The Hon. MARK BUTTIGIEG: So, again, broader domestic electrical work which you would intuitively think you would have a lot more certificates being submitted, you do not have any figures on the inspections that are carried out in that area?

Mr DUNPHY: Those inspections for 4,654 relate to responses to any of the compliance certificates for electrical work which cover all notifications, not just smart meters.

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The Hon. MARK BUTTIGIEG: I take you to the issue of mechanical services and medical gas now. In respect of the tragedy that occurred at Bankstown Hospital a couple of years ago, where the gas lines were switched, one of the obvious lines of investigation I would have thought would have been the unregulated and unlicensed nature of that industry. With medical gas, are you aware that it does not require a licence to carry out that? What steps did the department take to investigate whether or not that regime is required, in light of that tragedy? We are talking about two years down the track now.

Ms WEBB: There has been a SafeWork investigation of the specific incident and a prosecution is currently underway, so I cannot speak to that.

The Hon. MARK BUTTIGIEG: I understand SafeWork have dropped their prosecution of the hospital, in particular.

Ms WEBB: Of the health authority, yes, but the arrest is going to continue.

The Hon. MARK BUTTIGIEG: My question relates to the NSW Fair Trading's attitude towards regulation in that hitherto unregulated sector, which has clearly contributed to this accident.

Ms WEBB: I am not aware that we have made any policy changes.

Mr DUNPHY: We have been liaising with the Department of Health. The Department of Health did an independent investigation of the matter and looked at the causative factors and the issues behind it. The licensing was not a causative factor that was identified. Having said that, we are very interested to see the outcome of the Coroner's inquest and we would certainly look at any findings that may relate to licensing.

The Hon. MARK BUTTIGIEG: Will the department undertake to investigate the viability of regulating and licensing that industry in light of what has happened?

Ms WEBB: I know we have done a little bit of preliminary work on the regimes in some other jurisdictions, but we have not really done very much. I think we will wait and see what the Coroner says as well. But we are certainly looking to it and keep it on notice.

The Hon. PETER PRIMROSE: Following on from the issue of licensing, does Fair Trading, indeed SafeWork, have any concerns at all that, for instance, I could leave this hearing today and hold myself out to be an electrical engineer, because I do not need any qualifications and I do not need to be licensed in New South Wales, unlike Queensland or Victoria? I note that in the legislation we are talking about qualifications for engineers in relation to level two buildings.

But engineers generally, we are talking about the need for licensing in relation to a number of occupations, and we have mentioned a couple already. The Hon. Mark Buttigieg has raised some. Anyone can call themselves an engineer—and indeed do—and it is a perennial issue in local government. Can I ask your comments about your views as expert practitioners here in relation to workplace safety, in relation to the construction industry, in relation to occupational health and safety generally about the fact that you do not need a qualification in New South Wales to actually hold yourself to be an engineer?

Ms WEBB: I think in the end it is a matter for government policy as to what regulatory systems are in place. As you mentioned, the new bill will introduce some requirements for engineers, but it is very difficult for us to comment about what the law should be in those circumstances.

The Hon. PETER PRIMROSE: Let us talk about the fact that an engineer in local government is responsible, and engineers are supposedly responsible, for major construction work. If a bridge falls down, if drainage work is undertaken, presumably you would do an investigation, Mr Gavrielatos, into the reasons for that. If the person holding themselves out to be an engineer in fact is not an engineer, but in fact simply somebody who had worked on the National Broadband Network [NBN], which was the case in local government, with that have been of concern to you?

Ms WEBB: I guess it would be an issue for us to look at as to whether there had been some misleading and deceptive conduct anyway in relation to that because they might have misled people as to their qualifications by doing that.

The Hon. PETER PRIMROSE: But they do not need any qualifications to be an engineer.

Ms WEBB: No, but they are implying that they have certain skills and experience that they may not have so there would be some option there for us.

The Hon. PETER PRIMROSE: Okay.

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The Hon. MARK BUTTIGIEG: You say it is a matter for Government policy, but the department would presumably form views on this, having historical experience of what is happening out there in the marketplace. We have heard a litany of things right across the industry today. Does the department not currently go back to the Minister and say that the system is not working, we need engineers to be, actually be engineers and we need gas plumbers to be, actually be gas plumbers so that the consumer, when they see Department of Fair Trading, knows that they are getting a fair trade because the person is qualified. Do you not offer that advice back to the Minister?

Ms WEBB: When issues come up, yes, we certainly raise that with the Minister. The general issue of particular licensing schemes for particular professions is ultimately a matter for the Government.

The Hon. PETER PRIMROSE: What is the argument for having engineers on Class 2 buildings as opposed to other classes and not in relation to any other sector of the economy?

Mr CHANDLER: In the second reading speech I believe—well, I am sure—that the Minister mentioned the intent to broaden the Class 2 coverage to all the other classes in the next few years. I believe that is a progressive implementation that was declared in the second reading speech.

The Hon. PETER PRIMROSE: It has existed, with due respect, in Victoria and Queensland. It is happening in the Australian Capital Territory [ACT] and in Western Australia. The Institute of Public Works Engineers and local government engineers have been calling for it for the past couple of years and we are just not doing it. I do not expect you, as public servants, to be able to define Government policy, but you can see the potential outcomes here of not having that. I am sure the public would be concerned as to why the Government has not recognised that in relation to Class 2 buildings you would require it, but not in relation to any other aspect of the economy.

Ms WEBB: It is a matter for the Government to make that determination. That is really all I can say.

The Hon. PETER PRIMROSE: Okay. Let us go on then and have a look at just a couple of quick questions in relation to workplace deaths, if I can. Mr Gavrielatos, I do not want you to feel left out of these proceedings.

Mr GAVRIELATOS: Thank you, Mr Primrose.

The Hon. PETER PRIMROSE: Of the seven workplace deaths, as I understand it, over the past two months in New South Wales, three were workers who were aged over 60 years with the oldest being a 69-year-old man. Workers are increasingly being encouraged and are staying in the workplace longer. The oldest group of workers account for the largest number of fatalities over the past decade or so, according to Safe Work Australia. Can I ask you what your agency is doing particularly to focus on this issue of the increasing number of deaths among older workers?

Mr GAVRIELATOS: No death on any workplace is acceptable. We take every fatality very seriously and immediately investigate those fatalities. We have not done a lot of work with older people, although we are recognising that it is an issue. It is actually something that is coming to our attention. We have certainly done a lot of work with younger people as a high-risk group and I accept that we also need to turn our attention to the older age group.

The Hon. PETER PRIMROSE: What sort of things would you be suggesting that you might do?

Mr GAVRIELATOS: I think that what we need to do is put out more information so that people become more aware. That is certainly the first thing that we do in any situation—try to raise awareness and educate people to look about and look into safety in the workplace. That is for employers in particular. They need to be aware that they may need to implement different safety systems, if you like, or embed a safety landscape into their workplace that may be different for older people.

The Hon. PETER PRIMROSE: Okay. I would have assumed, given the statistics that I have just read out in relation to the oldest cohorts of workers being the largest number of fatalities, that this may have been something that would have been addressed. I am not trying to suggest that you are not, but can I ask you to consider this and maybe come back to us with just some ideas about those organisations that you may be consulting in relation to what you could do relative to older workers?

Mr GAVRIELATOS: I accept the commentary you have made on this and, yes, absolutely we will take that on board.

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The Hon. PETER PRIMROSE: Thank you. My only other question in relation to older workers is this: How many prosecutions have you commenced relating to older workers, say, in the past 12 months?

Mr GAVRIELATOS: I will need to take that on notice.

The Hon. PETER PRIMROSE: Okay. I have two other quick questions.

Mr GAVRIELATOS: But can I say that a fatality, every fatality, is investigated.

The Hon. PETER PRIMROSE: Thank you. I am talking about prosecutions, though. I understand that. Is a licence required to oversee scaffold set-up in New South Wales?

Mr GAVRIELATOS: A high-risk work licence.

Mr DUNPHY: Yes.

Mr GAVRIELATOS: Yes.

The Hon. PETER PRIMROSE: And who issues that licence?

Mr GAVRIELATOS: That is issued through the Department of Customer Service.

The Hon. PETER PRIMROSE: Okay. Several of the fatalities that I mentioned earlier and more generally have occurred on residential building sites. Do you believe there is any flouting of this requirement in relation to residential construction sites?

Mr GAVRIELATOS: We have been conducting major blitzes on scaffolding and certainly in the past month there has been a major program that has been conducted specifically on scaffolding, but during this particular month we have also focused on falls from heights. There has been a major falls from heights blitz. I do not have these statistics with me on that, but it has been an absolute focus of ours over the past couple of months. When I say it has been a focus over the past couple of months—

The Hon. MARK BUTTIGIEG: I am sorry, Mr Gavrielatos, was that in reaction to publicly known incidents that have occurred with scaffolding?

Mr GAVRIELATOS: Can I say that there are two things here: One is that it is a proactive approach, given what is occurring. We are a risk-based regulator so, yes, to some extent it is, but it is also a regular program that we have. We have identified falls from heights as one of our major issues that we want to focus on and we do that.

The Hon. PETER PRIMROSE: Finally in relation to your blitz, can I ask you if you could make available to us any statistics in relation to falls involving scaffolding and what action you have taken—just general information so that we can have a picture of that, particularly in relation to residential buildings?

Mr GAVRIELATOS: Absolutely happy to do so.

The Hon. PETER PRIMROSE: Thank you.

The Hon. DANIEL MOOKHEY: I am going to go back to some of the answers that have come back on notice. Do you recall that in the May estimates hearing I was asking you about inspections that SafeWork has undertaken on major Government infrastructure projects? Do you recall that?

Mr GAVRIELATOS: I do recall that, yes.

The Hon. DANIEL MOOKHEY: Do you have available to you the answers that you provided on notice?

Mr GAVRIELATOS: I do not have that, no.

The Hon. DANIEL MOOKHEY: I will read to you the relevant sections as they arise. I asked you how many complaints you have received. You came back and said in relation to major Government projects—rather I asked you, "Have you undertaken or have you received any complaints about Government infrastructure projects such as WestConnex?" "We have had engagement with Government projects, yes. We have a specific infrastructure team to deal with Government things." "How many people are on that team?" You have come back and said nine, which is good to know. You have also said that you have undertaken planned visits to build relationships and familiarisation with stakeholders, unannounced visits, blitz visits, joint visits, verification visits and you said that you had issued 69 improvement notices for current infrastructure projects and that there are currently no prosecutions. Were those 69 improvement notices for the WestConnex project?

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Mr GAVRIELATOS: I do not have that in front of me. I do not know if it was just for WestConnex or it was more broadly for other infrastructure projects as well.

The Hon. DANIEL MOOKHEY: Is it possible to get it itemised by Government infrastructure project?

Mr GAVRIELATOS: I will attempt to do so, yes.

The Hon. DANIEL MOOKHEY: Is that the only enforcement tool that you have used for Government infrastructure projects?

Mr GAVRIELATOS: If that was our response, yes.

The Hon. DANIEL MOOKHEY: So no fiats, no prosecutions?

Mr GAVRIELATOS: If that is what our response was, yes. If there was any other—

The Hon. DANIEL MOOKHEY: Did you ever have to suspend work on a Government project to allow for immediate rectification, or use the cease and desist power effectively?

Ms WEBB: We can definitely use the whole range of SafeWork powers on any Government project.

The Hon. DANIEL MOOKHEY: Well, have you?

Ms WEBB: I think you asked whether they had been subject to improvement notices, so we answered in relation to that, and then you asked about prosecutions and we have had none.

The Hon. DANIEL MOOKHEY: You sidestepped that.

Ms WEBB: But if you want to understand other notices, apart from improvement notices—

The Hon. DANIEL MOOKHEY: Can we have an itemised by compliance tool and by Government project? If you could and do not mind doing that of late, that would be very useful.

Ms WEBB: We will try our best to do that.

Mr GAVRIELATOS: Yes.

The Hon. DANIEL MOOKHEY: Have you received notification about any breaches of dust standards in government projects?

Mr GAVRIELATOS: I cannot answer that question. I will need to take that on notice. We do look into air monitoring and whether there have been breaches around that. But I cannot give you that answer, I am sorry.

The Hon. DANIEL MOOKHEY: Earlier this afternoon we learnt—and it is a credit to Sydney Metro, to be fair, because it was upfront and it has been monitoring—that in respect to silica dust in tunnelling Sydney Metro has had 63 instances in which it exceeded the legal limit, which is itself pretty high. Were you told of any of the 63 transgressions arising from 49 incidents, four of which did not receive any penalty from SafeWork NSW?

Mr GAVRIELATOS: I will need to take that on notice.

The Hon. DANIEL MOOKHEY: What steps do you have in place to check compliance around dust and silica dust, specifically on tunnelling, with WestConnex and the Sydney Metro?

Mr GAVRIELATOS: We do request that they conduct air monitoring. We will check that.

The Hon. DANIEL MOOKHEY: What else? Is that it?

Mr GAVRIELATOS: That is it, yes.

The Hon. DANIEL MOOKHEY: Do you go down the chain?

Mr GAVRIELATOS: Sorry?

The Hon. DANIEL MOOKHEY: Do you go down the supply chain in terms of the contractors? Have you issued any improvement notices in terms of these issues?

Mr GAVRIELATOS: I will take that question on notice.

The Hon. DANIEL MOOKHEY: I am going to turn to the announcement the other day by the Minister to support at the Commonwealth level the reduction of the silica dust standard to 0.05 as well as the \$1,000 rebates. What exactly is the eligibility for a business to be able to access those rebates?

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Mr GAVRIELATOS: It will be anything that they put in place to make improvements in the workplace, including machinery or practices that they want to put in place.

The Hon. DANIEL MOOKHEY: Does it have to be reasonably connected to the reduction of dust?

Mr GAVRIELATOS: Yes.

The Hon. DANIEL MOOKHEY: But you are not at this point specifying that or providing those businesses with any guidance as to what they should be doing?

Mr GAVRIELATOS: We are.

The Hon. DANIEL MOOKHEY: What guidance are you providing?

Mr GAVRIELATOS: As you know and as we have previously said, we have visited every fabrication site. We provided them with guidance during those visits. In fact, we have also issued improvement notices, which are also a form of guidance, if you like, in terms of what they need to put in place. We have also issued prohibition notices when they are doing something that is prohibited and should be banned.

The Hon. DANIEL MOOKHEY: When you say that it has to be connected—I think you mentioned machinery—what else satisfies the requirements so that a business can access the \$1,000 of public money?

Mr GAVRIELATOS: The primary thing is purchasing machinery that continues to improve the work that they do in terms of reducing the dust.

The Hon. DANIEL MOOKHEY: Does it cover ventilation systems.

Mr GAVRIELATOS: Yes, it covers ventilation systems as well.

The Hon. DANIEL MOOKHEY: Does it cover personal protective equipment for workers?

Mr GAVRIELATOS: Yes, that would cover it.

The Hon. DANIEL MOOKHEY: What about practices that would facilitate wet cutting?

Mr GAVRIELATOS: Again, yes.

The Hon. DANIEL MOOKHEY: Have you undertaken any research on just how much of the actual costs of upgrading those facilities that \$1,000 is going to cover?

Mr GAVRIELATOS: We are working on that at the moment.

The Hon. DANIEL MOOKHEY: When do you expect the rebate will be available?

Mr GAVRIELATOS: Again, I do not have a definitive date on that, but it should be relatively soon.

The Hon. DANIEL MOOKHEY: Who is eligible? Is it just the fabricators or is it the installers as well?

Mr GAVRIELATOS: It will be anybody who works in a field where silica dust may be produced in small businesses.

The Hon. DANIEL MOOKHEY: We know that there are 246 sites of fabrication. Is that correct?

Mr GAVRIELATOS: Yes.

The Hon. DANIEL MOOKHEY: So at least those 246 businesses are eligible to apply?

Mr GAVRIELATOS: Yes.

The Hon. DANIEL MOOKHEY: Is that to comply with the new standard? Is that effectively the purpose of the rebate?

Mr GAVRIELATOS: No, the purpose is to comply with safe practices in the workplace.

The Hon. DANIEL MOOKHEY: We were previously told that you had full confidence that there are safe practices at all of the sites of fabrication.

Mr GAVRIELATOS: Yes.

The Hon. DANIEL MOOKHEY: Why are they able to access a \$1,000 rebate if you already have a view that their practices are safe?

Mr GAVRIELATOS: We think that any further improvement on those worksites is a good thing.

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The Hon. DANIEL MOOKHEY: Are we just subsidising the capital projects of those businesses? Are we tying them to any particular outcomes, or are we just giving \$1,000 to any business that rocks up and says, "We are doing something better."?

Mr GAVRIELATOS: The outcome that we are hoping for and that we believe will occur will be continuous improvement in work practices.

The Hon. DANIEL MOOKHEY: What about installers? Do we know how many people or separate legal entities are involved in the installation side?

Mr GAVRIELATOS: I do not have that figure and would not be able to provide that figure. That is a very difficult figure to ascertain.

The Hon. DANIEL MOOKHEY: But they would also be eligible to access the rebate?

Mr GAVRIELATOS: They would be, yes.

The Hon. DANIEL MOOKHEY: If they come up and say, "I'm an installer of silica or manufactured stone and I have now decided, on the basis of this rebate, to enter the industry", they would be eligible to get the money. Is that what you are saying?

Mr GAVRIELATOS: They would meet a criteria, yes.

The Hon. DANIEL MOOKHEY: Pretty much anyone could come in off the street and say, "I want to cut manufactured stone now. Could I have \$1,000?" Is that the effect of the policy?

Mr GAVRIELATOS: I think we would conduct some testing of that.

The Hon. DANIEL MOOKHEY: How would you do that? Are you going to require installers to register or fabricators to register?

Mr GAVRIELATOS: There will be an application process that we will determine. We will make sure that it is done in a way that has some validity to it. Rather than it being a handout, it is a serious attempt to improve practices in that industry.

The Hon. DANIEL MOOKHEY: Will SafeWork be making the determination to grant the rebate?

Mr GAVRIELATOS: Yes.

The Hon. DANIEL MOOKHEY: Is there a committee in place to do that or is it purely your organisation?

Mr GAVRIELATOS: We have a team that works on rebates and they will be involved.

The Hon. DANIEL MOOKHEY: When does it start?

Mr GAVRIELATOS: As I said before, we have not yet determined a start date. But we are working on that.

The Hon. DANIEL MOOKHEY: Are you in position to provide the industry with any guidance? Will it be from next year?

Mr GAVRIELATOS: It will certainly be from next year, absolutely.

The Hon. DANIEL MOOKHEY: Do you know how many people are employed by those 246 fabricators?

Mr GAVRIELATOS: I do not know how many people are employed on those 246 sites.

The Hon. DANIEL MOOKHEY: When you went and undertook—

Mr GAVRIELATOS: I said that I do not know. I am not saying that SafeWork as a whole would not know. We would have done some work on that, yes.

The Hon. DANIEL MOOKHEY: Does SafeWork know how many people are employed in these industries?

Mr GAVRIELATOS: I would need to check that.

The Hon. DANIEL MOOKHEY: On notice, if you do have the information, could you provide us with an estimate as to how many people you think are involved at the point of fabrication?

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Mr GAVRIELATOS: Sure.

The Hon. DANIEL MOOKHEY: Have you undertaken any research to ascertain how many people are involved in the installation?

Mr GAVRIELATOS: No, we have not done that.

The Hon. DANIEL MOOKHEY: Do you have a plan to undertake that research?

Mr GAVRIELATOS: Not at the moment, no.

The Hon. DANIEL MOOKHEY: Do you accept that the risks to installers are as high as the risks to fabricators?

Mr GAVRIELATOS: We do. Certainly when we invite people to seminars we put out messages very broadly. We have had a variety of people across the whole industry attend those seminars.

The Hon. DANIEL MOOKHEY: You said that you have inspected the 246 points of fabrication. How many installers have you inspected?

Mr GAVRIELATOS: I cannot give you that figure.

The Hon. DANIEL MOOKHEY: There is a manufactured stone taskforce within SafeWork, is there not?

Mr GAVRIELATOS: The manufactured stone taskforce was established specifically to provide recommendations in terms of regulation that could be improved to respond that area. It had a specific role.

The Hon. DANIEL MOOKHEY: It was outside the terms of reference to look at the installing part of the supply chain. Is that correct?

Mr GAVRIELATOS: It was outside of their terms of reference, yes.

The Hon. DANIEL MOOKHEY: Has SafeWork NSW done anything to ascertain what risks there are and what steps are in place for the installation side of the supply chain?

Mr GAVRIELATOS: We believe that regardless of where you are working if you do not use protective equipment and you are not wet cutting you are at risk. We are absolutely aware of that.

The Hon. DANIEL MOOKHEY: Has SafeWork issued even one improvement notice, penalty notice or prosecution of an installer?

Mr GAVRIELATOS: I am unable to answer that, but I will take the question on notice.

The Hon. DANIEL MOOKHEY: Do you have any risk assessment or intelligence-based assessment as to whether there are any particular installers that we should be more focused on?

Mr GAVRIELATOS: I would like to take that question on notice as well.

The Hon. DANIEL MOOKHEY: In terms of the spike in silicosis, have you inquired into how many of those cases have come from fabricators compared with how many have come from installers?

Mr GAVRIELATOS: We are currently reviewing those matters and are making decisions as to how to follow that up in terms of prosecutions. Yes, we are able to know where they have come from and we are looking at how we will respond.

The Hon. DANIEL MOOKHEY: When you say that you are aware of where they are from—

Mr GAVRIELATOS: In response to the matters that have been brought to our attention we are looking to identify which workplaces the workers have been in so we can respond.

The Hon. DANIEL MOOKHEY: One of things that was pushed with the manufactured stone taskforce was a case finding study—which is similar to what happened in Queensland—to allow this to be traced back to the point of origin and to investigate whether there have been any other workers who have not yet been screened, but may have been infected at the same point. Why did SafeWork not support that?

Mr GAVRIELATOS: The approach with the case study is a matter for icare. It is icare that needs to be looking at that.

The Hon. DANIEL MOOKHEY: But that was the manufactured stone taskforce's recommendation, which was rejected. Did SafeWork—

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Mr GAVRIELATOS: I am not sure that it was rejected.

The CHAIR: Sorry, we are out of time. Thank you for attending this hearing. The committee secretariat will be in touch in the near future about any questions that have taken on notice and any supplementary questions. As before, answers will be due within 21 days. Thank you.

(The witnesses withdrew.)

The Committee proceeded to deliberate.