

**2019 Budget Estimates - Questions on Notice - Better Regulation and Innovation**  
**Minister Anderson**  
**Portfolio Committee No. 6 – Transport and Customer Service**  
**Hearing Monday 28 October 2019**

**Cladding Taskforce**

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.

**ANSWER**

Latest draft provided. TAB A

**Cladding Taskforce**

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.

**ANSWER**

This information can be found on the Customer Service website.

**Cladding Taskforce**

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.

**ANSWER**

As per the above answer.

**Cladding Taskforce**

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.

**ANSWER**

Buildings at Ultimo TAFE remain under assessment by TAFE NSW in consultation with the City of Sydney Council.

**Cladding Taskforce**

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.

**ANSWER**

This question should be directed to the Minister for Skills and Training.

**Cladding Taskforce**

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.

**ANSWER**

Details of fire safety orders issued by DPIE are published on its website

**Cladding Taskforce**

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.

**ANSWER**

No buildings have been excluded from consideration by the Taskforce on the basis of the number of storeys alone.

The Taskforce's process for assessing risk is for trained Fire + Rescue NSW officers to visit each identified property and conduct an operational assessment of the cladding and assess whether, in the context of the particular building, it poses a safety risk to occupants or firefighters.

**Cladding Taskforce**

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.

### **ANSWER**

As per the above answer, buildings were assessed individually by Fire + Rescue NSW officers to determine whether further investigation was required due to the presence and configuration of cladding.

### **Cladding Taskforce**

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.

### **ANSWER**

Fire + Rescue NSW reports the result of its assessment for each identified building to the Taskforce. The Taskforce maintains a database of all identified buildings and the building's assessment outcome. The Taskforce database also records the progress of actions taken in relation to identified buildings.

### **Cladding Taskforce**

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.

### **ANSWER**

Determining the composition and combustibility of cladding products typically requires expert review and assessment, and often involves laboratory testing of core samples taken from representative cladding panels. Therefore while the presence of combustible cladding may be suspected on a building, confirmation can take some time, as can assessment of the risk and formulation of appropriate remediation measures.

Fire + Rescue NSW identified and assessed the property during local area inspections in February 2018, and referred it to Liverpool Council for further investigation.

Both Property NSW and Liverpool Council have been liaising with the building owner. A representative of the building owner registered details of the building on the NSW Government's Cladding Register on 1 August 2019. This registration indicated that an expert assessment of the building had been completed and recommended no action was needed, however the Cladding Taskforce understands a further report has since been commissioned.

While the final report and recommendations have not been finalised, proposed short-term measures are under consideration for the safety of residents and workers while the assessment is finalised and until any necessary remediation measures are implemented.

### **Cladding Taskforce**

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.

### **ANSWER**

As per above answer.

### **SafeWork**

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.

### **ANSWER**

Please find enclosed the email chain with individuals' details redacted in accordance with the information principles of the *Privacy and Personal Information Protection Act 1998*. TAB B

### **BUILDING COMMISSIONER**

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.

### **ANSWER**

The Building Commissioner has personally met with over 50 stakeholders, including owner representatives, lawyers, industry associations, developers, financiers, ratings agencies, educators, councils, insurers, regulators, media, builders, materials suppliers and technology companies.

### **FAIR TRADING**

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.

#### **ANSWER**

##### **Complaints/investigations into the performance of alleged unlicensed electrical**

In 2018/2019 NSW Fair Trading received 24 complaints of alleged unlicensed electrical work.

During the FY18/19 NSW Fair Trading prosecuted four individuals performing unlicensed electrical work.

#### **FAIR TRADING**

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.

#### **ANSWER**

**There were 7 individuals and companies disciplined under the *Home Building Act 1989* in 2018/19.**

#### **FAIR TRADING**

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.

#### **ANSWER**

NSW Fair Trading's Electrical and Gas Unit (EGU) employs three electricians which carry out Smart Meter inspections and assist Building Investigators as required.

The EGU also employs four electrical engineers which carry out inspections of electrical appliances.

Fair Trading's Building Dispute Resolution and Inspection Branch (DRIB) has 23 Building Inspectors. It is a requirement that all building inspectors in the DRIB team either hold or are eligible to hold a NSW builders licence.

## **FAIR TRADING**

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.

## **ANSWER**

There are two broad classes of ETU complaint and these are dealt with below. Importantly, electrical work can be lawfully performed by a person who does not hold an electrician's licence, if they are appropriately supervised by a licenced electrician.

1. **CLASS 1** - Fair Trading responded to ETU complaints lodged in October 2018 and then in February and June 2019, by inspecting electrical work being conducted at the relevant sites. No breaches were detected, and the details for each inspection are set out in the paragraphs marked a.-c. below.
  - a. 15 October 2018: Inspectors from Fair Trading's Building Investigations Branch conducted an unannounced inspection of the North West Metro Project in Caste Hill – that is a site referred to the Department by the ETU. Fair Trading spoke with and recorded the names and any relevant licence details for sixteen people on the site who were performing electrical work. Eight of the sixteen people held authorities issued by Fair Trading authorising them to perform and supervise electrical wiring work and the remaining 8 were working under the supervision of a qualified person, as required by the *Home Building Act 1989*. Accordingly, breaches of the *Home Building Act 1989* were not detected. All sixteen people that Fair Trading interviewed, were orally advised about their responsibilities under the *Home Building Act 1989*.
  - b. 22 February 2019: Inspectors from Fair Trading's Building Investigations Branch conducted an unannounced inspection of the North West Project in Cherrybrook - that is a site referred to the Department by the ETU. Fair Trading spoke with and recorded the names and any relevant licence details for approximately twenty- four people on the site who were performing electrical work. About ten of these people held authorities issued by Fair Trading authorising them to do and supervise electrical wiring work and the remaining people were working under supervision as required by the *Home Building Act 1989*. Accordingly, breaches of the *Home Building Act 1989* were not detected. All persons that Fair Trading interviewed, were orally advised about their responsibilities under the *Home Building Act 1989*
  - c. 27 June 2019: Inspectors from Fair Trading's Building Investigations Branch conducted an unannounced inspection of the NorthConnex Tunnel Project in West Pennant Hills - that is a site referred to the Department by the ETU. Fair Trading spoke with and recorded the names and any relevant licence details for fourteen people on the site who were performing electrical work. Twelve of these people held authorities issued by Fair Trading authorising

them to do and supervise electrical wiring work and the remaining two people were working under supervision as required by the *Home Building Act 1989*. Accordingly, breaches of the *Home Building Act 1989* were not detected. All fourteen people that Fair Trading interviewed, were orally advised about their responsibilities under the *Home Building Act 1989*.

**CLASS 2** - The ETU made further representations to Fair Trading in August and October 2019 and those representations were emailed by the ETU not to a general Fair Trading complaints address but to an inoperative email address. That fact was identified in the week commencing 14 October 2019, and Fair Trading alerted the Secretary of NSW Branch of the ETU, Mr Justin Page to the fact that he was emailing an inoperative email address and provided him with information about next steps and the correct process for lodging complaints with Fair Trading.

## **FAIR TRADING**

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.

## **ANSWER**

Set out below is the text of the email to the ETU dated 21 October 2019 (after Fair Trading and the ETU's appearance at the building enquiry):

**From:** Siobhan Flores-Walsh

Sent: Monday, 21 October 2019 6:10 PM

**To:** Justin Page <justinp@etunsw.asn.au>

**Subject:** Referrals from the ETU about the potential performance of electrical work without the required supervision or licence

Dear Justin

Thank you for the **attached** emails to Valerie Griswold, Executive Director Fair Trading Operations and Matthew Whitton, Acting Executive Director Fair Trading Special Services. I confirm that Fair Trading takes very seriously allegations that people may be performing electrical work without the required supervision or licence.

I am responding to your emails because I am currently acting in Valerie Griswold's position.

### **Management of the ETU's Complaints**

The complaints outlined in your emails are being managed as follows:

1. Each complaint is being assessed by the Regulatory Analysis Assessment Branch (**RAAB**) to determine if any action should be taken and if yes, if further investigation is required. If a complaint/s is assessed as *not* requiring any further action, you will be advised of that outcome by RAAB.
2. If a complaint is assessed as requiring further investigation, RAAB will refer the complaint to the Building Investigation Branch (**BIB**) and you will be advised about the referral.
3. Based on its investigation, BIB will determine if it should:
  - a. take any further action; or
  - b. prosecute for breach; and/or
  - c. refer the complaint for disciplinary action against the licence holder.
4. BIB may contact you during any investigation and will advise you at its completion about outcomes.

### **Any Future ETU Complaints**

I understand that some of the **attached** complaints were originally sent to former investigator, Andrew Lind's email address and you did not receive a response. Andrew left Fair Trading several months ago and his former email address will shortly issue responses that advise of that fact. We apologise that you did not receive any response from the email address.

To ensure that any future ETU complaints are acted on promptly, please send them to Fair Trading, as recommended in Valerie Griswold's letter dated 19 November 2019 (**third attachment** to this email). Alternatively, please issue ETU complaints to the email address at the base of the form that the ETU currently uses to document its complaints – that form also provides contact details (including telephone numbers) for the Manager of RAAB.

#### **Next Steps**

1. You will be contacted by either RAAB or BIB as set out in the paragraphs numbered 2 and 3 above.
2. If an investigation is conducted, BIB may contact you for assistance and it will advise about investigation outcomes.

Thank you again for sending us your concerns about people that may be performing electrical work without required supervision or licence. If you have any queries, please do not hesitate to contact me.

Regards,

Siobhan Flores-Walsh

Acting Executive Director, Fair Trading Operations

#### **FAIR TRADING**

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.

#### **ANSWER**

Email contact was made as above and further, on 30 October 2019, the ETU lodged an online complaint with Fair Trading about UGL Engineering Pty Ltd (**UGL**) and its work on the Westconnex M5 project (**Complaint**). Fair Trading assessed and investigated the Complaint and set out below is a copy of an email of today's date which advised the ETU about the investigation and its outcome:

**From:** Nathan Grogan

Sent: Monday, 11 November 2019 12:26 PM

**To:** [nickb@etunsw.com.au](mailto:nickb@etunsw.com.au)

**Subject:** CAS9969134

Dear Mr Bligh,

I refer to the complaint that you lodged about UGL Engineering Pty Ltd (**UGL**) and its work on the Westconnex M5 project (**Complaint**). You lodged the Complaint online on 30 October 2019 and a copy of it is extracted below.

#### **The Complaint**

***"The ETU NSW would like to formally put on the record that UGL a contractor on the government funded Westconnex project are actively engaging in unlicensed tradespeople undertaking electrical work. UGL have been engaged as an electrical***



***contractor on the Westconnex M5 project they currently have approximately 32 out of 91 people engaged by them as licenced electricians the unlicenced tradespeople are from a variety of civil based companies and are conducting works such as cable tray and cabling installation without direct supervision and have had multiple complaints from employees of UGL employees of other companies and representatives from other companies.”***

#### **Assessment and Investigation of the Complaint**

The Complaint was assessed by the Regulatory Analysis and Assessment Branch and referred the Building Investigations Branch (**BIB**) for investigation.

BIB investigators inspected the Westconnex M5 project (**Project**) over two days, namely Thursday 7 November 2019 and Friday, 8 November 2019. Set out below are the specific findings, however in short, the BIB Investigators did not find evidence of statutory breach by UGL or poor practice.

On Thursday 7 November 2019, BIB Investigators inspected above ground work at 31 Burrows Road St Peters. During this inspection, the Investigators randomly selected 6 workers who they observed performing electrical work and asked each one to produce their authority to perform electrical work. Those authorities disclosed the following relevant details:

1. Four workers held Qualified Supervisors' Certificates in the class of electrical – the certificates were issued by NSW Fair Trading.
2. One worker held a Contractor Licence in the class of electrical – the licence was issued by NSW Fair Trading.
3. One worker held an Electrical Contractor Licence - the licence was issued by Queensland Building and Construction Commission.

On Friday, 8 November 2019, BIB Investigators inspected work being performed in the Project tunnel and entered the tunnel at 31 Burrows Road St Peters. During this inspection, the Investigators randomly selected 20 workers who they observed performing electrical work and asked each one to produce their authority to perform electrical work. That exercised disclosed the following relevant details:

1. Nine workers held a Contractor Licence in the class of electrical – the licences were issued by NSW Fair Trading.
2. Five workers held Qualified Supervisors' Certificates in the class of electrical – the certificates were issued by NSW Fair Trading.
3. Six workers were trades assistants who were working under the supervision of one of the workers referred to in 1 and 2 immediately above – the BIB Investigators observed that each supervisor was less than 5 metres from the trade assistant and could easily observe the trades' assistants work and instruct them in the performance of that work.

We confirm that the BIB Investigators did not find any evidence of electrical work being performed unlawfully at the Project.

Please also note that the Complaint will be retained on Fair Trading's complaint management database, which is used to monitor marketplace trends and practices and assists with the development of specific consumer protection strategies.

Thank you for bringing this matter to our attention.

Regards

Nathan Grogan  
Manager, Building Investigations Branch

#### **FAIR TRADING**

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.

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.

Online Certificates of Compliance for Electrical Work (CCEW) are currently submitted by email or post. In some cases, multiple CCEWs are submitted together. Currently, there is no method for capturing the number of CCEWs lodged, and therefore exact numbers cannot be provided.

NSW Fair Trading is considering an online portal for the lodgement of CCEWs for accurate reporting purposes.

The lodgement of CCEWs is not used to direct compliance programs.

#### **FAIR TRADING**

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.

#### **ANSWER**

See Q21 above.

## **SafeWork**

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.

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.

## **ANSWER**

The *Work Health and Safety Roadmap for NSW 2022* includes a focus on high-risk sectors, harms, worker groups and workplaces. In developing the Roadmap, consideration was given to specifying older workers as an at-risk worker group. However, key stakeholders advised one of the greatest risks associated with older workers is them not getting employment at all, and that identifying them as an at-risk and/or vulnerable group may discourage employers from hiring them. Accordingly, SafeWork NSW supports older workers through its plans for specific sectors and high-risk harms.

For example, the *Agriculture Work Health and Safety Sector Plan* recognises that the agriculture sector's ageing workforce is a contributing factor to incidence rates, and includes targeted strategies to support such workers. Older farmers and workers are exposed to work health and safety risks associated with isolation, musculoskeletal disorders, livestock handling and general exposure to farm environment risks. Strategies such as the Quad Bike Safety Improvement Program, regional events, farm safety days, the pilot Farm Safety Advisor Program, and tailored musculoskeletal disorder PERforM Workshop specifically target older workers on farms.

In addition, in the last 12 months, prosecution proceedings were commenced against six defendants in relation to four incidents where a worker aged 60 years or over was seriously or fatally injured.

## **SafeWork**

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.

## **ANSWER**

On 1 April 2019, SafeWork NSW commenced Operation Scaff Safe, a targeted compliance program with a focus on safe scaffold erection and use. Over six months, inspectors visited more than 700 construction sites to check and secure compliance, and engage with principal contractors about working safely with scaffolds. Of these visits, approximately half were residential house sites and 30 per cent mid to high rise developments.

During the campaign, inspectors issued more than 800 notices.

The second phase of Operation Scaff Safe will target underperforming scaffolding companies with the aim of systematically improving safety outcomes in the industry, complemented by future blitz activities in 2020.

Operation Scaff Safe was immediately followed by a blitz on falls from heights in the construction industry. This covered scaffold safety, as well as formwork, voids, ladders, building edges and roof work. Approximately 340 inspections were conducted across the state in October 2019.

### **SafeWork**

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?

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.

### **ANSWER**

. 69 notices were issued for projects including the WestConnex project, NorthConnex, Sydney Light Rail and the Moorebank Intermodal.

In addition to the proactive activity undertaken by SafeWork NSW, the regulator responds to requests for service and incidents with appropriate compliance action including prohibition, improvement, and penalty notices, and investigations and prosecution action where required.

### **SafeWork**

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.

### **ANSWER**

Refer to above answer.

### **SafeWork**

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.

## **ANSWER**

SafeWork NSW does not receive notifications about breaches of dust standards on Government projects, as there are no legislative requirements for monitoring results to be notified to the regulator. However, SafeWork NSW inspectors review dust monitoring results during compliance checks and issue notices to acquire monitoring results where relevant.

## **SafeWork**

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.

## **ANSWER**

All tunnelling projects conduct air monitoring for exposure to respirable crystalline silica. SafeWork NSW is aware of monitoring results exceeding exposure standards. When breaches are detected, SafeWork NSW issues prohibition and improvement notices and/or progresses to an investigation. SafeWork NSW works closely with all projects including Sydney Metro, where the Principal Contractor is regulated under the Comcare scheme. SafeWork NSW regularly conducts joint visits with Comcare inspectors to address silica exposure in tunnelling.

## **SafeWork**

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.

## **ANSWER**

SafeWork NSW regularly conducts visits on tunnelling projects where dust and silica dust compliance is checked. Where an inspector enters a tunnelling worksite, they follow a checklist that guides the compliance response:

- Where inspectors observe dry-cutting / dry work, they issue a prohibition notice. This has the effect of immediately requiring the workplace to cease working in the prohibited way.
- Where inspectors observe a failure to use adequate engineering controls, they can issue an improvement notice.

Specific checklists are used for Tunnelling, Manufactured Stone, Construction Trades, Site Preparation / Demolition, Foundry work and Stone Masons.

In 2018, SafeWork NSW also worked with the Australasian Tunnelling Society, its Air Quality Working Group and other stakeholders to collectively improve health outcomes for tunnelling workers and develop reference material. SafeWork NSW also manages a NSW Infrastructure Consultative Committee, which brings together regulators, clients, contractors and unions to work collaboratively towards reducing exposure to respirable crystalline silica on infrastructure projects, among other things.

## **SafeWork**

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.

**ANSWER**

SafeWork NSW engages at all levels of the supply chain in all industries that work with silica to promote work health and safety concerning silica, amongst other issues.

As at 30 September 2019, SafeWork NSW has delivered:

<b>Silica actions by industry</b>								
<b>WSMS #</b>	9-4878	9-4919-1	9-4919-2	9-4919-3	9-4919-4	9-4919-5	9-4919-6	9-4919-7
<b>Category</b>	Construction	Trades	Tunnelling	Site Prep/ Demo	Manufactured Stone	Manufacturing	Foundry	Stone masons
<b>Interactions</b>	1210	1381	355	64	591	220	5	14
<b>Visits</b>	48	202	10	53	587	17	4	14

*Note: interactions include visits, presentations and events, with visits separated out in the second row.*

<b>Prohibition notices by industry</b>								
<b>WSMS #</b>	9-4878	9-4919-1	9-4919-2	9-4919-3	9-4919-4	9-4919-5	9-4919-6	9-4919-7
<b>Category</b>	Construction	Trades	Tunnelling	Site Prep/ Demo	Manufactured Stone	Manufacturing	Foundry	Stone masons
<b>Airborne Contaminants - Exposure</b>	2	1			6			
<b>Electrical - Unsafe Equipment</b>					2			
<b>Falls</b>		2			14			
<b>Hazardous Chemicals - Manage Risk</b>					17			
<b>Plant - Mobile Plant</b>					3			
<b>Total</b>	<b>2</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>42</b>	<b>0</b>	<b>0</b>	<b>0</b>

As noted, SafeWork NSW was also a member of the Australian Tunnelling Society's Air Quality Working Group for the infrastructure projects, such as WestConnex and Sydney Metro. The Working Group completed its scope of work in November 2018 and produced a series of 12 documents of reference material to improve safety around silica in the industry.

Since then, SafeWork NSW has created a NSW Infrastructure Consultative Committee that is chaired by SafeWork's Construction and Asbestos Services (CAS) directorate.

**SafeWork**

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?

**ANSWER**

There are 246 manufactured stone fabrication sites in NSW with approximately 3,000 workers.

**SafeWork**

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.

**ANSWER**

As per above tables, as at 30 September 2019 there has been 1210 silica-related interactions with the construction industry (48 were visits), and 1381 such interactions with trades (202 were visits). During these visits, inspectors issued 2 prohibition notices and 13 improvement notices for construction, and 3 prohibition notices and 24 improvement notices issued for trades.

It should be noted that many manufactured stone fabricators also conduct installations. Smaller businesses tend to undertake both fabrication and installation work, while larger companies generally have a dedicated group of workers for installation work. A limited number of workers / businesses focus only on installation work.

When a notice is issued to a manufactured stone business, this would apply to all workers, regardless of whether they were focused on fabrication or installation. The exception would be where a notice was issued in respect of a specific task. Accordingly, a notice issued for health monitoring or to require engineering controls to capture dust would apply to work undertaken both at the fabrication workplace and during installation.

As at 30 September 2019 there have been 611 improvement and 42 prohibition notices issued in the manufactured stone fabrication industry.

**SafeWork**

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.

**ANSWER**

SafeWork NSW's *2017-2022 Hazardous Chemicals and Materials Exposures Baseline Reduction Strategy* (Strategy) includes all industries whether residential, commercial or civil, across four components – visits, education, research and legislation. Manufactured stone fabrication worksites were the priority in 2018/19 with all 246 sites in NSW visited. SafeWork NSW plans to achieve over 9,000 interactions with NSW businesses by 2022.

SafeWork NSW has been conducting follow-up visits with the manufactured stone fabrication sites to ensure compliance. There will also be a greater focus on the other industries, including where installation work is being undertaken, to verify that correct work practices are being followed. SafeWork NSW is also prioritising visits to workplaces that had received prohibition notices and where workers were identified with potential health changes based on health monitoring reports.

SafeWork NSW also gathers intelligence through direct engagement with the relevant industries. SafeWork NSW has presented at multiple trade nights, toolbox talks and meetings with the Master Builders Association (MBA), Housing Industry Association (HIA), Councils and major building companies. SafeWork NSW's public events (forums, symposium, roadshows, etc) on silica have all reached capacity, with all relevant industries represented. SafeWork NSW has also placed various articles in the NSW Fair Trading Foundations (home building licensing), MBA and HIA newsletters and is engaging directly with various other industry associations. This interaction has proved useful in understanding industry trends and risk factors.