

Questions taken on Notice

**Better Regulation and Innovation
Budget Estimates – 16 March 2020**

The Hon. DANIEL MOOKHEY: There are face masks that are purporting to be able to offer people protection where it is clearly misleading and deceptive because they do not.

Mr KEVIN ANDERSON: If it is misleading and deceptive Fair Trading has a role to play because that is where we can determine—

The Hon. DANIEL MOOKHEY: Are you inspecting the marketplace? Are you out there raiding and out there doing those kinds of actions under your existing powers?

Mr KEVIN ANDERSON: Fair Trading has the power to investigate any misleading conduct or any deceptive conduct.

The Hon. DANIEL MOOKHEY: But has it?

Mr KEVIN ANDERSON: In terms of the face masks, I am happy to ask the Fair Trading commissioner if she has had any incidents in relation to that.

Ms WEBB: I am not aware of any, but that is not to say that we have not had that complaint raised with us. We can check that and come back to you.

The Hon. DANIEL MOOKHEY: I would appreciate that.

ANSWER:

I am advised that NSW Fair Trading has received three (3) complaints and five (5) enquiries about the authenticity of face masks.

Should Fair Trading obtain intelligence about misleading and deceptive conduct in relation to the sale of face masks or evidence that a mask has been tested and determined to be ineffective, Fair Trading will take further action.

The CHAIR: As an ordinary citizen, I would expect that the Government would have some form of emergency plan in place. From this discussion, are you saying that that is not the case? There is no plan for this kind of event and there are no guidelines on what happens in supermarkets and what happens in the case of travel insurance? Has nothing like that ever been set up by the Government?

Mr KEVIN ANDERSON: We are in unique circumstances, Ms Boyd. But I am happy to take that question on notice. It is a very broad-ranging and broad-reaching question because it covers a lot of areas. I am happy to take it on notice. But we find ourselves in a unique situation.

ANSWER:

The NSW Government's preparedness for, and response to a pandemic, is led by NSW Health.

The Hon. MARK PEARSON: The commission has the power to conduct random and periodic audits of greyhound facilities, which is part of the objective "to ensure animal welfare standards are upheld". How many facilities has the commission audited since it began on 1 July 2018 and what proportion of total facilities does that represent? You might need to take that on notice.

Mr KEVIN ANDERSON: I might ask Mr O'Brien in the first instance if he can answer that.

Mr O'BRIEN: I may need to take some of that on notice, but in the first full year of operation they inspected 747 kennelling premises and all trial tracks. But in terms of the proportion of that number of kennels with the total number, I need to take that on notice.

ANSWER:

I am advised by the Greyhound Welfare & Integrity Commission (Commission) that from 1 July 2018 to 31 January 2020 it inspected a total of 979 unique kennel facilities, representing 51 per cent of registered kennels as at 31 January 2020.

The Hon. MARK PEARSON: How many of those audits were random? That would be probably something you would need to take on notice.

Mr O'BRIEN: I would, yes.

The Hon. MARK PEARSON: With the industry growing all the time, is it realistic to expect that the commission would be able to inspect or audit all facilities and, if so, by when?

Mr KEVIN ANDERSON: I think that would be something that the commission would be looking at. I do not know whether they would be able to get to every one of them, but certainly I think the surprise element of the random audits would be enough to keep people on their toes. Whether they have a plan to audit all, we are happy to take that on notice and look at their operating plan.

The Hon. MARK PEARSON: Okay, and provide the number of random audits.

ANSWER:

How many facilities has the commission audited since it began on 1 July 2018 and what proportion of total facilities does that represent?

I am advised by the Commission that:

- for the period 1 July 2018 to 31 January 2020, 547 routine kennel inspections were undertaken
- the remaining inspections were triggered for a specific purpose.

With the industry growing all the time, is it realistic to expect that the commission would be able to inspect or audit all facilities and, if so, by when?

I am advised by the Commission that:

it has planned to achieve at least one inspection of all kennelling facilities of registered participants within two years.

The Hon. MARK BANASIAK: Going to the Greyhound Welfare & Integrity Commission and their expenditure, looking at their annual report, they have around \$17 million in their budget and they

are spending \$8 million of that on quality-related and around \$6.8 million on other operating expenses. One of those expenses is contractors and other fees. Can you provide any detail about what that entails? What is GWIC contracting out for other people to do?

Mr KEVIN ANDERSON: I do not have those details with me, but Mr O'Brien might be able to comment.

Mr O'BRIEN: In terms of specific components of the commission expenditure and what those line items entail, we would need to seek that on notice from the commission.

The Hon. MARK BANASIAK: You are spending about \$1.5 million on swab analysis. Do you store figures on how many of those swab analyses return a false positive—so the first sample, sample A, says positive and then they do sample B—

Mr O'BRIEN: The commission would have that information, so we can take that on notice.

The Hon. MARK BANASIAK: You may need to take this on notice, but Mr Pearson mentioned the 444 new participants. How many people have left the industry? To give some balance to the figures, how many people are no longer racing?

Mr O'BRIEN: We can take that on notice.

Mr KEVIN ANDERSON: Yes.

Mr O'BRIEN: Do you mean the reduction in registrations?

The Hon. MARK BANASIAK: That might be your best yardstick potentially, yes.

ANSWER:

One of those expenses is contractors and other fees. Can you provide any detail about what that entails? What is GWIC contracting out for other people to do?

I am advised by the Commission that for the 2018-19 financial year, expenditure on contractors and other fees was \$1.031 million, comprising:

Item	\$'000
Contracted vet services to race meetings	244
Other contractors	157
System development for online naming and renewals	296
Greyhounds Australasia (GA) membership	101
Greyhound naming fees paid to GA	93
Other	140
TOTAL	1,031

You are spending about \$1.5 million on swab analysis. Do you store figures on how many of those swab analyses return a false positive—so the first sample, sample A, says positive and then they do sample B—

I am advised by the Commission that:

- for the period 1 July 2018 to 24 March 2020 there was only one instance where the B (reserve) sample did not confirm the A sample

- in this instance, the volume of urine in the reserve sample was insufficient for the referee laboratory to obtain satisfactory data in order to report the sample as positive.

You may need to take this on notice, but Mr Pearson mentioned the 444 new participants. How many people have left the industry? To give some balance to the figures, how many people are no longer racing?

I am advised by the Commission that of those participants registered in the industry as at 1 July 2018, 117 did not renew their registration during the re-registration process conducted between June and August 2019.

The Hon. COURTNEY HOUSSOS: Minister, I come back to the issue of flammable cladding. You said that the number of buildings is coming down. I logged onto the Customer Service website last night and just checked it again now. It still says that there are 444 buildings under review, assessment or remediation. That is the same number that was provided to the upper House in November last year. Is that correct?

Mr KEVIN ANDERSON: I can take on notice to confirm that number because I want to ensure that it is right. If it is saying that on the website at the moment, then 444 would be it. But I am happy to take that on notice.

ANSWER:

There were 444 potentially high-risk buildings outstanding as at 31 October 2019. Updated figures are published weekly on the Department of Customer Service website. As of 27 March 2020, 442 buildings were outstanding.

The Hon. COURTNEY HOUSSOS: Without diminishing the importance of the other work you are doing, surely the issue of flammable cladding should be high on your priority list, so you would meet more than three times with the organisation that is charged with fixing this issue?

Mr KEVIN ANDERSON: The chair of the Cladding Taskforce is Mr Tansey and I speak with Mr Tansey regularly. You are right, it is a serious issue. I do take it very seriously and it is one that this Government is working towards with a clear strategic plan to ultimately look at what we need to fix this problem.

ANSWER:

Answer not required.

The Hon. JOHN GRAHAM: Mr Tansey, can I just jump in there. You are saying 94 remediations are underway. That is not what the website says: Remediation is underway or has been ordered or has been approved by the consent authority. Mr TANSEY: Correct.

The Hon. JOHN GRAHAM: How many of those have actually been remediated?

Mr TANSEY: What I am saying to you is that I know I have figures that since September there have been 14 actually remediated. You are right, Mr Graham, that on the website the figure for remediation includes those that have been ordered or had a notice of intention issued or in fact they were being remediated.

The Hon. JOHN GRAHAM: Fourteen have been remediated but we do not know how many remediations are underway?

Mr TANSEY: I could get you that on notice.

ANSWER:

Since the establishment of the Cladding Taskforce in June 2017, 664 buildings have been assessed as potentially high-risk, and 222 of these have been cleared. The Cladding Taskforce considers buildings cleared based on advice from consent authorities.

Since the establishment of the Cladding Support Unit in September 2019, consent authorities report on certain actions they have taken in respect of potentially high-risk properties. This includes reporting whether a Notice Order, development consent or Complying Development Certificate has been issued for remediation work. Consent authorities also report when remediation work has been completed and buildings can be considered cleared. Consent authorities engage directly with building owners concerning the timeframes for completion of remediation works, but do not specifically report on whether or not work is physically underway.

The Hon. DANIEL MOOKHEY: Sure. Let's unpack that. Every cluster is responsible for its own buildings. Let's talk about your cluster. SafeWork NSW—your agency that directly reports to you—has flammable cladding on its headquarters. We learned that last time. That is one thing that you could be doing right now. No-one else can be responsible for that; you are the Minister—it is your cluster, it is your agency. Why has SafeWork NSW, the workplace health and safety regulator, not had cladding removed from its building?

Mr KEVIN ANDERSON: My understanding is that it would still be part of that assessment process. Ultimately, the completion of it—I can get an update for you on that, Mr Mookhey, and take that on notice if you wish.

The Hon. DANIEL MOOKHEY: I accept that it is a part of the assessment process and, to be fair to you, Minister, that is exactly what you said in September. In September you said, "It is part of the assessment process". We are now six months after that point. Why have you not completed the assessment on a building that you are directly responsible for?

Mr KEVIN ANDERSON: Mr Tansey can add comment to that, Mr Mookhey.

Mr TANSEY: Thank you, Minister. In fact, the building you are talking about is not a government-owned building; it is a privately owned building. SafeWork NSW is a tenant of that building. The building owner is currently subject of orders by Liverpool council for assessment of that building.

The Hon. DANIEL MOOKHEY: So when is that building assessment going to finish, Minister?

Mr KEVIN ANDERSON: I can take that on notice, Mr Mookhey.

The Hon. DANIEL MOOKHEY: When is the flammable cladding on SafeWork NSW going to be removed?

Mr KEVIN ANDERSON: That is a private building that Mr Tansey was just referring to.

The Hon. DANIEL MOOKHEY: Yes, but it is an agency that we have the lease on. It is our employees who work in it. I imagine that there are other people or other tenants affected. But you cannot seriously be sitting here and saying that SafeWork NSW, the agency responsible for workplace health and safety, we have no idea when this cladding is going to be removed. Is that the position

that is being adopted? Do you know? I am not asking whose fault it is. When are we going to have it removed?

Mr KEVIN ANDERSON: I can take that on notice because just coming back to Mr Tansey's point, Mr Mookhey, each building is unique in terms of whether it is part of the foyer or it is a window or whether it is a facade. But I can take those details on notice. The Hon. DANIEL MOOKHEY: Minister, I want you to be directly relevant and give you a reasonable chance to answer this question. What you have just said, you have said multiple times today and you said the same thing in September. It is a really straightforward question. Do you know when SafeWork NSW is going to have its cladding removed?

Mr KEVIN ANDERSON: The building that SafeWork workers are in, because it is a private building?

The Hon. DANIEL MOOKHEY: Yes.

Mr KEVIN ANDERSON: We can take that on notice and get an update on that particular building for you.

Mr DAVID SHOEBRIDGE: I think we call it the unsafe SafeWork building. That is how we can refer to it going forward.

The Hon. DANIEL MOOKHEY: I am happy to accept that as a describer of the building if you need to. Do you know?

Mr KEVIN ANDERSON: I will take that on notice, Mr Mookhey, and come back with specifics on that building.

ANSWER:

The building in question is a privately-owned building. Liverpool Council has issued orders to the owners of the building occupied by SafeWork NSW and other tenants. The owners have commissioned expert fire safety assessments. The Cladding Taskforce understands that these assessments are being finalised. Interim safety measures are also being finalised and implemented.

Mr DAVID SHOEBRIDGE: I will get there in due course. Minister, would it surprise you to know that the Building Code of Australia or the National Construction Code of Australia does not have an express requirement to say that the system in place for fixing cladding to buildings cannot have an element in it that could fail and cause debris? Would you be surprised to know that is missing from the National Construction Code? Or do you know that?

Mr KEVIN ANDERSON: No, I do not know that, Mr Shoebidge, so I am happy to take that intimate detail on notice and thank you for raising it. Certainly if that is an issue I would be very happy to take that to the Building Ministers' Forum, where we discuss these sorts of issues, so very happy to take that forward. If it is a problem then we will address it.

ANSWER:

No answer required.

The Hon. MARK BANASIAK: Minister, you may refer this to Mr O'Brien. I refer to a swab issue. It has been reported to me that there is a significant number of swab tips that end up breaking and

obviously then contaminating all other test results. Do you have any figures on how many swab tips are actually breaking? How much is that costing us?

Mr O'BRIEN: We do not have any information to hand how much swab tips are broken?

The Hon. MARK BANASIAK: Are you aware of—

Mr O'BRIEN: That is not an issue that has been raised with the Office of Racing.

The Hon. MARK BANASIAK: Okay. Can you take it on notice and find out just how significant this issue is?

Mr O'BRIEN: I certainly can.

ANSWER:

I am advised by the Commission that:

- the laboratory it uses to conduct analyses of swab samples has not reported any irregularities or abnormalities with the analytical process
- the testing laboratory will report to the Commission if samples provided have leaked or do not contain sufficient volume
- if any sample tested is detected as containing a prohibited or permanently banned substance, the reserve sample will be sent to an independent laboratory for confirmation of the substance
- there have been a small number of cases where the external seal of a swab bag (which may contain a number of individual samples, each sealed with a tamper evident sticker and contained in an individually sealed evidence bag) has detached during transit. In instances where this has occurred, the testing laboratory has confirmed there was no evidence of tampering with any of the individual samples contained in the swab bag.

The Hon. JOHN GRAHAM: You have given us one example: SafeWork NSW. That is not in the eight. That is not a public building; it is a public agency but in a private building. You have taken on notice some details about who knows about that. But thinking about the cladding and thinking about where the building has been over the past 10 years or 20 years where some of these products might be in use, what would the public know if some of these were, say, shopping centres? Would shoppers be aware? What steps has the Government taken to alert shoppers that there might be flammable cladding on the place where they are shopping?

Mr KEVIN ANDERSON: In relation to those buildings, Mr Graham, the owners of those buildings, the body corporate and strata there has been significant—not necessarily strata, obviously, in a commercial building, but there has been significant communication and constant communication via councils and the owners of those particular buildings about the condition of their building and where does it sit. If there was a risk, there would have been fire safety orders—

The Hon. JOHN GRAHAM: So a lot of communication. Who knows, is my question. You are saying the owner knows. The tenants in a shopping centre might know—the shop owners. Should they know?

Mr KEVIN ANDERSON: They would be informed by the owner of the building.

The Hon. JOHN GRAHAM: Do the shoppers know when they walk through this shopping centre?

Mr KEVIN ANDERSON: I would have to take that on notice in relation —

The Hon. JOHN GRAHAM: Have you taken any steps —

Mr KEVIN ANDERSON: I would have to —

The Hon. JOHN GRAHAM: —to make sure?

Mr KEVIN ANDERSON: Mr Graham, it is a good point. I would have to take that on notice to get advice in relation to what the owners of those — say, for example, a shopping centre — are doing to inform those communities.

ANSWER:

Consent authorities thoroughly assess each potentially high-risk building to determine what action is required. This may include requiring expert assessment of the cladding and also includes consideration of the other aspects of the building's fire safety systems. Orders issued by consent authorities can require owners to take specific action to notify occupants, if this is appropriate in the circumstances. Orders can also be issued requiring interim measures to enhance fire safety while further assessment or remediation work is carried out, if this is appropriate. This particular question relates to a hypothetical scenario with unknown variables and as such so it is impossible to answer with the level of detail requested.

The Hon. JOHN GRAHAM: Let me turn to hotels. Interstate travellers may be coming from Victoria or overseas travellers come to stay in a Sydney hotel. If one of those has got flammable cladding, does the person staying in that hotel room know?

Mr KEVIN ANDERSON: I would again take that on notice. But if a building has been assessed in a particular local jurisdiction, it is up to that local jurisdiction and those buildings to be identified. So it would be up to the owner of that particular building — the hotel or whatever — to inform and notify.

ANSWER:

See previous answer.

The Hon. MARK PEARSON: Minister, we are back to greyhounds and the use of prohibited substances. The McHugh report found that the use of prohibited substances in greyhounds was a chronic problem throughout all aspects of the greyhound racing industry, for breeding and training through to injury management and track performance. Are you satisfied that the commission has successfully addressed this issue?

Mr KEVIN ANDERSON: The Greyhound Welfare & Integrity Commission, in my view, have been quite targeted in this area and are cracking down on participants that do not do the right thing in a whole range of areas, whether they be through illegal substances or whether they be through the welfare of the animals. It is a focus of the Greyhound Welfare & Integrity Commission to stamp out that practice. If anyone is found to be participating or involved in any way, shape or form then they should have the full force of the rules and the regulation of the industry and they should not be allowed in the industry.

The Hon. MARK PEARSON: For clarification, what evidence has the commission provided to show that the use of prohibited substances has been eradicated? You might want to take that on notice.

Mr KEVIN ANDERSON: We will take that on notice.

ANSWER:

I am advised by the Commission that:

- it conducts a comprehensive prohibited substance detection program, including both race day and out-of-competition sampling
- there is a stronger emphasis on out-of-competition testing than previously in place
- as stated in its 2018-19 annual report:
 - the Commission collected 7,964 swabs from 81,282 starters at NSW races (a sampling rate of 9.8 per cent, comparable to sampling rates in the previous two years)
 - 34 race day swabs taken from 33 greyhounds tested positive for a prohibited substance (0.4 per cent), with disciplinary action taken in each case
- in the first six months of 2019-20:
 - a total of 4,440 swabs were collected from 40,670 race starts (sampling rate of 10.9 per cent).

Under the Commission's swabbing strategy, its 2019-20 target for out-of-competition testing of five per cent of samples collected was achieved in that six-month period.

Coming to breeding, the current fee for greyhound litter registrations is \$50. On 1 July 2019 this was reduced from \$150 due to, "the recent introduction of online services". However, my staff have called up the Greyhound Welfare & Integrity Commission and been told that it is not possible to register a litter online. Can you explain why the fee was reduced by 200 per cent?

Mr KEVIN ANDERSON: I might ask Mr O'Brien if he could add comment to that.

Mr O'BRIEN: I do not think we have any information to hand on that but we can certainly ask the commission and take it on notice.

ANSWER:

I am advised by the Commission that:

- as part of its commitment to improved customer service, the Commission is progressively implementing online services for customer-facing transactions
- the Commission is committed to passing on resulting administrative savings to industry participants where possible
- online naming applications were implemented in May 2019 and the fee associated with this transaction reduced accordingly.

It is anticipated that applications to register a litter online will be made available shortly.

The Hon. DANIEL MOOKHEY: In terms of the educational institutes and in terms of the one that your Government has already acknowledged and you have answered questions about before and your predecessor has answered questions about before, which is well and truly known and has already been in the media, we are asking you now, given that you have had years of notice for those particular facilities, is the public being told that they are passing through a space that has flammable cladding? Mr KEVIN ANDERSON: Mr Mookhey, I will not be drawn on the types of facilities, be those that you have just mentioned. The only one that we have ever mentioned before you last year was

the Ultimo TAFE that we talked about on the public record, you might recall. But I will not be drawn on other institutions that may be on the register.

The Hon. DANIEL MOOKHEY: Okay, let us just limit it to that one then. If I were to enter Ultimo TAFE now, passing through it, would I be told of it?

Mr KEVIN ANDERSON: Mr Tansey, would you like to update Mr Mookhey?

Mr TANSEY: I would have to take that on notice what steps they have taken. The Hon. DANIEL MOOKHEY: Minister, is there a policy that would require Ultimo TAFE to tell me? Mr KEVIN ANDERSON: We have been down this path before, Mr Mookhey. I will take it on notice and we will refer to the cluster manager, the cluster secretary and the Minister, but our view is that they are responsible for that building. They would manage the risk in that building. I can tell you that they would not put the safety of anybody who goes to the building at risk.

ANSWER:

Each cluster is responsible for managing the remediation of buildings owned by their agencies. As such, this question should be directed to the Minister for Skills.

The Hon. DANIEL MOOKHEY: Thank you for describing what a register is. We have been calling for one, as has been the law and justice committee now for a couple of years. I am just asking whether it is legally required for doctors to tell people from 1 July.

Mr KEVIN ANDERSON: That is my understanding, yes.

The Hon. DANIEL MOOKHEY: Is that regulation being made by you or the health Minister?

Mr KEVIN ANDERSON: I will take that on notice to be completely sure, but my understanding is that it is progressing for 1 July.

The Hon. DANIEL MOOKHEY: What does "progressing for 1 July" mean? That is three months away. Do doctors have to notify on 1 July?

The Hon. SAM FARRAWAY: He has already said he would take it on notice.

Mr KEVIN ANDERSON: I will take it on notice, Mr Mookhey, and get the exact — it involves NSW Health as well so I want to make sure that all of the regulations and documentations are in place for that to occur.

The Hon. DANIEL MOOKHEY: Which class of doctors have to make the notification? Mr KEVIN ANDERSON: I will take that on notice, Mr Mookhey.

The Hon. DANIEL MOOKHEY: Do we have that decision? Has it been resolved?

Mr KEVIN ANDERSON: That is through NSW Health, but certainly to be totally clear on which doctors, I am happy to take it on notice for you.

The Hon. DANIEL MOOKHEY: What other dust diseases does it cover?

Mr KEVIN ANDERSON: What it does cover — and I will go through the main points —

The Hon. DANIEL MOOKHEY: No, I just want to know the diseases. Which diseases are going to be notifiable?

Mr KEVIN ANDERSON: I will ask Ms McCool to further elaborate on that for you. **Ms McCOOL:** Silicosis, whether it is an acute, accelerated or chronic —

The Hon. DANIEL MOOKHEY: Yes, silicosis.

Ms McCOOL: It will be under the Public Health Act. That is the Act that it will be — for all doctors.

The Hon. DANIEL MOOKHEY: What about the other dust diseases, which are mixed-dust pneumoconiosis; coal workers' pneumoconiosis; asbestosis; cancer, as in mesothelioma; and chronic obstructive pulmonary disease? Are they going to be covered or not?

Mr KEVIN ANDERSON: I will take it on notice, Mr Mookhey, to make sure that we get it right for you.

The Hon. DANIEL MOOKHEY: Do you have any further information as to the other class of diseases?

Mr KEVIN ANDERSON: I will ask Ms McCool to further elaborate.

Ms McCOOL: It is not covering the 14 diseases that are covered in the icare. At this point it is covering only silicosis and the various forms of silicosis. But it will cover coal workers' lung and that would be reportable from that register to the mining regulator. T

he Hon. DANIEL MOOKHEY: The diseases that I just set out to you, Minister, have been notifiable in Queensland since 1 July 2019. Are we going to at least have the same rules that Queensland has or not?

Mr KEVIN ANDERSON: Mr Mookhey, I cannot speak for Queensland. What we will do is get the correct information for you from New South Wales —

The Hon. DANIEL MOOKHEY: I am asking you to speak for New South Wales.

Mr KEVIN ANDERSON: Yes, I am.

The Hon. DANIEL MOOKHEY: Are these diseases going to be notifiable? If not, why not?

Mr KEVIN ANDERSON: What I will do is get the types of diseases, apart from silicosis — that will be notified — because I would not want to give this Committee incorrect information.

ANSWER:

From 1 July 2020, the following silicosis conditions will become notifiable by all NSW medical practitioners to NSW Health under Part 4 of the NSW *Public Health Act 2010* by way of an order issued by the NSW Minister for Health and Medical Research:

- Accelerated silicosis
- Acute silicosis
- Chronic silicosis
- Coal workers pneumoconiosis
- Mixed dust pneumoconiosis.

Amendments are being drafted to the NSW *Work Health and Safety Act 2011* (WHS Act) to allow the Secretary of the Ministry of Health to share this notification information with the NSW work health and safety (WHS) regulators (SafeWork NSW and the NSW Resources Regulator) to carry out their functions under the WHS Act. When the draft is available it will be issued to stakeholders for comment and submitted to Parliament. Until then, the silicosis notification information will remain with NSW Health.

In practice, these provisions once finalised will provide the legal framework for NSW Health to notify the WHS regulators when they receive the above silicosis diagnoses and will allow the WHS regulators to immediately commence an investigation into the worker's condition and past work practices.

The asbestos related diseases and cancer mesothelioma is already captured under cancer notification requirements. The NSW Cancer Registry maintains records on all people with cancer in NSW. Notification of new cancer cases and cancer deaths is required under the *Public Health Act 2010*. The asbestos related disease mesothelioma is notified to the Australian Mesothelioma Registry through the NSW Cancer Registry.

Mr DAVID SHOEBRIDGE: Minister, that was, at best, a very indirect response to my question. Could I ask you again: Do you agree that having a common series of diseases recorded on each individual State register is a very useful initial step if we eventually want to establish a standardised national register? As much commonality as possible between the various State registers advances the goal of a coherent national register. Do you at least agree on that intellectual proposition?

Mr KEVIN ANDERSON: I can see the benefit of a national—Mr Shoebridge, if you would please hear me out? I am not across the detail on the Queensland register; I am not across the detail on the Victorian register. I have been working very closely with NSW Health and it was our initiative to get notifiable diseases on the NSW Health register. That is where we are working at the moment. Once we have all of the detail from the medical profession on board, we can then consider how we then interact at a national level.

Mr DAVID SHOEBRIDGE: Minister, it is very frustrating if you will not even engage on this key design issue about the State register. What I am putting to you is that if we adopt the same schedule of diseases to be reportable in New South Wales as has been adopted in Queensland and Victoria, that will make it much easier to establish a coherent national register. Do you agree or disagree with that proposition?

The Hon. SHAYNE MALLARD: Leading the witness.

Mr DAVID SHOEBRIDGE: I am trying, I really am trying.

Mr KEVIN ANDERSON: The challenge we face across—

The Hon. SHAYNE MALLARD: We know the trap you are setting.

Mr DAVID SHOEBRIDGE: It is not a trap.

The Hon. SHAYNE MALLARD: We see it every single time.

Mr KEVIN ANDERSON: I understand it is not a trap and I appreciate Mr Shoebridge's question and its intent but I want to make sure that at this point in time we are setting up the register for New South Wales. I do not have the detail on the Queensland register or the Victorian register or other national registers. So for me to pass comment on what they are doing—

Mr DAVID SHOEBRIDGE: Commonality.

Mr KEVIN ANDERSON: As I said to Mr Mookhey, we will take on notice the diseases that we will be looking at as notifiable and then if we can work toward a national register, let us go down that path.

Mr DAVID SHOEBRIDGE: I will ask it in a different way. Is it part of the design for the New South Wales register to be looking forward and to achieve a New South Wales register that can most readily be adopted as part of a national register? Is that part of the design at a State level?

Mr KEVIN ANDERSON: Ideally that would be the goal.

Mr DAVID SHOEBRIDGE: I am not asking you about "ideally". I am asking you if that is part of the design or are you just burrowing away in New South Wales ignorant of how it would fit into a national design?

Mr KEVIN ANDERSON: Ideally that would be the goal from a New South Wales perspective, to integrate, but again I am not a health professional. I am not completely across the health details in relation to the notifiable diseases, but I do know from a silica perspective that is what we are focused on. Let us keep moving forward and then see where it lands in relation to the national register and can there be some commonality between our borders.

Mr DAVID SHOEBRIDGE: So we are on a unity ticket about it being ideal—

Mr KEVIN ANDERSON: It frightens me, Mr Shoebridge.

Mr DAVID SHOEBRIDGE: To have that as the goal and part of the design but what I have not yet heard is whether or not that is part of the design at a State level. Maybe Ms Webb or Mr Tansey or one of the other officials here can actually answer whether or not that is part of the design for the State register at the moment.

Ms McCOOL: The extra diseases that are in Queensland cover asbestosis, which is not part of the design in terms of making silicosis a notifiable disease. It is a completely different disease and it is a different dust. Our objective is any of the diseases that relate to silicosis is on that register by way of amendment of the health Act.

The Hon. DANIEL MOOKHEY: Amendment or regulation?

Ms McCOOL: It is under the health Act. The regulation that the Minister was talking about is our on-the-spot clients. The Hon. DANIEL MOOKHEY: Is it a regulation to set up the register or is it an amendment to the health Act?

Ms McCOOL: It is an amendment to the health Act.

Mr DAVID SHOEBRIDGE: Minister, it sounds to me like the answer is no, the computer just said no. Do you agree with that? It is not actually part of the design framework to try and have commonality.

Mr KEVIN ANDERSON: As I said, Mr Shoebridge, we are right at the start of working with NSW Health in terms of how we stand this up and get everybody on board. It is very difficult to direct doctors, so some work is being done with NSW Health to look at how we stand this up. Once we get commonality, then I think we can take the next step in looking at how do we then dovetail, if possible, with a national register.

Mr DAVID SHOEBRIDGE: Will this be achieved through legislative measures, like an amendment to substantive legislation, or is it going to be achieved by a regulatory pathway?

Mr KEVIN ANDERSON: I will need to take that on notice, Mr Shoebridge.

Ms McCOOL: Under the Public Health Act it will be a notifiable condition and under the schedules, that is where it is listed and that gives them the power and also it will include all doctors. So it is not whether you go to a public hospital, you go to a physician or you go to a specialist, it is notifiable through that means by all doctors in New South Wales.

Mr DAVID SHOEBRIDGE: So that requires an Act of Parliament added to the schedule. Is that what you are saying to us?

Ms McCOOL: Under the Public Health Act.

Mr DAVID SHOEBRIDGE: Minister, can you undertake to provide on notice whether there is a non-statutory way of establishing the regime, given the uncertainty about Parliament returning between now and 1 July?

Mr KEVIN ANDERSON: Yes, I can give you that.

ANSWER:

Prescribed medical practitioners (occupational and environmental medicine and respiratory and sleep medicine) are only required to notify the Queensland Health chief executive when a person is diagnosed with a notifiable dust lung disease under the *Public Health Act 2005*. Patients, their family members or their general practitioner are not required to notify Queensland Health.

The NSW requirements will require all NSW medical practitioners to notify NSW Health of the five types of silicosis (see preceding answer) across all industries. This includes general practitioners, respiratory physicians, occupational physicians, and hospitals; for manufactured stone, tunnelling, domestic and civil construction and foundry work.

The NSW Minister for Health and Medical Research has issued an Order under Part 4 of the NSW *Public Health Act 2010* to take effect in NSW on 1 July 2020, with amendments being drafted to the NSW *Work Health and Safety Act 2011* (WHS Act) to allow the Secretary of the Ministry of Health to share this notification information with the NSW work health and safety (WHS) regulators (SafeWork NSW and the NSW Resources Regulator). Until then, the silicosis notification information will remain with NSW Health.

On a national level, the National Dust Disease Taskforce has proposed a set of 'early recommendations' and a set of 'initial findings' in December 2019, with a Final Report to be issued to the Council of Australian Governments' Health Council no later than December 2020. Recommendation 2 relates to the "staged establishment of a National Dust Disease Registry that is initially focused on accelerated silicosis related to engineered stone" only.

The Hon. COURTNEY HOUSSOS: I will have follow-up questions for Mr Dunphy. I ask you for this undertaking. You will further investigate these examples of unlicensed work on major government projects?

Mr KEVIN ANDERSON: That is of deep concern to me, any unlicensed work on any project because it does put people's lives at risk. I will take that on notice, but certainly Mr Dunphy will have more to say. If you want to hear from him now, certainly we can do that.

ANSWER:

All matters reported to NSW Fair Trading, including allegations of unlicensed work, are assessed and action is taken, where appropriate. Fair Trading conducts regular compliance checks of sites conducting electrical work. This includes proactive inspections as well as inspections in accordance with complaint handling procedures. Fair Trading may conduct an investigation into a complaint and a site inspection of the location where the alleged unlicensed work is occurring.

The range of compliance action available to Fair Trading includes:

- Warning Letters;
- The issuing of Penalty Notices;
- Prosecution action in the court; or
- Disciplinary action.

Mr DAVID SHOEBRIDGE: Minister, can you provide to the Committee on notice a full set of the current NSW Building Commissioner's delegations and powers?

Mr KEVIN ANDERSON: The delegations and powers, Mr Shoebridge, are in the Design and Building Practitioners Bill 2019.

Mr DAVID SHOEBRIDGE: No, they are not. **Mr KEVIN ANDERSON:** But also —

Mr DAVID SHOEBRIDGE: They are just not. That is just not true. It is just not true. You have got an obligation to try and assist the Committee. That is just not true, Minister.

The Hon. SHAYNE MALLARD: Point of order: The Minister was still answering that question.

Mr DAVID SHOEBRIDGE: But the Minister has got an obligation to be truthful with us, and that is not true. He cannot just —

Mr KEVIN ANDERSON: I had not finished. **Mr DAVID SHOEBRIDGE:** —sit there and babble that nonsense. It is just plainly untrue. **The CHAIR:** Order! In relation to the point of order, if we could please allow the Minister to finish the sentence before moving to the next question.

Mr DAVID SHOEBRIDGE: So you tell me it is in the building, the design and building —okay, fine.

Mr KEVIN ANDERSON: No, there is more to come, Mr Shoebridge. In first and foremost the Design and Building Practitioners Bill, which incorporates the work plan of the NSW Building Commissioner and his powers, we believe that for the NSW Building Commissioner to get on with restoring accountability, transparency and quality in the building and construction industry in New South Wales his powers need to be brought forward. We are looking at what we need to do to bring his powers forward so that he can get on and, like the rest of New South Wales —and like yourself, Mr Shoebridge, and others —

The Hon. COURTNEY HOUSSOS: He is not mentioned in the bill.

Mr KEVIN ANDERSON: Like yourself, Mr Shoebridge, and others we want to ensure —

The Hon. COURTNEY HOUSSOS: Have you read the bill?

Mr KEVIN ANDERSON: —the quality, transparency and accountabilities in the building and construction industry and we are getting on with the job —and we know you do, too.

Mr DAVID SHOEBRIDGE: Minister, there is no reference to the NSW Building Commissioner in the design and building bill. There are no additional powers that the Building Commissioner will get in at least the next two years under that bill. Do you accept those basic propositions?

Mr KEVIN ANDERSON: The Design and Building Practitioners Bill does —

Mr DAVID SHOEBRIDGE: Not mention the Building Commissioner even once.

Mr KEVIN ANDERSON: It does clearly outline what needs to be done in terms of accountability, transparency and quality with the Building Commissioner. We are also bringing forward the residential apartments bill, which will have the powers for the Building Commissioner to get on with doing the job that we believe the industry is calling for at great length — that is, to put the confidence back in the building industry. They want that to happen. If we can get the Design and Building Practitioners Bill, as you all do want it, through the upper House so we can get on with the accountability, the transparency and the quality of the building and construction industry in New South Wales it is a good start. **Mr DAVID SHOEBRIDGE:** Minister, will you table the delegations?

Mr KEVIN ANDERSON: The Design and Building Practitioners Bill —

Mr DAVID SHOEBRIDGE: No, will you table the Building Commissioner's current set of delegations? Will you do that?

Mr KEVIN ANDERSON: Yes.

ANSWER:

The Building Commissioner has been appointed as an inspector under the *Work Health and Safety Act 2011* for the purposes of resolving work health and safety issues at workplaces (and other purposes), with powers to enter premises and complementary powers when on-premises, seizure of evidence, copying and retaining documents, answers to questions, etc.

The Building Commissioner has been appointed as an investigator under the *Fair Trading Act 1987*, which confers broad powers upon the Building Commissioner to investigate matters relating to the Australian Consumer Law (NSW) and other legislation administered by the Minister for Better Regulation and Innovation.

The Building Commissioner has been appointed as an enforcement officer under the *Plumbing and Drainage Act 2011*, with powers to:

- enter premises to inspect articles, matters or things relating to plumbing and drainage work;
- open any ground, remove any flooring and take any measures to ascertain the character and condition of the premises and of any pipe, sewer, drain or fitting, and opening, cutting into or pulling down of any non-compliant plumbing and drainage work;
- take measurements, make surveys and take levels, and dig trenches, break up the soil and set up any posts, stakes or marks;
- other complementary powers such as requiring answers, taking samples or taking photographs.

The Hon. DANIEL MOOKHEY: Sure. Minister, if I was to go and ask every ground worker and every airline worker right now whether they have been provided with the correct forms of personal protective equipment, are you confident that they would all say yes? By the way, what is the correct form of personal protective equipment that they should have on?

Mr KEVIN ANDERSON: I do not have that operational detail. I am happy to take that on notice but certainly the Fair Trading commissioner might know.

ANSWER:

SafeWork NSW Inspectors, as part of their ongoing interactions with Qantas and Jetstar, their Health and Safety Representatives (HSRs) and their representative trade union have reinforced the importance of persons conducting a business or undertaking (PCBU) implementing specific risk controls to manage the risk of COVID-19 transmission in the workplace, the use and provision of the personal protective equipment (PPE), and the adherence to the Government health guidelines on social distancing and hygiene to manage the risk of COVID-19 transmission in the workplace.

Readily available safety and health information can be viewed on the SafeWork NSW website, which provides up to date COVID-19 information for PCBUs and workers.

SafeWork NSW customer service centre is also available to provide practical advice to PCBUs and workers.

PPE is specifically mentioned on the *SafeWork NSW COVID-19 Advice and guidance for NSW workplaces* in the paragraph "*Should workers use personal protective equipment*" and recommends when workers should wear gloves, eye protection and face masks. This is in addition to basic PPE of steel capped boots, hearing protection and high visibility clothing.

Employers must put in place effective hygiene and infection control measures. PPE is one of many control measure options.

The Hon. DANIEL MOOKHEY: Just very quickly, Ms Webb, one of the practices that we are rolling out now in businesses is they are refusing legal tender and they are saying that we are only going to handle payments by cashless payments. That may or may not be a sensible public health measure but probably is not legal because I think you are required under law to accept cash. Firstly, is it a legal practice? Secondly, what advice are you giving businesses that may be thinking about going cashless?

Ms WEBB: My understanding is that if any law applies to it, it is a Commonwealth law relating to the Reserve Bank and banking arrangements. I could take that on notice and double-check that. I do not think it is anything to do with the State law.

ANSWER:

According to the Reserve Bank of Australia although transactions are to be in Australian currency unless otherwise agreed or specified, and Australian currency has legal tender status, Australian banknotes and coins do not necessarily have to be used in transactions and refusal to accept payment in legal tender banknotes and coins is not unlawful.

The Hon. COURTNEY HOUSSOS: I wanted to come back to the issue of unlicensed electrical work.

Mr Dunphy, I assume I am correct in directing my questions to you. The Australian reported on 28 January that there were four unannounced inspections that occurred in December and one in January on the NorthConnex project.

Mr DUNPHY: Yes.

The Hon. COURTNEY HOUSSOS: Can you outline what they inspected? What was the process when they went there?

Mr DUNPHY: Since January 2018 we have actually set up a specialised infrastructure team which looks at all the major infrastructure programs. We have recruited additional inspectors to focus on the very issues relating around the major construction projects and that includes—

The Hon. COURTNEY HOUSSOS: Can I just pause you there? Where does the team reside?

Mr DUNPHY: The team resides as part of the metropolitan construction team.

The Hon. COURTNEY HOUSSOS: It is part of the metropolitan construction team? Mr DUNPHY: For SafeWork, yes.

The Hon. COURTNEY HOUSSOS: Can you tell me how many additional inspectors were added?

Mr DUNPHY: I believe—I am approximating—it was around 15 inspectors.

The Hon. COURTNEY HOUSSOS: Do you want to take that one on notice and come back to me with the exact figure?

Mr DUNPHY: Yes, sure.

ANSWER: (as relates to SafeWork NSW)

During 2019, SafeWork NSW's Construction Infrastructure Team conducted proactive verification visits to various NorthConnex worksites. These included three visits in December 2019 (17, 18, 19 December) and two in January 2020 (7 and 15 January).

This differs from the newspaper article, which quoted four visits in December and one in January. However, the total visits during the period December 2019 and up to 28 January 2020 is reported as and confirmed as five.

The proactive visits were part of a verification regime to inspect major infrastructure projects. SafeWork NSW arranges the visit then inspects the site and relevant documents, conducts checks for high risk work licences and construction induction cards, sights or reads safe work method statements and issues Notices as required before preparing an inspection report.

The results of the five proactive visits up to 28 January 2020 included:

- site observations to ensure compliance with work health and safety (WHS) legislation. These included: dust suppression, fall protection, exclusion zones, guard rails, signage, ventilation, traffic control, emergency procedures, entry/exit requirements, site security and use of personal protective equipment (PPE).
- confirming records/documents associated with the worksite, such as demolition paperwork and licences, construction induction cards, high-risk work licences, Safe Work Method Statements, daily work plans.
- discussions with the PCBU and worker representatives on topics such as supervision requirements during demolition, management of risks associated with falling objects, plant and working in a restricted space, ergonomic risks, emergency procedures, effective communication, and safe systems of work.

These inspections did not look at electrical licences or licences for workers carrying out electrical-related work, as that work is undertaken by NSW Fair Trading Inspectors who have regulatory oversight under the *Home Building Act 1989*.

The SafeWork NSW Infrastructure Team was founded in January 2018, with an allocation of 10 inspectors, including a State Inspector and Assistant State Inspector.

The Hon. COURTNEY HOUSSOS: I can assume that it was probably a reactive one and I think we can assume for the purposes of this questioning it was a reactive one as a result of a complaint. But I would be happy if you could provide me on notice whether they were reactive or proactive. If you can provide me with a list of the number of inspections that that particular team has undertaken in the last financial year and then the part of the previous financial year when it was established? Obviously we were talking in hypotheticals but you said they may go out in response to a complaint. Specifically, if the complaint is on the question of unlicensed contractors would they then inspect looking for licences?

Mr DUNPHY: They actually have been doing that. A number of our construction inspectors have been checking licences on site. That, as you would be aware in your other inquiry and just through the work that we have been doing and also media concerns, there have been issues of concern around the licensing of electrical contractors. In relation to those issues, SafeWork inspectors have been checking the licences if they have identified any concern or issue in relation to whether somebody should be licensed. I have explained this before that in some cases you do not need to be licensed depending on the circumstances in which people are operating whether they are under the supervision of a licensed electrician of the type of work they are doing may not warrant the requirement under legislation to be licensed —

The Hon. COURTNEY HOUSSOS: We will come to that in just a moment. I just want to ask you specifically and I am happy for you to take this one on notice: Of those four visits to NorthConnex in December and of that visit in January and if there have been any other follow-up visits— sorry, I will ask about NorthConnex first. Of those five particular visits, can you tell me whether they checked to see whether there were licensed electricians on site, whether there were unlicensed electricians on site and whether their licences were actually checked? Or was it simply that they went on to site, they had a little chat to the manager and then they headed off again?

Mr DUNPHY: I would need to get the specific details of those inspections. If you can tell me the dates of those particular ones, I can be very specific and check to see what was done for those particular site visits?

The Hon. COURTNEY HOUSSOS: I am going by what I read in *The Australian* on 28 January.

Mr DUNPHY: In relation to those matters, yes.

The Hon. COURTNEY HOUSSOS: It said that they were four visits in December and one in January.

Mr DUNPHY: Okay.

The Hon. COURTNEY HOUSSOS: It seems they have the most up-to-date information.

Mr DUNPHY: That would be four of many inspections that we would be doing but we will check and I can certainly get back to on that.

The Hon. COURTNEY HOUSSOS: If there were additional inspections, I would be interested to know how many there were and if they inspected licences at that time.

Mr DUNPHY: Sure.

The Hon. COURTNEY HOUSSOS: Moving on to the question of unlicensed electrical work and when it may actually be legal, are there existing guidelines that say what is appropriate supervision?

Mr DUNPHY: Certainly the legislation sets out what the requirements are under the Fair Trading legislation for the licensing of electricians, what is required in terms of when somebody needs to be licensed and in what circumstances they do not need to be licensed. There is some guidance but I will take that on notice and I certainly can provide you with the advice we give in terms of what it means to the supervised and in what circumstances.

The Hon. COURTNEY HOUSSOS: My understanding is that it is recommended that first year apprentices work at one to one, which moves then up to fourth year apprentices who are supervised 60 per cent of the time and then have all of their work checked. That is obviously for apprentices who are undergoing some form of training. I would be interested to know, first of all for apprentices and second of all for unlicensed, what are the guidelines that you provide those inspectors with and if you have any official documentation that would be helpful. I wanted to come back to some answers to questions taken on notice from the supplementary hearings that were held last year. You said that in 2018-19 there were 24 complaints that were made which led to four prosecutions. This was specifically under the question of unlicensed electrical work. Are you able to tell me whether they were all initiated externally?

Mr DUNPHY: In terms of were they the subject of an initial external complaint?

The Hon. COURTNEY HOUSSOS: An external complaint or whether they were identified by your inspectors.

Mr DUNPHY: I would need to take that on notice. I would need to let you know. I am not sure of the nature of them. I only know the outcome.

The Hon. COURTNEY HOUSSOS: If you can tell me of those 24 complaints, were they initiated externally, were they identified by inspectors and give me the same breakdown for the prosecutions as well. That would be helpful.

Mr DUNPHY: Sure.

The Hon. COURTNEY HOUSSOS: You also said there were seven individuals in companies that were disciplined under the Home Building Act. Were they all electrical?

Mr DUNPHY: I would need to check that in terms of what the nature of their work was. They could have been a range of contractors or licensed contractors or builders.

The Hon. COURTNEY HOUSSOS: I want to come back to this question of 24 complaints which you provided in answers to questions on notice to supplementary hearings. The Electrical Trades Union of Australia lodged a Government Information (Public Access) Act [GIPAA] request specifically on this question of complaints. They were advised there are approximately 106 complaints that were lodged in 2018 and 2019. Can you tell me why there was such a large discrepancy in that figure?

Mr DUNPHY: It depends on where the complaints came from, so whether they were Fair Trading complaints or SafeWork complaints. It would depend on whether the figure that they received was information and it depends on what they asked for in the GIPAA request. I would need to go back to the GIPAA request in terms of the specifics.

The Hon. COURTNEY HOUSSOS: I can helpfully read that out to you if you would like? Any and all complaints and referrals regarding unlicensed electricians that were reported in 2018. Any and all complaints and referrals regarding unlicensed electricians that were recorded in 2019 and the outcomes from Fair Trading's Building Investigations Branch on complaints and referrals for 2018 and 2019.

Mr DUNPHY: I would need to check to see what information was provided but it may be that that included both SafeWork complaints and Fair Trading complaints, I am not sure. But I will be able to check that and I am happy to confirm—

The Hon. COURTNEY HOUSSOS: If you can provide me with a breakdown on notice about why there is such a discrepancy and the total figures for those particular breakdowns, 2018, 2019 and then Fair Trading's Building Investigations Branch 2018, 2019. Can you tell me—and I am sure that you will have to take this on notice—how many inspections were undertaken by your SafeWork inspectors in the financial year 2018-19, 2017-18 and 2016-17? Sorry, you will not be able to tell me for 2016-17 because they were established in January 2018.

Mr DUNPHY: Are you talking about just inspections for the infrastructure team or for all SafeWork inspectors?

The Hon. COURTNEY HOUSSOS: I have already asked you for the SafeWork inspections of the financial year so I am going to ask you for other inspectors, how many inspections are undertaken in the financial year 2018-19, 2017-18 and 2016-17?

Mr DUNPHY: So when you say other inspectors, who are you referring to?

The Hon. COURTNEY HOUSSOS: Previously you told me that the Fair Trading inspectors, there are 14 electrical and gas, 33 plumbing and 20 building inspectors. Should I be directing these questions to Ms Webb?

Ms WEBB: No, Mr Dunphy is fine. I think he may not have been at the inquiry, the particular circumstance of the building inquiry when we took these questions on notice. But we will definitely follow it up.

The Hon. COURTNEY HOUSSOS: If you can follow up and provide me with the inspections that were undertaken by the Fair Trading— am I using the right terminology—Building Investigations Branch?

Mr DUNPHY: That is correct, yes.

The Hon. COURTNEY HOUSSOS: So if you can tell me those breakdowns. Can you tell me the number of inspectors? Obviously we have got the current figures, so how many there were in 2017-18 and 2016-17 as well? **Mr DUNPHY:** Yes, I can provide those.

The Hon. COURTNEY HOUSSOS: Of the 14 inspectors that you have previously said were electrical and gas, is it correct that only three are electrical, or are electrically qualified?

Mr DUNPHY: There are a range of different backgrounds. There are some that are gas and some are electrical. I am not too sure exactly the specific numbers of electrical. I believe it is more than that but I can certainly confirm that for you as well.

ANSWER:

As it relates to Fair Trading

In NSW, tradespeople need a licence for any residential building work valued at more than \$5,000 (including labour materials and GST) and all specialist work regardless of cost. Fair Trading regularly conducts proactive compliance operations and where evidence of possible non-compliance is identified, follow up inspections are carried out.

In June 2019, Fair Trading conducted a site inspection at Northconnex. Fair Trading spoke with and recorded the names and any relevant licence details for thirteen people on the site who were performing electrical work. No breaches of the *Home Building Act 1989* were detected during the inspection.

Fair Trading's Building Investigations Branch (Compliance Team) have undertaken the following inspections where electrical contractor licences were inspected:

- In November 2019, Fair Trading Investigators inspected the WestConnex site in St Peters. Fair Trading spoke with and recorded the names and any relevant licence details for 26 people on the site who were performing electrical work. No breaches of the *Home Building Act 1989* were detected during the inspection.
- In June 2019, Fair Trading conducted a site inspection at Northconnex. Fair Trading spoke with and recorded the names and any relevant licence details for thirteen people on the site who were performing electrical work. No breaches of the *Home Building Act 1989* were detected during the inspection.
- In February 2019, Fair Trading conducted a proactive compliance inspection of the North West Project in Cherrybrook. 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. No breaches of the *Home Building Act 1989* were detected during the inspection.
- In February and March 2019 investigators from the Compliance Team conducted Operation Switch. The operation involved inspections of 182 residential construction sites in Sydney's Metropolitan area, targeting electrical work. The Compliance Team audited building sites and spoke to the contractors, tradespeople and other workers present, and audited the validity of electrical contractor licences and qualified supervisor certificates. The team also audited contractor licences and supervisor certificates of other types of contractors who were spoken to on site during the inspections.
- In November 2018, 12 investigators from NSW Fair Trading's Building Investigations Branch conducted Operation Router. The operation involved unannounced inspections of 187 residential construction sites in Sydney's South West and North West areas. The Compliance Team audited building sites and spoke to the contractors, tradespeople and other workers present, and audited the validity of contractor licences and qualified supervisor certificates.
- In October 2018, Fair Trading conducted a proactive compliance inspection of the North West Metro Project in Caste Hill. Fair Trading spoke with and recorded the names and any relevant licence details for sixteen people on the site who were performing electrical work. No breaches of the *Home Building Act 1989* (the Act) were detected during the inspection.

The Act allows unlicensed electrical wiring work if the work is done under the supervision and in accordance with the directions of a qualified supervisor.

The Act requires that the holder of a qualified supervisor certificate must:

- give directions that are adequate to enable the work to be done correctly by the individual performing it (which, unless the qualified supervisor considers it unnecessary, must include directions requiring the individual to advise in detail on progress with the work), and
- be present when the work is being done and be available to be consulted by, and to give directions relating to how the work is to be done to, the individual, and
- personally ensure that the work is correctly done.

Fair Trading has not published any guidelines saying what is appropriate supervision of electrical work.

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

The 24 Fair Trading complaints mentioned were a result of complaints made by consumers.

Two (2) of the matters that resulted in disciplinary action under the Home Building Act 1989 in 2018/2019 involved licence holders in the category of electrical.

A preliminary response to a GIPA request referred to 106 complaints, this was based on initial estimates and preliminary searches and the figure should not be relied upon.

Re: Electrical qualifications question only:

NSW Fair Trading employs three electricians which carry out smart meter inspections and assist building investigators as required. Fair Trading also employs four electrical engineers which carry out inspections of electrical appliances and undertake electrical safety certification work.

Answer as it relates to SafeWork NSW

The SafeWork NSW visits were proactive with a focus on confirming compliance with work health and safety legislation. The visits usually involved a “safety walk through”, the undertaking of site observations (including in relation to high risk hazards), inspection of site and relevant documents, conducting checks for high risk work licences and construction induction cards, sighting or reading safe work method statements, issuing notices as required and preparing an inspection report. The answer to the preceding question provides further detail.

These inspections did not look specifically at electrical licences or licences for workers carrying out electrical-related work, as that work is undertaken by NSW Fair Trading Inspectors who have regulatory oversight under the *Home Building Act 1989*.

During 2018 and 2019 SafeWork NSW has responded to nine complaints that included issues associated with unlicensed electricians. Two of these complaints were from worker representative organisations.

SafeWork NSW have also attended three workplace incidents that have involved unlicensed electricians.

A SafeWork NSW Infrastructure Team Inspector undertook additional visits to the NorthConnex tunnel on 31 January 2020 and 17 February 2020.

The 31 January 2020 visit was a proactive one as part of SafeWork NSW’s verification program. It included a ‘safety walk through’ of various tunnel areas under construction together with

representatives of Lend Lease Engineering (the PCBU), an organiser from the Electrical Trades Union (ETU) and health and safety representatives (HSRs).

After the visit was arranged but prior to it occurring, an HSR issued a Provisional Improvement Notice (PIN) to the PCBU regarding the presence of mould in the tunnel. While Following the visit, the Inspector was satisfied that the PCBU had taken actions to address the concerns of workers and remedial work had already commenced to rectify mould on site. Mould Clean Australia were on site cleaning the tunnel environment and previously affected areas were observed to have been recently cleaned.

SafeWork NSW conducted a follow up inspection on 17 February 2020. SafeWork noted the current mould management plan was being implemented with cleaning and monitoring being on-going process. A senior occupational hygienist had undertaken air-scrubbing and sampling and materials susceptible to mould build up were being removed from tunnels.

SafeWork issued a Prohibition Notice to a subcontractor relating to falls from height and an associated Improvement Notice regarding the inadequacy of the safe work method statement. Both notices were complied with on 24 February 2020.

On 7 February 2020, the ETU wrote to SafeWork NSW about the inspection that took place on 31 January 2020. Following a review of the matter, SafeWork NSW responded on 26 February 2020 to confirm the Inspector's findings and that actions were in place to address the concerns.

SafeWork NSW Infrastructure Team

The SafeWork NSW Infrastructure Team was founded in January 2018, with an allocation of 10 inspectors, including a State Inspector and Assistant State Inspector.

The Infrastructure Team works closely with SafeWork NSW teams located across the State in planning the approach to interacting with major infrastructure projects across NSW. This involves both proactive and response work. The table below shows the numbers of workplace incidents and requests for service (response activity) that the Infrastructure Team were involved in during 2018 and 2019.

Engagement Type	2018	2019
Workplace Incidents	85	94
Requests for Service	57	90

Workplace incidents may include illness, injuries or dangerous incidents.

In addition, over 200 proactive visits have been undertaken by the Infrastructure Team to major infrastructure projects in the Sydney metro region. The Infrastructure Team also works closely with other State, Territory and Commonwealth work health and safety jurisdictions.

The Hon. DANIEL MOOKHEY: I understand. On notice are you able to identify what is the name of the Safe Work Australia regulation or standard?

Ms McCOOL: Yes, it is in clause 5. It is the definition of the workplace exposure standard. I can pull that out.

ANSWER:

The *Workplace Exposure Standards for Airborne Contaminants* contains the list of Australian workplace exposure standards (WES). It is published by Safe Work Australia and called up in Clause 5 of the *Work Health and Safety Regulation 2017*.

The Hon. JOHN GRAHAM: And the use of proactive—does that mean there are reactive inspections as well?

Ms McCOOL: There was, more than likely. However, that is not what I have. I can give that on notice. We also gave external advice. There were presentations and external meetings.

Ms McCOOL: Okay. So I cannot break it down by site but what I can tell you is that there were three prohibition notices overall for infrastructure site visits and 51 improvement notices.

The Hon. DANIEL MOOKHEY: What type of offences or behaviours were they covering?

Ms McCOOL: I will have to provide that on notice.

The Hon. DANIEL MOOKHEY: Yes. So three prohibition notices and 51 improvement notices.

Ms McCOOL: That is correct.

The Hon. DANIEL MOOKHEY: Did any of them relate to dust?

Ms McCOOL: I would have to provide that on notice.

The Hon. DANIEL MOOKHEY: Okay. Do you have the same figures for Sydney Metro?

Ms McCOOL: We can break that down for you.

The Hon. DANIEL MOOKHEY: Yes, could you?

Ms McCOOL: On notice, I am sorry.

The Hon. DANIEL MOOKHEY: Okay. And do you have NorthConnex?

Ms McCOOL: As I said, we can break down those proactive visits into what they look like, what notices and what they were for. I just do not have that on me. **The Hon. DANIEL MOOKHEY:** That is okay. I am just asking. I accept that.

Ms McCOOL: We can provide that on notice.

The Hon. DANIEL MOOKHEY: That would be great. Can I just turn to a couple of matters that are to do specifically with dust on the WestConnex project. Did you come across incidences where the dust levels exceeded the exposure standard?

Ms McCOOL: I would have to provide that on notice.

The Hon. DANIEL MOOKHEY: Okay. Did any of the prohibition notices you issued relate to the breaching of dust requirements, or will you provide that on notice as well?

Ms McCOOL: I do not have a breakdown of the silica and non-silica related for those projects but I can provide that full set on notice.

ANSWER:

The following table identifies reactive and proactive visits for the eight specific infrastructure sites in 2019:

2019 GOVERNMENT INFRASTRUCTURE PROJECT SITES		
Project Name	Reactive Incidents/Complaints	Proactive Visits/engagements
Inland Rail	5	1
NorthConnex Project	21	9
Parramatta Light Rail	5	8
Sydney Light Rail	8	14
Sydney Metro Project	5	62
WestConnex Project	37	67
Western Sydney Airport	1	29
Moorebank Intermodal	0	11

There were no prohibition notices related to dust. There was one improvement notice for airborne contaminants exposure (dust) issued for the Sydney Light Rail project. There was also one improvement notice for airborne contaminants exposure (dust) issued for the WestConnex project (tunnelling).

The Hon. JOHN GRAHAM: Can I ask just in relation to—I know you will provide on notice the Sydney Metro and NorthConnex ones. Of the WestConnex ones, in 54 instances inspectors are turning up and either issuing a prohibition or an improvement notice. That is of only 70 visits. It seems like a lot of notices are being issued. The majority of times people are turning up and issuing notices. Is that a high number? How does it compare to when you might be turning up to another site, for example?

Ms McCOOL: The notices that I mentioned—the 51 improvement and the three prohibition—were across all those projects.

The Hon. JOHN GRAHAM: Right, okay.

Ms McCOOL: We can give you a breakdown of that. **The Hon. JOHN GRAHAM:** So that was not just WestConnex. That was across the three. Great.

Ms McCOOL: All of them, yes.

The Hon. JOHN GRAHAM: Okay. I am glad you have clarified that. Even taking that into account it still seems quite high. Possibly a majority—it would be close to a majority.

Ms McCOOL: However, those sites, as you can appreciate, are high risk. So it could be—we have spoken about electrical today. It could be silica. It could be vehicle loading or forklift use. It could be a number of things. So to give you that breakdown will give you a picture of what the harm looks like.

ANSWER:

Data is provided in the preceding answer.

The Hon. JOHN GRAHAM: Understood. I just want to ask in relation to NorthConnex—the reports which are being made about mould issues in the NorthConnex tunnel in the course of construction. Can you give us any background on those, firstly? Is that part of the issues that have been identified?

Ms McCOOL: I can cover hazardous chemicals, but I could take on notice the mould issue.

The Hon. JOHN GRAHAM: Yes. I think the issue here was the mould in that tunnel—it is a nine-kilometre length of construction area—was very extensive. I know you are coming back on notice but can you confirm that? Are you aware of that issue?

Mr DUNPHY: I was aware it was an issue that had been dealt with, yes.

The Hon. JOHN GRAHAM: Yes, okay. One of the concerns that was raised was that there was a request made to SafeWork that independent hygienists monitor air quality and mould in the tunnel—a very extensive problem. So why not have independent monitoring? That was reportedly refused. Is that an accurate representation of what occurred?

Mr DUNPHY: I would need to come back to you with the details of that. I am not aware of the particulars. Often in a notice we will point to what control measures may fulfil the needs of the notice. It may be that the contractor had their own in-house expertise. They may have raised that with us. So I am not sure the nature of why that decision was made and what the particulars were, but we certainly can provide you with details.

The Hon. JOHN GRAHAM: Great, appreciated. I am happy for to take these details on notice but I might just ask a couple of other things, then. So you will come back on notice about that request for independent hygienists?

Mr DUNPHY: Yes.

The Hon. JOHN GRAHAM: Is the tunnel now mould free and are we confident that the measures that are now in place, which I understand might be for people to monitor and remove mould through the nine-kilometre tunnel, are sufficient? **Mr DUNPHY:** We can again take that on notice.

The Hon. JOHN GRAHAM: Yes, appreciated. **Mr DUNPHY:** I understand that the issue has been addressed. I believe it is, but I can certainly get you more details on that.

The Hon. JOHN GRAHAM: Great. Thank you.

The Hon. DANIEL MOOKHEY: Mr Dunphy and Ms McCool, I understand that the data you just gave us was from SafeWork inspections on those projects. Do you maintain data on how many complaints you have received about those projects?

Ms McCOOL: We could extract that.

The Hon. DANIEL MOOKHEY: Could you?

Ms McCOOL: Yes, on notice.

ANSWER:

A SafeWork NSW Infrastructure Team Inspector undertook visits to the NorthConnex tunnel on 31 January 2020 and 17 February 2020.

The 31 January 2020 visit was a proactive one as part of SafeWork NSW's verification program. It included a 'safety walk through' of various tunnel areas under construction together with representatives of Lend Lease Engineering (the Person Conducting the Business or Undertaking or PCBU), an organiser from the Electrical Trades Union (ETU) and health and safety representatives (HSRs).

After the visit was arranged but prior to it occurring, an HSR issued a Provisional Improvement Notice (PIN) to the PCBU regarding the presence of mould in the tunnel. Following the visit, the Inspector was satisfied that the PCBU had taken actions to address the concerns of workers and remedial work had already commenced to rectify mould on site. Mould Clean Australia were on site cleaning the tunnel environment and previously affected areas were observed to have been recently cleaned.

SafeWork NSW conducted a follow up inspection on 17 February 2020. SafeWork noted the current mould management plan was being implemented with cleaning and monitoring being on-going process. A senior occupational hygienist had undertaken air-scrubbing and sampling and materials susceptible to mould build up were being removed from tunnels.

No hygienists have been arranged by SafeWork NSW to conduct an examination of mould in the NorthConnex tunnel. Nor does SafeWork NSW provide occupational hygienic services, so there has been no refusal to provide an independent hygienist's report. The responsibility of ensuring a safe working environment rests with a Person Conducting a Business or Undertaking (PCBU).

On 7 February 2020, the ETU wrote to SafeWork NSW to raise concerns about the inspection that took place on 31 January 2020. Following a review of the matter, SafeWork NSW responded on 26 February 2020 indicating that the responding inspector formed the view, and provided evidence, to support the findings that actions were in place to address the concerns.

SafeWork NSW's Infrastructure Team has received 31 complaints for the Infrastructure projects. Further detail is in the table provided in a previous question above.

The Hon. DANIEL MOOKHEY: Thank you, Mr Dunphy. That is helpful. Can we get the data then on how many requests for reviews of those provisional notices you have received, and broken down as well by who made those requests for them to be reviewed?

Mr DUNPHY: Mr Mookhey, for all of the infrastructure?

The Hon. DANIEL MOOKHEY: Yes, but be careful because I might ask for all that you are — be careful what you wish for.

Mr DUNPHY: Yes. I am just trying to narrow it down. I probably did not succeed in that.

The Hon. JOHN GRAHAM: I am not sure that reached the status of wish.

Mr DUNPHY: I mentioned the number of the key sites that we deal with, so we certainly can pull out that data for those.

The Hon. DANIEL MOOKHEY: Yes. We will limit that to the sites that we have been talking about — WestConnex, NorthConnex and Sydney Metro — but I put you on notice that later on I will be asking you about broader data in this respect anyway.

ANSWER:

SafeWork NSW responded to one request from a Person Conducting a Business or Undertaking (PCBU) to review a Provisional Improvement Notice (PIN) on 16 December 2019. The site dispute on 4 December 2019 was based on a claim that there was insufficient consultation associated with a power outage. The health and safety representative (HSR) stated they had not been consulted prior to letting workers return into the tunnel. The HSR withdrew the PIN upon learning that a Deputy HSR had been present during the consultation process, which is sufficient under the legislation.

The Hon. DANIEL MOOKHEY: I understand that is the policy, but I am asking what is the result? Do you have that number for 2018?

Mr DUNPHY: I do not have it in front of me, but I can certainly provide you with the number of those that resulted in a full investigation for prosecution.

The Hon. DANIEL MOOKHEY: Of the 47 from 2018, can we get the outcomes by all 47 as to how many of them reached preliminary investigation, how many of them were not pursued any further and how many of them then went up the hierarchy of your prosecutorial chain into full prosecutions? Are you currently fully prosecuting anyone? Are you currently in court on any of these matters?

Mr DUNPHY: Yes. We do quite a number of prosecutions each year, so many of those would be going through the courts still. Sometimes it can take up to two years for them to get to court, so some of those would still be on foot.

The Hon. DANIEL MOOKHEY: I thought that. Can we get the outcomes from the 2017 prosecutions as well, and investigations for prosecutions? They should be at a point of completion around then, or close to?

Mr DUNPHY: Yes.

ANSWER:

Re: 2018 work related fatality matters

Of the 47 fatality matters in 2018, there were as at 30 March 2020:

- 15 fatality matters arising from work related transport / motor vehicle incidents. These matters may include drivers, passengers and other road users. Generally, these matters are responded to and investigated by NSW Police and or specialist transport regulators.
- 13 fatality matters where SafeWork NSW conducted preliminary investigations but did not conduct a full investigation. Most of these fatality matters did not progress to full investigation because the deceased was the responsible duty holder, for example, a farmer or a self-employed contractor.
- 19 fatality matters where SafeWork NSW commenced a full investigation. Currently, the 19 fatality matters are categorised as follows:
 - 10 matters remain under investigation
 - 4 matters where a prosecution has commenced
 - 5 matters have been completed and no prosecution was commenced.

2017 work related fatality matters

Of the 61 fatality matters in 2017, there were as at 30 March 2020:

- 23 fatality matters arising from work related transport / motor vehicle incidents. These fatality matters may include drivers, passengers and other road users. Generally, these matters are responded to and investigated by NSW Police and or specialist transport regulators.
- 12 fatality matters where SafeWork NSW conducted preliminary investigations but did not conduct a full investigation. Most of these fatality matters did not progress to full investigation because the deceased was the responsible duty holder, for example, a farmer or a self-employed contractor.
- 26 fatality matters where SafeWork NSW commenced and completed a full investigation. Currently, the 26 fatality matters are categorised as follows:
 - 17 fatality matters proceeded to prosecution. 13 fatality matters are still before the court. 4 have been completed, each resulting in a conviction and fine being imposed.

Nine (9) fatality matters completed with no prosecution commenced.

The Hon. DANIEL MOOKHEY: I am glad; that is encouraging to hear. The concern is two-fold. First, investigating whether the procedures were adequate at the time that this incident took place?

Ms WEBB: Yes.

The Hon. DANIEL MOOKHEY: But also whether the procedures need to be improved straightaway, which would prompt the use of your improvement powers? I am trying to get to the proactive steps that might have been taken already to ensure nurse safety during home visits. Can you identify any improvement notices you have issued on NSW Health or any local health district, or any other change that you might have said to NSW Health that it has to do to ensure that nurses are safe?

Ms WEBB: I think we would have to take that specific incident on notice. We did recently publish our whole guideline on health care and social assistance, and we certainly have been doing a lot of work in that area.

Mr DUNPHY: In terms of the healthcare and the social assistance sector — and we actually do have a health care and social assistance sector plan. It is one of our six priority sectors. That has been looking at the whole issue of work. One of the priorities is work-related violence and psychosocial hazards. We are specifically engaging with the industry. The inaugural stakeholder forum was held on 23 October last year, so we have ticked that off. We are working closely on developing —

The Hon. DANIEL MOOKHEY: I appreciate that there is a broader strategy and I would love, on notice, to get the full detail.

Mr DUNPHY: Yes

ANSWER:

SafeWork NSW responded to a request for service (RFS) in December 2019 related to ongoing risks associated with home visits being conducted by mental health nurses across several locations within the Sydney Community Mental Health Team (CMH) of Sydney Local Health District (SLHD). SafeWork NSW's involvement is ongoing.

SafeWork NSW is progressing its investigation in relation to this matter and looking at the systems of work the Sydney Local Health District had in place at the time of the incident.

Since December 2019, SLHD has introduced to CMH safety huddles/meetings in the morning for its CORE (community outreach) team that undertakes home visits to mental health consumers. The CORE team do not always visit their clients in pairs. The huddle/meeting reviews the patient visits for that day to identify any particular risks that require adjusting from a one-person visit to a two-person visit.

SafeWork NSW has supported SLHD's application for consideration of City of Sydney parking permits for those workers. This followed the CORE team reporting an issue concerning parking availability for home visits. The team does not have parking permits and can often not find parking near the mental health consumer's home, particularly in the City of Sydney local area. If nearby parking is not available, team members fear risks may escalate significantly.

Ongoing liaison with workers and managers is continuing to address other areas of work including emergency duress response, staffing and vacancies, access to patient records and workloads.

Due to the current COVID-19 stressors that are impacting on NSW Health and their resources, liaison with the SLHD Director of Mental Health has occurred and arrangements have been made to set up a process during April 2020 for SafeWork Inspectors to liaise over the phone/Skype with members of staff to discuss any ongoing safety concerns they may have. If that does not produce a satisfactory response, then this approach will be reconsidered and adjusted accordingly.

In September 2019, SafeWork NSW released the *Health Care and Social Assistance Work Health and Safety Sector Plan*. The Plan aims to reduce exposure to the hazards that contribute to injuries and illnesses in this sector. The related action plan identifies key initiatives and strategies focusing on the high-risk issues in the sector. These documents are available on the SafeWork NSW website.

The total number of notices that relate to nurse safety issued to any Local Health District in 2019 and 2020 is 39.

For the same period one improvement notice has been issued that specifically related to nurse safety when conducting home visits.

The Hon. DANIEL MOOKHEY: But have we changed the standard operating procedures in any respect in the department of health? Have we asked for any additional measures to be put in place as an interim measure pending the outcome of all these talks?

Mr DUNPHY: I can check in terms of where we are up to with that advice. Certainly the forum is actually identifying through an action plan some key things that need to be done and that is in consultation with NSW Health.

The Hon. DANIEL MOOKHEY: When do you anticipate that work will complete?

Mr DUNPHY: It is work that will continue because it is part of the strategy. In terms of that, I can give you more detail about when that work is likely to be completed for violence and aggression.

ANSWER:

In September 2019, SafeWork NSW released the *Health Care and Social Assistance Work Health and Safety Sector Plan* and has recently developed an Action Plan which identifies key initiatives and strategies focusing on the high-risk issues in the sector. These documents are both available on the SafeWork NSW website.

As part of the Plan, SafeWork NSW will soon commence a project to identify the factors that contribute to work-related violence and identify a series of system wide interventions that can be used

to better prevent and manage work-related violence in the sector. The first phase, focusing on hospitals, is due to be delivered in six months. The Plan includes other priorities and is available on the SWNSW website.

The Hon. JOHN GRAHAM: If you are happy to take on notice the public reporting of that information that we are feeding in any way. As you pointed out, how does it compare to other jurisdictions and are we reporting as publicly as we could? **Mr DUNPHY:** I am very happy to. We are one of the few jurisdictions that has a roadmap which is really designed to ensure that we are fully communicating what we are doing on both the fatality and serious incident fronts and what actions we are taking to drive down those.

ANSWER:

Since the release of the *NSW Work Health and Safety RoadMap 2022*, SafeWork NSW has been working towards its defined targets to reduce the number of fatalities, serious injuries and workplace illnesses. SafeWork NSW is tracking the state's progress and publishes a status report each quarter on the SafeWork NSW website. This status report outlines how the RoadMap is influencing workplace safety in NSW, which includes preliminary notifiable fatality numbers.

One of Safe Work Australia's (SWA) functions is to compile, analyse and report on a range of work health and safety and workers compensation data. This provides a national picture of work-related injuries, fatalities and diseases. There are three key national data collections, one of which is the Work-related Traumatic Injury Fatalities (TIF) data. SWA publishes the *Work-related Injury Fatalities Report* annually which includes NSW data provided by SafeWork NSW. This report provides detailed statistics on persons who have received fatal injuries caused by work-related activity. There is often a 'lag' in this data being publicly available, as fatality data is subject to revision as further information becomes available from investigating authorities.

The Hon. JOHN GRAHAM: On 29 and 30 October 2019 at Banfield Road, Macquarie Park.

Mr DUNPHY: I do not have the specifics of that particular matter but I know as of 18 December 2019 we were fully investigating five incidents involving cranes so we can check to see whether that was one. On the face of what you have said, it seems an unusual thing that we would walk away if it was a safety issue. I would need to find out what the issues were there. I have never heard of a SafeWork inspector not taking very proactive action if there was a concern about safety. It would be highly surprising to me if that was the case. We can certainly find out the details.

The Hon. JOHN GRAHAM: I am certainly comfortable on notice if you want to clarify any of the facts that would be welcome. If that is anything near as reported could you then clarify why action was not taken?

Mr DUNPHY: Yes.

ANSWER:

On 29 October 2019, SafeWork NSW received a Right of Entry statutory request under section 117 of the *Work Health and Safety Act 2011* from a union organiser regarding refusal of entry to the Banfield Road, Macquarie Park site, to address safety concerns. As a result, a SafeWork NSW manager contacted the person conducting a business or undertaking (PCBU) to confirm the organiser's right of entry under s117, and to facilitate a cease work direction while an inspection was undertaken. The union organiser was contacted, advised of this outcome and confirmed this was occurring.

On 30 October 2019, SafeWork NSW Inspectors attended the site in response to an imminent safety risk identified by the union organisers. As a result of this inspection, the SafeWork NSW inspectors issued a Prohibition Notice on the crane and scaffolding.

There were no structural issues identified with the tower crane at time of visit, however there was evidence that the crane had made minor impact with the scaffold due to insufficient clearance between the scaffold and crane tower, so a verbal prohibition was issued immediately to the PCBU (and noted in the SafeWork NSW inspector's notebook). A written prohibition notice was issued from WSMS (SafeWork's compliance system) by the inspector later that same day. Within a few minutes of leaving the meeting, the union organisers made the SafeWork NSW inspectors aware that the crane had moved. The SafeWork NSW inspectors immediately contacted the PCBU by phone who advised that the operator commenced operations to make it safe as the crane was still under load. The crane was immediately shut down when safe.

This notice was recorded as complied with the next day on 31 October 2019 by the SafeWork NSW inspector, following the provision of evidence from the PCBU's senior contract administrator.

The Hon. DANIEL MOOKHEY: Can we on notice get a copy of the formal request that was issued? Is that possible?

Ms WEBB: We will look into whether we can. It may contain some legally privileged material but we will try our best to give it to you.

The Hon. DANIEL MOOKHEY: Subject to any redactions that you might think are necessary, if that is possible that would be good. Once you receive that request, who deals with it inside SafeWork?

ANSWER:

A copy of the formal request is attached.

The Hon. DANIEL MOOKHEY: Can I ask, when you made the decision to enter into an enforceable undertaking, did you speak to the family of the person who died — the baby who died? Mr DUNPHY: The normal process for enforceable undertaking is also to consult with the family and to get their views.

The Hon. DANIEL MOOKHEY: And did you?

Mr DUNPHY: I believe so.

Ms WEBB: I assume so but we will double-check and tell you.

The Hon. DANIEL MOOKHEY: Did they advise you this is a course of action that they welcomed?

Mr DUNPHY: I am not sure of that.

Ms WEBB: I was not a party to that meeting either but we can check that.

The Hon. DANIEL MOOKHEY: I think the family has made clear that they would like to have these people prosecuted, which is an entirely understandable position for them to have.

Ms WEBB: When you say "these people", you are talking about —

The Hon. DANIEL MOOKHEY: The family of the parents — the parents of —

Ms WEBB: No, when you said you would like "these people" —

The Hon. DANIEL MOOKHEY: I am talking about the parents.

Ms WEBB: Sorry, I am understanding that. You said the family would like to have "these people prosecuted". I just wanted to clarify.

The Hon. DANIEL MOOKHEY: The Sydney Local Health District.

Ms WEBB: Okay.

The Hon. DANIEL MOOKHEY: Was that a factor that weighed in your consideration?

Ms WEBB: We will have to check that on notice because we were not parties to the meetings with the family.

ANSWER:

SafeWork NSW did not undertake consultation with the family of the child who suffered fatal injuries, as the agency understood that the family did not wish to be consulted in relation to the matter.

The Hon. DANIEL MOOKHEY: Can we get on notice the policy on enforceable undertakings?

Mr DUNPHY: Yes, absolutely.

ANSWER:

The *SafeWork NSW Enforceable Undertakings Guidelines* are provided as a separate document for the Committee.

The Hon. JOHN GRAHAM: That make sense on the face of it and I am adding up as we go here so feel free to correct this either now or on notice. ~break Even all the figures you have put together there would still show a concerning drop from 2017-18 to this financial year. We will be dropping from 42,500 to something closer to 32,000 or 33,000, adding together all those activities.

Ms WEBB: Mr Dunphy did not quite get across the whole chart.

The Hon. JOHN GRAHAM: Okay, very good.

Ms WEBB: There is another 9,000 to go.

Mr DUNPHY: Yes. **The Hon. JOHN GRAHAM:** Excellent. Perhaps on notice you could provide all those activities.

Mr DUNPHY: In terms of our overall interactions over the past probably eight years going back to 2011-12, we have typically for each year averaged between 37,000 to 40,000. We would expect that that number would hold for this year as well.

The Hon. JOHN GRAHAM: I am happy with the details on notice.

ANSWER:

SafeWork NSW Inspector activity

YEAR	Proactive workplace interventions	Workshops Presentations etc	Reactive Workplace Interventions	Reactive Interventions Other	Total
2017/18	22,765	818	12,739	7,651	43,973
2018/19	19,809	1,421	12,669	9,302	43,201

The Hon. DANIEL MOOKHEY: What do you define as a "large" enterprise? **Mr DUNPHY:** It varies. I think the last—

The Hon. DANIEL MOOKHEY: That is why I ask.

Mr DUNPHY: I am not too sure of the definition in this case. I think it is over 100, but I just need to confirm that and let you know how we have classified those. **The Hon. DANIEL MOOKHEY:** For the purposes of those statistics that you outlined—60 per cent, 32 per cent and 6 per cent—can we get the definition of a "small business", a "medium business" and a "large business" that you are using. That would be good.

Mr DUNPHY: Yes, sure.

ANSWER:

SafeWork NSW uses the Australian Bureau of Statistics' (ABS) breakdown of business size:

- 0-4 employees: Micro business
- 5-19 employees: Small business
- 20-199 employees: Medium business
- 200+employees: Large business

The ABS breakdown of business size is available from the ABS website.

The Hon. DANIEL MOOKHEY: Can you on notice tell us how many inspections you have done in the past 12 months?

Ms McCOOL: Yes.

The Hon. DANIEL MOOKHEY: If we can get it ideally by registered organisations that you have inspected, that would be useful as well. Do you maintain any other data on the demographics of these registered organisations or not?

Ms McCOOL: In terms of HSR training, that is probably the extent of it but we also audit entry permit holder training, construction induction training, high-risk work assessments— **The Hon. DANIEL MOOKHEY:** I am just focused on the HSR training.

Ms McCOOL: Yes, we can.

The Hon. DANIEL MOOKHEY: In terms of the course material, have you detected incidents of RTOs training people incorrectly, that is, not in accordance with the course material that they have registered with you?

Ms McCOOL: Essentially, at the end if there are any noncompliances, they are issued with a corrective action notice. We can have a look at the trends in what we are detecting.

The Hon. DANIEL MOOKHEY: That would be good. If we can get the number of— what did you say— the course—

Ms McCOOL: A noncompliance notice. **The Hon. DANIEL MOOKHEY:** If we can get the numbers and the trend data on that, that would be useful too.

Ms McCOOL: Yes.

ANSWER:

There are currently 144 SafeWork NSW approved health and safety representative (HSR) training providers. There were 466 HSR courses delivered by 68 training providers between March 2019 and March 2020. Each HSR course is five days in length.

Generally, once a training provider has been verified (audited) they will not appear on the verification schedule for 12 months unless they are on a watch list.

The target set for HSR training provider verifications per year is 25. For general construction induction training providers it is 150 and for high risk work licence assessments it is 250 (risk-based).

Trend analysis:

- The majority of HSR training provider verifications since 2013 have resulted in No Further Action (NFA) being recommended. EA means education advice provided. CAN is corrective action notice issued.
- Where compliance action has been recommended this has historically been related to administrative conditions e.g. notification periods to enable verifications, evidence of identity checking etc.
- Since 2013 no compliance action has been recommended based upon the quality of training delivered during the verification.

2019 HSR training provider verifications

2018 HSR training provider verifications

Compliance actions:

- 2 – variations to initial notification
- 3 – variations within 48 hours
- 6 – evidence of identity.

Compliance actions:

- Nil

2017 HSR training provider verifications

Compliance actions:

- 2 – variations to initial notification
- 3 – variations within 48 hours
- 6 – evidence of identity
- 8 – sight evidence of prerequisite training
- 10 – copy of conditions in possession.

The Hon. DANIEL MOOKHEY: Putting aside the law, which is why I asked you "in your words", what are the functions that you have organised that you structure the teams around? **Ms WEBB:** We have a policy team. I think they are called policy and strategy, to be sure. We have a community engagement team, which is our frontline complaints handling, outreach, stakeholder management and capability team. We have a licensing and funds team and they look after all licensing activity and also things like the Home Building Compensation Fund and the Rental Bond Board. We have the compliance and dispute resolution team that I mentioned, which has mostly inspectors in it. Then we have an enforcement team.

The Hon. DANIEL MOOKHEY: Just to be clear, the scope of what these people regulate covers Fair Trading?

Ms WEBB: Fair Trading, SafeWork and Liquor, Gaming and Racing.

The Hon DANIEL MOOKHEY: What were the staff numbers prior to this restructure?

Ms WEBB: It is a little hard. I will take that on notice. The reason why I am saying it is a little hard is that we have sort of mobbed in the Liquor, Gaming and Racing people and so it has been not quite the even process of before and after. But I could probably take it on notice. We have lost a few people but we have not had anyone leave due to the restructure.

The Hon. DANIEL MOOKHEY: You said no-one has left due to the restructure. What are the numbers after the restructure?

Ms WEBB: I think it is about 1,740 full-time equivalent, but I will confirm that on notice for you.

The Hon. DANIEL MOOKHEY: On notice, are we able to get the numbers by the functional areas that you just described?

Ms WEBB: Sure, yes.

ANSWER:

The numbers of the new functional areas in the Better Regulation Division are as follows:

Indicative Figures / Roles in Structure	ROLES
Dep Sec Office	4
Policy & Strategy	108

Community Engagement	510
Licensing & Funds	374
Compliance & Dispute Resolution	492
Investigations & Enforcement	250
Professional Standards Authority	23
Office of the Registrar General	38
Emergency Services Levy Monitor	9
Business Operations (BOPA)	53
TOTAL BRD (indicative)	1861

*Figures are approximate
Including Contractors*

Where there have been staff exits, it is due to natural attrition and not the Better Regulation realignment.

The Hon. JOHN GRAHAM: I might just turn to a couple of other areas briefly and then we will come back with some questioning from my colleague. I do want to ask about residential tenancies and just essentially the budget for the implementation of the residential tenancies measures. There will be amendments to the Act, which are commencing on 23 March. The first question is specifically what has been budgeted for things like community education, training of tenants' advocates, increased demand for tenants advice and advocacy services?

Ms WEBB: I am not sure that we can give that dollar figure. We might have to take that on notice.

ANSWER:

The Rental Bond Board and Fair Trading fund the Tenants Advice & Advocacy Program (TAAP) which provides funding to non-profit organisations to provide information, community education, advice and advocacy services to public and private tenants in NSW. The services provide a particular focus for vulnerable and/or social housing tenants.

For 2019-20 the Budget is \$11.9m.

The Hon. JOHN GRAHAM: So the assurance given here by the Victorians is further down the line. They have completed that process for government buildings, including government-leased buildings.

Mr TANSEY: I am not sure what you are referring to.

The Hon. JOHN GRAHAM: This is the cladding task force report, the update from July last year.

Mr TANSEY: I would be happy to maybe get a copy from you what that is and just verify what it is they are saying their process is or the detail of the process.

The Hon. JOHN GRAHAM: I think you have clarified my question. I will table this and then if you want to provide any more context I think that would be very welcome.

ANSWER:

Fire and Rescue NSW has strengthened fire safety plans and procedures relating to all buildings classified as high risk. Enhanced Alarm Response Protocols and pre-incident plans have been developed for all identified buildings at higher risk, including government-owned and government-leased properties. In addition, consent authorities assess the fire safety provisions of each property

and ensure that interim fire safety measures are put in place where required to reduce risk while assessment or remediation work is carried out.

The Victorian Cladding Taskforce Report of July 2019 notes at page 25:

“Work has commenced to identify the type of cladding on high and moderate risk buildings to determine the extent of cladding required to be removed to reduce risk to an acceptable level. Works are due to commence in late 2019 with the program expected to take up to four years to complete. All Government buildings identified as having combustible cladding, including Government leased buildings, have had relevant fire safety measures put in place and have been assessed as safe to occupy.”

The procedures of the NSW Taskforce mirror those noted in the Victorian Taskforce report. All government buildings, whether owned and occupied by the NSW Government or privately owned and tenanted by Government, have been inspected and assessed to determine whether they have cladding installed. Cladding is then either assessed as no risk, low risk or potentially high risk. Identified buildings with higher risk cladding that will require rectification that will take time to be completed are required to have ‘interim fire safety measures’ put in place so that they remain safe to occupy into the intervening period.

The Hon. DANIEL MOOKHEY: I was going to ask you about that. You are quarantining the SafeWork funds?

Ms WEBB: Yes.

The Hon. DANIEL MOOKHEY: How are you doing that?

Ms WEBB: For quite a long time we have had some of the SafeWork functions being done jointly with other functions—Mr Tansey's policy team is a good example—and we always each year at budget time do a calculation of the amount of effort that goes towards SafeWork-related work and other work, and then the SafeWork budget is attributed to that proportion of, say, a policy team that is used to make SafeWork work, and so we will be doing the same.

The Hon. DANIEL MOOKHEY: When you say "quarantined", what do you mean by "quarantined"?

Ms WEBB: I mean that it cannot be spent on anything that is not related to activity under the Work Health and Safety Act and the other Acts that SafeWork administers.

The Hon. DANIEL MOOKHEY: That means you will follow the law, which is helpful, but is there a special purpose account? What sort of mechanism is in place to ensure that you are—

Ms WEBB: I think it is this issue, as I mentioned—the CFO has run away; he knows the actual mechanics—but in terms of the amount of money that we receive from the workers compensation fund, we have to account for that, for everything that we spend in relation to SafeWork.

The Hon. DANIEL MOOKHEY: Which is what I am kind of getting at, which is you have to account for that because your costs are recovered from employers, your premiums, and one of the questions employers do often ask is how much of this is resulting in workplace enforcement and inspections. Are you in a position to tell us what was the figure that you just described?

Ms WEBB: Sorry, I might just take it on notice—just to make sure I do not make a mistake. If it is okay with you, I will take that on notice.

ANSWER:

The Department of Customer Services (DCS) has Shared Services Cost Allocation policies. Allocations needed to be completed for both DCS shared functions (e.g. Finance and IT) and shared internal Better Regulation Division (BRD) functions (e.g. Policy, Customer Services) to ensure legislative requirements around funding are met. Significant work has been undertaken by DCS Finance to define legally correct and appropriate methods to allocate these shared costs.

The Hon. DANIEL MOOKHEY: Under the Act, though, no-one can refuse what you ask for. Is that correct? You can recover what you want from the fund — the same with WIRO—and there might be a dispute as to whether or not anyone can tell you no. But the base position seems to be that all those four organisations you identified are capable of putting in for whatever they want and getting it, and no-one can refuse you.

Ms WEBB: I might have to take it on notice because that is not how the procedure has worked. But whether the procedure is a procedure that is a sort of departmental overlay of governance rather than the legal procedure might be where we are getting confused. I will take it on notice.

The Hon. DANIEL MOOKHEY: I will appreciate that background. Nothing excites me more than special accounting arrangements. I want to speak prospectively. What ratio of this structure is going to be recovered through the workers comp? How are you figuring that out?

Ms WEBB: It is not exact but it is sort of broadly equivalent to the number of full-time equivalent that are involved in SafeWork work versus the total FTE, which I think would be about a third. But, again, I can take that on notice and get you a very exact figure.

ANSWER:

Under the Workplace Injury Management and Workers Compensation Act 1998, the remuneration, allowances, office accommodation and other associated costs of SafeWork NSW are to be paid from the Workers Compensation Operational Fund (WCOF) that is administered by SIRA. The Deputy Secretary BRD on behalf of Safework advises SIRA of the estimated operating costs of Safework for the forthcoming budget year. SIRA includes this amount as part of an overall submission to the Minister, who is required to approve payments into the WCOF from the Workers Compensation Insurance Fund.

Safework as part of the Department of Customer Service Cluster is also required to manage its expenditure levels within NSW Treasury expenditure control limits. Safework's 2019-20 Budget includes total expenditure of \$156.5m of which \$134.3m is provided from the WCOF.

The Hon. DANIEL MOOKHEY: So what is the percentage of the new model which is being recovered?

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

ANSWER:

With the grouping of all regulatory activities together into functional streams the current cost allocation policies are being reviewed and updated. Currently an extensive review is underway on what functions in the new operating model will cross the various funding sources and what the correct allocation of these costs should be. As this work has not been finalised and approved it is not possible to determine the percentage of the new operating model that relates to shared services.

It should be noted that the large majority of functions will still be specific functions that are funded from a specific funding source. For example, Safework Inspectors will continue to only undertake Safework activities and therefore will be funded directly from Safework funds. Only where functions cross funding sources will these be included in the revised cost allocation policy.

The Hon. DANIEL MOOKHEY: Sure. Ms Hogan, you might be able to help here. I am trying to understand how you are satisfying your requirements under the Work Health and Safety Act and what you recover from employers versus how you get your resources from consolidated revenue. Can you shed any light on that?

Ms HOGAN: I will have to take the exact mechanisms on notice, as Ms Webb has already said, but we are very clear that the funding that is allocated for SafeWork activity must apply to SafeWork activity—as you point out—under the law and then other funding that is required to keep the rest of the Better Regulation Division functioning, whether that be for Fair Trading or other aspects of Ms Webb's remit. We work through that budget each year as well. I would have to take on notice the mechanisms of how that SafeWork number is calculated and exactly how it is distributed but we will come back to you on that.

The Hon. DANIEL MOOKHEY: Do you put in submissions to the regulator or have any input into the filing process around premiums?

Ms WEBB: I have not, no.

Ms HOGAN: I do not believe so.

Ms WEBB: I have not been aware of that.

Ms HOGAN: I would have to take it on notice and check.

Ms WEBB: I am just hesitating because maybe my finance director or someone has.

The Hon. DANIEL MOOKHEY: Yes, sure. I am not sure that you are obliged to and to be fair —

Ms HOGAN: I am not sure.

The Hon. DANIEL MOOKHEY: I am sure we will come back to that in future hearings.

ANSWER:

The Department and in particular BRD have consolidated a number of duplicated services into single focused expert teams to provide services more effectively and to take advantage of broader skill sets across the Department. This includes DCS corporate functions (e.g. Finance and IT) and shared internal BRD functions (e.g. Policy, Customer Services). To ensure legislative requirements around funding are maintained cost allocation policies have been developed and are currently in place. These allocate cost based on the most appropriate driver of service delivery (e.g. FTE, transaction volumes). These will be further expanded with the move of activities into functional streams across BRD.

Safework does not provide submissions to the regulator around premiums. Under Section 168 of the Workers Compensation Act 1987 the Premium filing process is managed by the State Insurance Regulatory Authority (SIRA) through the SIRA's Workers Compensation market practice and premiums guidelines.

The Hon. JOHN GRAHAM: When is it next due for review?

Mr DUNPHY: I would need to check that but they usually have review dates and we monitor them regularly. There is something that is missing that might be something that we would do out of session.

The Hon. JOHN GRAHAM: You have just given me two different answers. Are you prepared to consider this when it is up for review, which might be some years down the track, or are you prepared to consider this before next summer?

Mr DUNPHY: I think for us it would be assessing what information can we give and what is the best way to do it. It might be that in the interim it is a fact sheet or some other form of guidance and that we update the code when it is due.

The Hon. JOHN GRAHAM: Rather than speculate, I would invite you to respond specifically on notice, including how many times over this summer there were SafeWork NSW inspections regarding poor or hazardous air quality and how many complaints you had of unsafe air quality last financial year.

Mr DUNPHY: Yes.

ANSWER:

The *Code of Practice – Managing the Work Environment and Facilities* (NSW) was last reviewed in August 2019. When the national model Code of Practice is due to for review, SafeWork NSW will work with other jurisdictions and Safe Work Australia to review the national guidance available.

SafeWork NSW has received 38 requests for service between 1 July 2019 - 10 March 2020 relating to air quality due to bush fires.

In addition to these bushfire air quality specific requests, SafeWork NSW received 1,571 relating to other poor or hazardous air quality issues.

Of the 1,571 requests for service received, 976 resulted in SafeWork NSW conducting a workplace visit to the workplace. Eight of these requests for service were related to bushfires.

The Hon. DANIEL MOOKHEY: To the extent to which anyone in the gig economy advances a view that says that they are not sure or that it does not apply to the flexible nature of their work that is not a correct view?

Mr DUNPHY: No, that would not be our view.

The Hon. DANIEL MOOKHEY: Have you inspected any of these companies?

Mr DUNPHY: I do not have figures here today. We can check to see what work we have done in terms of inspections.

The Hon. DANIEL MOOKHEY: I will put a couple of questions on notice and you can come back to us and provide a view as to what you have done as best you can — Uber, Uber Eats, Deliveroo, Fedora when it existed would be useful, DoorDash, Ola and I will throw in for good measure Menulog if that is possible?

Mr DUNPHY: Yes.

The Hon. DANIEL MOOKHEY: If we can get back the number of inspections and then the improvement notices, prohibition notices or any other form of enforcement that you have undertaken in that respect that would be useful.

Mr DUNPHY: Yes, certainly.

ANSWER:

Since 2000, SafeWork NSW has had interactions with Uber, Uber Eats, Deliveroo and Menulog.

A total of 32 workplace incidents were notified, with 11 requiring an inspector response.

A total of 14 request for services were received, with eight requiring an inspector response.

A total of one improvement notice has been issued as a result of these interactions.

The Hon. DANIEL MOOKHEY: Just turning to another matter quickly, I want to talk about the improvement notice you issued to Jetstar on 21 November 2019. Are you aware of that episode?

Mr DUNPHY: No.

The Hon. DANIEL MOOKHEY: This is when you issued an improvement notice that effectively said to Jetstar that workers are at risk from serious injury such as being crushed, ingested or otherwise when working around operational aircraft while undertaking ground crew operations. You said that they must be maintaining minimum crew numbers of four workers and one supervisor. What follow-up work has SafeWork undertaken in respect of this.

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

ANSWER:

The compliance date for the Notice was 31 March 2020.

Jetstar Airlines Pty Ltd (Jetstar) did not request a review of the Notice. Jetstar have been informed that the documentation provided appears to satisfy the directions in the Notice. However, SafeWork NSW will mark the Notice as complied when it is possible to observe the procedures in place under normal operating procedures.

Mr DUNPHY: Yes. The improvement notice will typically have an end date so we can check to see, and obviously we do follow up to make sure that any notices that have been issued have been complied with. Obviously the other things to note there, sometimes a notice may be appealed. I am not too sure the status of this notice but we could certainly check to see whether it has been complied with.

The Hon. DANIEL MOOKHEY: I am happy to table it to speed things up. Can you provide on notice the numbers of inspections you have done of the airline industry, the number of airlines, the number by ground handling crews as well and any other category that you would mention but broken up by airlines?

Mr DUNPHY: Yes, that is fine we can do that. Just to let you know we do not do all air safety. We do on-the-ground safety, in-the-air safety is done by other regulations.

ANSWER:

SafeWork NSW has had 87 interactions, including one or more visits to a site in the airline industry.

The number of airlines and air freight companies is 11.

The number by ground handling crews and airport services is three.

The Hon. DANIEL MOOKHEY: I know, do not worry, it is complicated. There are many regulators in this space that I am well and truly aware of. What have you done? Incidentally can you come back to us as well about whether that has been appealed?

Mr DUNPHY: Yes, sure we can let you know the outcomes of that too.

The Hon. DANIEL MOOKHEY: Is the real estate reference group operational?

Ms WEBB: Yes.

The Hon. DANIEL MOOKHEY: From when has it been operational?

Ms WEBB: I think for a couple of years at least. We will just see if we have got an exact date here.

The Hon. DANIEL MOOKHEY: You can provide that on notice if you need.

Ms WEBB: Sure.

The Hon. DANIEL MOOKHEY: Who is on the reference group right now?

Ms WEBB: The current membership is: Estate Agents Cooperative, the Australian Livestock and Property Agents Association, the Strata Community Association of NSW, the Australian Resident Accommodation Managers Association and the Australian Institute of Business Brokers.

The Hon. DANIEL MOOKHEY: The Real Estate Institute of New South Wales is not in that group?

Ms WEBB: It chose to withdraw from the group.

The Hon. DANIEL MOOKHEY: When did it do that?

Ms WEBB: I would like to say the beginning of 2019, but we might take that on notice to confirm.

ANSWER:

The Real Estate Reference Group held its first meeting on 8 July 2015.

The Real Estate Institute of New South Wales withdrew from the Real Estate Reference Group by letter to the then Minister for Innovation and Better Regulation dated 24 September 2018.

The Hon. DANIEL MOOKHEY: Obviously you cannot talk about Cabinet processes, but did you provide that advice to the Minister?

Ms WEBB: It would have gone through the Minister to Cabinet.

Mr TANSEY: Yes. A Cabinet process is coordinated through the Cabinet team, in our agency and then to the Department of Premier and Cabinet.

The Hon. DANIEL MOOKHEY: Yes, through the Minister but outside the Cabinet process. Has that advice been provided to the Minister?

Ms WEBB: I cannot recall a formal advice. We might have had some discussions about it.

The Hon. DANIEL MOOKHEY: On notice will you check what advice has been provided to the Minister in that respect?

Ms WEBB: Yes, sure.

The Hon. DANIEL MOOKHEY: What are the training requirements for real estate agents at present?

Ms WEBB: We will probably have to take all the detail on notice because it depends on what sort of licence. You want the ones under the current regime that is going to operate for the next five days?

The Hon. DANIEL MOOKHEY: Yes, and then beyond.

Ms WEBB: And then the new ones?

The Hon. DANIEL MOOKHEY: Yes. A side-by-side comparison would be useful in that respect.

Mr DUNPHY: As much as we can because the new categories are quite different but we will try to match them up as much as we can.

The Hon. DANIEL MOOKHEY: A just a side-by-side comparison would be useful. In terms of the continuing professional development [CPD] requirements, is it the case that currently real estate agents are required to do four hours of CPD pending the renewal of the licence?

ANSWER:

The NSW Government's position on the *Real Estate Services Council Bill 2019* is Cabinet-in-Confidence.

The qualifications for the following licences and certificates of registration (for applications made prior to 23 March 2020) are available in the Property, Stock and Business Agents (Qualifications) Order 2009 at www.legislation.nsw.gov.au/#/view/regulation/2009/247/whole:

- real estate agent's licence
- real estate agent's licence subject to the condition that the holder act only as a buyer's agent
- stock and station agent's licence
- business agent's licence
- strata managing agent's licence
- on-site residential property manager's licence
- certificate of registration as a real estate salesperson
- certificate of registration as a stock and station salesperson
- certificate of registration as a strata manager or registered community manager
- certificate of registration as a registered on-site residential property manager.

The qualifications for the following accreditations (for applications made prior to 23 March 2020) are available in the Property, Stock and Business Agents (Auctioneers Qualifications) Order 2009 at www.legislation.nsw.gov.au/#/view/regulation/2009/248/whole:

- accreditation as an auctioneer in respect of real estate agent's licence
- accreditation as an auctioneer in respect of stock and station agent's licence.

The qualifications and work experience requirements for the following licences and certificates of registration (for applications made on or after 23 March 2020) are available in the Property and Stock Agents (Qualifications) Order 2019 at www.legislation.nsw.gov.au/#/view/regulation/2019/628/whole:

- Class 1 real estate agent's licence without restriction condition
- Class 1 real estate agent's licence with real estate agent restriction condition
- Class 1 real estate agent's licence with business agent restriction condition
- Class 1 real estate agent's licence with on-site residential property manager restriction condition
- Class 1 stock and station agent's licence
- Class 1 strata managing agent's licence
- Class 2 dual licence as a real estate agent and stock and station agent
- Class 2 real estate agent's licence without restriction condition
- Class 2 real estate agent's licence with real estate agent restriction condition
- Class 2 real estate agent's licence with business agent restriction condition
- Class 2 real estate agent's licence with on-site residential property manager restriction condition
- Class 2 stock and station agent's licence
- Class 2 strata managing agent's licence
- Assistant real estate agent
- Assistant stock and station agent
- Assistant strata managing agent
- Auctioneers.

The Hon. DANIEL MOOKHEY: Under the new regime who will be in a position to provide that CPD training?

Ms WEBB: It is industry associations and anyone else approved by the secretary. The Hon. DANIEL MOOKHEY: Has the application process opened already for industry associations that wish to register to provide that training? Mr DUNPHY: That is correct, yes.

The Hon. DANIEL MOOKHEY: It has?

Mr DUNPHY: Yes. The Hon. DANIEL MOOKHEY: So far how many?

Mr DUNPHY: I think all the industry associations have put their hands up to provide it.

The Hon. DANIEL MOOKHEY: Has anyone else not in the associations put in an application?

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

ANSWER:

As at close of business 25 March 2020:

- four industry associations have submitted the Annual Notification Form notifying NSW Fair Trading of the compulsory topics to be delivered by their association for the current continuing professional development (CPD) year
- Fair Trading has received 22 applications from entities which are not industry associations seeking the Commissioner for Fair Trading's approval to deliver compulsory topics.

The Hon. DANIEL MOOKHEY: Is it possible on notice that you can provide us with the notice of improvement that was issued?

Mr DUNPHY: Yes. We will just need to check that.

The Hon. DANIEL MOOKHEY: Do you know who it was issued on?

Mr DUNPHY: No.

The Hon. DANIEL MOOKHEY: Was it the local health district or was it NSW Health?

Mr DUNPHY: I think it was to do with the local health district. We will confirm that.

The Hon. DANIEL MOOKHEY: There are 16 local health districts which means that we have had a notice issued on one, which is helpful to know. But in terms of the broader Health cluster, do we have any information as to whether there have been any other changes to their operating procedures since the incident?

Mr DUNPHY: That is what we are working on at the moment in terms of the work that we are doing with the healthcare sector, planning in developing and updating the guidance.

The Hon. DANIEL MOOKHEY: The local health district was the recipient of the notice. Is that correct?

Mr DUNPHY: That is what I understand. I will confirm that, yes.

The Hon. DANIEL MOOKHEY: The name of the local health district?

Mr DUNPHY: Yes.

ANSWER:

A copy of the WSMS generated notice 7-368811-1 is provided.