

# **PORTFOLIO COMMITTEE NO. 6 - TRANSPORT AND CUSTOMER SERVICE**

**Monday 16 March 2020**

**Examination of proposed expenditure for the portfolio areas**

## **BETTER REGULATION AND INNOVATION**

<h1><b>CORRECTED</b></h1>
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**The Committee met at 09:30.**

### **MEMBERS**

Ms Abigail Boyd (Chair)

The Hon. Mark Banasiak (Deputy Chair)

The Hon. Scott Farlow

The Hon. Sam Farraway

The Hon. John Graham

The Hon. Courtney Houssos

The Hon. Shayne Mallard

The Hon. Daniel Mookhey

The Hon. Mark Pearson

Mr David Shoebridge

### **PRESENT**

**The Hon. Kevin Anderson, Minister for Better Regulation and Innovation**

**CORRECTIONS TO TRANSCRIPT OF COMMITTEE PROCEEDINGS**

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

**Budget Estimates secretariat**

**Room 812**

**Parliament House**

**Macquarie Street**

**SYDNEY NSW 2000**



**The CHAIR:** Members, witnesses and those in the public gallery, we request any person who is feeling unwell or has returned from overseas within the last 14 days to please leave the hearing room now. Welcome to the public hearing for the inquiry into budget estimates 2019-2020, further hearings. Before I commence I would like to acknowledge the Gadigal people, who are the traditional custodians of this land. I would also like to pay my respects to the Elders past and present of the Eora nation and extend that respect to other Aboriginal people present. I welcome Minister Anderson and accompanying officials to this hearing. Today the Committee will examine the proposed expenditure for the portfolio of Better Regulation and Innovation.

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

All witnesses in budget estimates have a right to procedural fairness, according to the procedural fairness resolution adopted by this House in 2018. There may be some questions that a witness could only answer if they had more time or certain documents to hand. In those circumstances witnesses are advised that they can take a question on notice and provide an answer within 21 days. Any messages from advisers or members' staff seated in the public gallery should be delivered through the Committee secretariat.

Minister, I remind you and any officers accompanying you that you are free to pass notes and refer directly to your advisers seated at the table behind you. Transcripts of this hearing will be available on the web as soon as possible. I ask the witnesses in the back row to speak into the microphone on the corner by Ms Webb. If you need to respond in a more lengthy manner, it might be a good idea to swap with one of the witnesses in front. Finally, could everyone please turn their mobile phones to silent for the duration of the hearing.

All witnesses from the department, statutory bodies and corporations will be sworn prior to giving evidence. Minister Anderson, I remind you that you do not need to be sworn as you have already sworn an oath to your office as a member of Parliament. I remind the following witnesses that they do not need to be sworn as they have been sworn at an earlier budget estimates hearing before this Committee: Ms Hogan, Mr Tansey, Ms Webb, Mr O'Brien and Mr Dunphy.

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

**ROSE WEBB**, Deputy Secretary and Commissioner of Fair Trading, Department of Customer Service, on former affirmation

**PETER DUNPHY**, Executive Director, Compliance and Dispute Resolution, Department of Customer Service, on former affirmation

**JOHN TANSEY**, Executive Director, Regulatory Policy, Department of Customer Service, on former affirmation

**TERRY O'BRIEN**, Director, Office of Racing, Department of Customer Service, on former affirmation

**MEAGAN McCOOL**, Director, Hazardous Chemical Facilities and Safety, SafeWork, affirmed and examined

**The CHAIR:** Today's hearing will be conducted from 9.30 a.m. to 12.30 p.m. with the Minister and from 2.00 p.m. to 5.30 p.m. with departmental witnesses. I now declare the proposed expenditure for the portfolio of Better Regulation and Innovation open for examination. As there is no provision for any witness to make an opening statement before the Committee commences questioning, we will begin with questions from the Opposition.

**The Hon. JOHN GRAHAM:** Welcome, Minister. I might begin with some questions about the current pandemic and its impact on the citizens of New South Wales. Then we might turn to the building crisis in Sydney.

**Mr KEVIN ANDERSON:** Certainly.

**The Hon. JOHN GRAHAM:** You do not appear to have provided any advice to consumers about the cancellation of events now sweeping across the State as a result of the very important bans on mass gatherings. Other States have. What advice have you provided to consumers about what their rights are in this situation?

**Mr KEVIN ANDERSON:** Health is the lead agency in this regard. What we have been doing is working with other agencies within the government. In particular we have been working with the Premier, Treasurer and others on what New South Wales should do going forward. Each day is completely different. We now have a New South Wales position. We are carefully considering what messages we need to put out there because, as you would appreciate, there is significant information going out. Certainly from Fair Trading's perspective, we will be formulating those messages now that we have a New South Wales position, particularly around rights and responsibilities around refunds and terms and conditions on bookings, whether they be through events, flights, travel agencies and so on. We are formulating those messages.

**The Hon. JOHN GRAHAM:** You are formulating those messages. Can you confirm that you have not yet advised consumers on what their rights are?

**Mr KEVIN ANDERSON:** Not yet, Mr Graham. Given that the Premier, on the back of the National Cabinet, is working towards clear messaging—and I believe that there needs to be clear messaging because there is a lot of white noise around this—and given that we now have—

**The Hon. JOHN GRAHAM:** Other States have done this. Why haven't you, as Minister, answered these questions, which members of the public clearly have? Events have been cancelled but there has been no information from the Government about what their rights are. Why have you not told them?

**Mr KEVIN ANDERSON:** With what we will do now that New South Wales does have a position going forward off the back of the announcement from the Premier yesterday, I will ask the Fair Trading Commissioner to provide additional comment.

**The Hon. JOHN GRAHAM:** We will come to the agencies in the later session. The point here is that while Health is the lead agency for the general response, you are the lead Minister and lead agencies for dealing with consumers. Consumers have these questions. How quickly will they know what their rights are in this situation?

**Mr KEVIN ANDERSON:** We will be working as quickly as possible, as you would appreciate, Mr Graham. I have already had discussions with the Treasurer and the Premier in relation to refunds, particularly for those travelling from overseas and those coming back about what their rights are for refunds. But certainly the terms and conditions of each individual contract and event differ. We want to make sure that before we put that advice out there it is clear. We will be putting that out as soon as possible.

**The Hon. JOHN GRAHAM:** You have had discussions with the Premier and the Treasurer about travel rights. Can you tell us clearly now so that consumers know what their rights are with travel insurance?

**Mr KEVIN ANDERSON:** It depends on the terms and conditions within their particular travel contract. Each one is different and each agency is different. We will be putting out clear advice that they need to check their terms or conditions, whether they be for tickets to events, overseas travel or bookings for accommodation. If they have any—

**The Hon. JOHN GRAHAM:** You will be doing this but you still have not done it?

**Mr KEVIN ANDERSON:** No, we have not done it yet because we were waiting on the New South Wales Government to take a position, which we have now done. Now we will be working with the Fair Trading commissioner and the secretary to finalise—

**The Hon. JOHN GRAHAM:** The travel insurance issue has been rolling for weeks now. When will that advice be available?

**Mr KEVIN ANDERSON:** We will provide that advice as soon as possible.

**The Hon. JOHN GRAHAM:** Minister, will there be any difference depending on when events are cancelled, given that this was announced days ago and then takes effect now? Is there any difference if events were cancelled at different times? Will that have any impact on the rights of consumers?

**Mr KEVIN ANDERSON:** Again, Mr Graham, you would appreciate that each event is different, whether it is a music event, racing event, football event or whatever. Each event is different. We encourage people who have an interest in a particular event to contact the venue organiser or the organisation they have dealt with and check the terms and conditions. If anyone does have any concerns they should contact Fair Trading. The Fair Trading commissioner, through her staff, will be able to advise on the correct avenues to go down and the mechanisms available.

**The Hon. JOHN GRAHAM:** If events are postponed rather than cancelled, what is the reasonable time frame for consumers to consider that it is a permanent postponement and seek a refund? We may be in that situation with some of these events.

**Mr KEVIN ANDERSON:** Certainly the advice to patrons and ticketholders would be to contact the event organiser. Ultimately that event is controlled by the venue as well as the event organiser. For example, in Tamworth this weekend a Super Rugby game was coming up, with more than 4,000 tickets sold. I have already spoken to the venue operator there. They will be refunding those tickets. Talk to each individual venue, talk to each operator and check the terms and conditions. I know everyone says, "Read the fine print". How many times have we heard that? There is no better time for that to happen, unfortunately. Check the terms and conditions and talk to individual venue operators and event organisers to ascertain the correct path.

**The Hon. JOHN GRAHAM:** Minister, if the message is to talk to your insurer, talk the venue and we have not issued guidelines, are we not really leaving New South Wales consumers out on their own here? What assistance are you providing as of today?

**Mr KEVIN ANDERSON:** What we are providing—as we always have for anyone who has had an issue with tickets and venues—is the option to ring Fair Trading. If you like, Mr Graham, I can bring in the Fair Trading commissioner to provide further comment on what they have been doing over the past couple of days.

**The Hon. JOHN GRAHAM:** We will certainly return to that in the agency session.

**The Hon. SCOTT FARLOW:** Point of order: The Minister is seeking to answer Mr Graham's question. The Minister is deferring to the commissioner to be able to provide the answer that Mr Graham seeks. I think the commissioner should be able to speak.

**The Hon. DANIEL MOOKHEY:** I do not think we were interrupting the commissioner.

**The Hon. SCOTT FARLOW:** You are saying that you do not want to hear from the commissioner at this stage.

**The Hon. JOHN GRAHAM:** To the point of order: We will certainly return to exactly that question with the commissioner in the afternoon session.

**The CHAIR:** In relation to the point of order, it is within the members' rights to direct the questions as they see fit. There is limited time with the Minister this morning. Ms Webb will be here this afternoon.

**The Hon. DANIEL MOOKHEY:** Minister, greetings to you and good morning. Just following up on the line of questioning about the travel insurance, I understand, as you just outlined, that you do not yet have a

timetable to provide advice to consumers about what their existing rights are. But what steps have you put in place to monitor how airlines and travel companies are conducting themselves right now?

**Mr KEVIN ANDERSON:** I would sincerely hope, Mr Mookhey, that within their terms and conditions with the travel agents and their suppliers—whether they be hotels, ongoing transports, airlines, accommodation, food and beverage and supplies—they would be able to have the proper mechanisms in place to inform people who they have done business with about their rights and responsibilities.

**The Hon. DANIEL MOOKHEY:** I would hope that too. But in terms of the regulatory responsibility for you to monitor their behaviour during this crisis, have you spoken to the airlines or made contact with any of the travel companies, given that there are already mass levels of confusion about what people's rights are? I understand what you are talking about is prospective, and that will be welcome when we see it. But this has now been going on for two weeks. We have had many Australians both here and abroad affected in their ability to come in. We are seeing very few notices to these companies. What steps are you actually taking right now to monitor how these companies are behaving today?

**Mr KEVIN ANDERSON:** Mr Mookhey, a significant problem that smaller travel agencies are facing, particularly in relation to overseas travel, is the Reserve Bank credit card arrangements between the banks and the merchants. We have spoken to a number of travel agents. I have spoken personally to a number of travel agents about the challenges they are facing. We have spoken to the Treasurer in relation to this particular issue. What we do want to do is provide a measured and correct response once we land on the correct position moving forward. Mr Mookhey, there is a lot of noise out there and there are a lot of confused people. My own family has travelled, so I need to make the correct information available.

**The Hon. DANIEL MOOKHEY:** Have you sought legal advice as to whether COVID-19 triggers force majeure?

**Mr KEVIN ANDERSON:** I have not sought legal advice on that. But I can ask the Fair Trading commissioner to provide you with some advice on that, if you wish.

**Ms WEBB:** The way that Australian consumer law works is that it is not whether it is force majeure, but whether actions of a third party impact on whether consumer guarantee rights are there or not. In this case the consideration is whether the action of a third party—so some government legislation that has required people to cancel an event—might be a little bit different to a situation where a person has decided on their own to cancel an event.

**The Hon. DANIEL MOOKHEY:** I accept that for the purpose of Australian consumer law. That is in itself interesting. Minister, have you sought advice as to whether or not when you issue your guidelines and the Government issues its response, the Government will be the third party that allows insurance companies and many others to cite force majeure and cancel their contracts?

**Mr KEVIN ANDERSON:** That has to be carefully considered. Again, we are in unique circumstances. As you know, force majeure is a natural event.

**The Hon. DANIEL MOOKHEY:** That is why I am asking whether you have sought advice on this.

**Mr KEVIN ANDERSON:** That is what we will be doing. We will be carefully considering the unique situation that we are in. We want to put the right advice out there. We want to make sure that it is clear. There are so many different, unique circumstances with each individual person. We need to be completely clear about what we do.

**The Hon. DANIEL MOOKHEY:** Are you aware that if we find ourselves in a circumstance where that happens, a lot of the events companies that Mr Graham referred to will lose their insurance? They will then not be in a position to offer consumers refunds or postponements. It is a pretty critical question that a lot of businesses are asking. What advice are we giving them on these questions?

**Mr KEVIN ANDERSON:** I agree with you, Mr Mookhey, that it is a critical question. But we need to put the right advice out there. Each business and insurance company has unique circumstances.

**The Hon. DANIEL MOOKHEY:** Minister, have you spoken to the Insurance Council? Have you called them up? Have you asked them what they are doing? Have you asked them what their legal advice is in this scenario?

**Mr KEVIN ANDERSON:** We are carefully considering the advice going forward. It is part of the plan that New South Wales has put forward on the back of the Premier's announcement on the national Cabinet. These are all carefully considered—

**The Hon. DANIEL MOOKHEY:** So you have not spoken to the insurance companies yet?

**Mr KEVIN ANDERSON:** I have not personally, no.

**The Hon. DANIEL MOOKHEY:** Can we move on now to some of the behaviours we are seeing in the marketplace around, for example, the mass purchasing of face masks and the introduction of face masks that are fraudulent. What are you doing to stop those kinds of practices in the marketplace?

**Mr KEVIN ANDERSON:** That is the first I have heard of fraudulent face marks, Mr Mookhey. But I am happy to have that discussion and if there are incidents out there involving fraudulent face masks—

**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. But we have previously gone through ad nauseam what the powers of the Fair Trading commissioner are in this scenario. Until this point we have not had Fair Trading inspectors out there at all looking at any of these market behaviours?

**Ms WEBB:** We are certainly doing surveillance of misleading and deceptive conduct at all times. I just cannot tell you exactly about the masks.

**The Hon. DANIEL MOOKHEY:** What about the mass buying of toilet paper with the purpose to resell it on other platforms—the gouging aspects of this?

**Mr KEVIN ANDERSON:** That is market driven. We do not have control over panic buying. We certainly call for calm and ask for people to be considerate.

**The Hon. DANIEL MOOKHEY:** It is not the panic buying aspect that I am focusing on. It is the resale after people panic or mass buy. It is the "I am going to buy every toilet paper in Woolworths and put it on eBay" scenario.

**Mr KEVIN ANDERSON:** That is market driven. We do not control that aspect of it. What we do control is the forces around deceptive conduct and misleading conduct. I can say to you that it will be the community who causes that to come to the fore. They will quickly determine whether that business—if they are price gouging—does not abide by common sense in relation to that.

**The Hon. DANIEL MOOKHEY:** I accept that consumers may not want to pay exorbitant prices for things like toilet paper and that common sense will apply. But what are you actually doing?

**Mr KEVIN ANDERSON:** In terms of price gouging, Fair Trading does not control price gouging. What we do is look at misconduct and deception. If they put—

**The Hon. DANIEL MOOKHEY:** Have you investigated any of this?

**Mr KEVIN ANDERSON:** It is not in our remit to look at price gouging.

**The Hon. DANIEL MOOKHEY:** You are describing what they can do. You are giving us a description of what they can do theoretically. I am asking you, in practice, what have they done?



**Mr KEVIN ANDERSON:** If they were to advertise, for example, that it is the cheapest toilet paper in Sydney or wherever it may be, and that was misleading or deceptive conduct, we would be able to investigate that.

**The Hon. DANIEL MOOKHEY:** But have you?

**Mr KEVIN ANDERSON:** We have not had any instances yet of them saying it is the cheapest toilet paper. If they have, please let us know.

**The Hon. DANIEL MOOKHEY:** Are you being proactive in this sense, Minister? That is the issue that we are trying to get to. Are you sitting there waiting for someone to pick up the phone and complain or are you proactively using the powers that are available to you as Minister and through the commissioner? Or is it a case where you are literally sitting there waiting for someone to call you?

**Mr KEVIN ANDERSON:** Fair Trading has consistently made free for all on the domain the rules and regulations around deceptive and misleading conduct. That information is already there. If anyone has any concerns about that they should contact Fair Trading and we will make sure that, within the powers and rules that we operate in, we do our best to stop that.

**The Hon. COURTNEY HOUSSOS:** Minister, how many inspectors do you have out there pursuing this issue at the moment?

**Mr KEVIN ANDERSON:** Ms Houssos, are you talking about Fair Trading or SafeWork?

**The Hon. COURTNEY HOUSSOS:** I am talking about Fair Trading.

**Mr KEVIN ANDERSON:** I will ask the commissioner to comment.

**Ms WEBB:** Most of the conduct that has been spoken about is not actually conduct that is happening out and about; it is on social media and things like that. The most useful operation for us is keeping a check on what advertising is happening and keeping a watch on social media. We have not had any inspectors going from supermarket to supermarket, if that is what you are asking?

**The Hon. COURTNEY HOUSSOS:** There is no checking, no—

**Ms WEBB:** We are responding to every inquiry and complaint that we receive.

**The Hon. COURTNEY HOUSSOS:** So you are sitting back and waiting to hear the complaints from the public?

**Ms WEBB:** No, we are not.

**The Hon. COURTNEY HOUSSOS:** You are not doing any prospective—

**Ms WEBB:** I just said, we are keeping a watch on what is being said on social media and other forums. We are trying to use our resources to the best possible effect. We are responding to complaints and inquiries and keeping a general watch on media reports, social media and the things that are happening. But for us to send out staff into the field from supermarket to supermarket on the off chance that there may be some conduct happening would not be a very good use of our resources in the current situation.

**The Hon. COURTNEY HOUSSOS:** How many inspectors do you have available to you, Ms Webb?

**Ms WEBB:** If we wanted to send inspectors to do that sort of job, we have about 25 consumer protection officers who could do that work. But we do not think—

**The Hon. COURTNEY HOUSSOS:** So those 25 people are currently monitoring social media. Is that correct?

**Ms WEBB:** No, they are doing other Fair Trading operations as well.

**The Hon. COURTNEY HOUSSOS:** So you have 25 people. This is, using the Minister's words—and I will come back to the Minister—a unique situation. I would say these are extraordinary times and you have 25 consumer protection agents sitting at home watching Facebook instead of making sure that customers are not being gouged, are not being given fraudulent products and are, in a time of concern, purchasing what it is said they are purchasing. You have 25 people; is that right, Minister?

**Mr KEVIN ANDERSON:** Ms Houssos, first I will make an observation and then I will ask the Fair Trading commissioner to add further comment. In terms of the 25 consumer protection officers, inspectors have a broad skill set and are able to be—and this is the flexibility of Fair Trading—tasked to different areas where the

need is. They can flex up or they can flex down. In terms of the 25 specific consumer protection officers, if required, they will be able to move into different areas.

**Ms WEBB:** We have up to 300 Fair Trading officers and if we decide we want to do a blitz we can put them all onto doing a blitz on that. But we think we should target our resources to the most effective outcomes for the benefit of consumers. From our point of view, responding to complaints and inquiries as they come in, keeping a watch on what is happening and making sure that when we are out and about we do check things, are the best ways of doing it, rather than diverting all 300 resources and not protecting consumers in other ways.

**The Hon. JOHN GRAHAM:** Minister, the agency has acted before. When it came to baby formula there were inspections and significant measures were used. Why are those powers not being used in this situation, particularly, I have to say, when it comes to fraudulent medical products, where people think they might be safe but are not, but also on this price gouging issue? Why are we not using some of those measures that we have used before?

**Mr KEVIN ANDERSON:** Mr Graham, I am unaware of the baby formula issue. To get clarity on that I am happy to—

**The Hon. DANIEL MOOKHEY:** This is when there was mass buying of baby formula for the purpose of export to China, for which you imposed consumer controls.

**Mr KEVIN ANDERSON:** That was prior to my time, Mr Mookhey. But I am happy to look at those issues with the Fair Trading commissioner.

**Ms WEBB:** Are you asking whether we can impose some restriction on how many people can buy?

**The Hon. JOHN GRAHAM:** The Minister's position is that there are no powers. There is a clear example here of where we have restricted this exact behaviour. Why are you not doing so?

**Ms WEBB:** I think the baby formula issue was different to price gouging, as such. But we do not have any price gouging powers.

**The Hon. JOHN GRAHAM:** Minister, why not use these powers?

**Mr KEVIN ANDERSON:** As the Fair Trading commissioner just said, we do not have powers in relation to price gouging. But supermarkets and others are doing the right thing and limiting the purchase of particular items. I see that some supermarkets have now put local rules in place and are now allowing the elderly in the community to go in to do their shop first and foremost. That will allow them to purchase their goods and segregate them by age for when they are allowed to enter. Local shops—and I thank them for that—are doing that.

**The Hon. COURTNEY HOUSSOS:** In the absence of any guidance from your Government, the market is going to solve this problem?

**Mr KEVIN ANDERSON:** It is a market-driven problem at the moment, Ms Houssos. But again, we will be working on clear messaging. We are able to control what we can, which is any code of conduct or any misleading or deceptive behaviour in the market. We are able to deal with that. But in terms of price gouging, the consumers—and if there is someone breaking the law, in terms of Australian Consumer Law, we will do that.

**The Hon. COURTNEY HOUSSOS:** You will wait to get a phone call. Excellent.

**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.

**The CHAIR:** I appreciate that. These are really quite extraordinary times. But they are not unforeseen times. We have had the risk of this kind of event happening on the security risk register for some time at the Federal level. The idea is that the State Government does not have any plans in place for when this happens, and now we are scrambling to make up for the time. For example, does your department have no standard procedures in place for this kind of event?

**Mr KEVIN ANDERSON:** Particularly in relation to price gouging and, again, misleading and deceptive conduct, or in terms of panic buying, is that what you are referring to?

**The CHAIR:** For a pandemic, for panic buying or even for circumstances where areas are suffering from the events of wild weather. There are all sorts of reasons why people would find themselves in unusual circumstances. Are you saying that there are no standard guidelines?

**Mr KEVIN ANDERSON:** I think the guidelines would differ in each individual situation. But I am happy to bring in the Fair Trading commissioner to add comment on that.

**Ms WEBB:** We definitely have a whole lot of information on our Fair Trading website about emergency situations, including issues for people who have shortages, people dealing with tradespeople and people's rights to refunds. That has been there. We put extra information on there during the bushfires and the drought. As the Minister mentioned, shortly we will be adding information in relation to the pandemic.

**The CHAIR:** So there is information and, as we heard, a market-driven response. Is there any emergency planning where regulation kicks in to protect the rights of consumers?

**Ms WEBB:** Absolutely. Under the Health legislation there are rights to stockpile products and things like that. But under consumer law, as it sits in New South Wales at the moment, we do not have a right to control goods or services being sold.

**The Hon. MARK PEARSON:** Minister, thank you for coming. Greyhounds are a different horizon, although they are strangely connected. A draft revised greyhound code of practice has just been released for public consultation. The proposed minimum size for pens for a non-breeding greyhound is three square metres, which seems to be the same as the current code, which is three square metres. Is that correct?

**Mr KEVIN ANDERSON:** That is correct.

**The Hon. MARK PEARSON:** Unlike 3.5 square metres for a breeding greyhound. Given the size of pens is staying the same, why does the draft code allow the industry up to 10 years to comply with this requirement? Is it because you believe that most of the industry is noncompliant right now?

**Mr KEVIN ANDERSON:** Mr Pearson, this is an industry that I think has come forward in leaps and bounds over the past couple of years to get it to a point where welfare sits at the top of everything it does, whether it be racing, the administration side of it, or through the Greyhound Welfare Integrity Commission.

**The Hon. MARK PEARSON:** If that is the case, why are we giving the industry 10 years? We have had four inquiries and Justice McHugh's inquiry and report, and here we are giving them 10 years to give greyhounds a little bit more space in their cages. Is that an industry that is going forward in leaps and bounds in welfare?

**Mr KEVIN ANDERSON:** There is a cost implication as well, Mr Pearson. We have seen across other industries where they have brought in cage sizes, whether it be in poultry or whatever, that they have given them some leeway to accommodate. There is a cost involved. Someone might have just built brand-new cages, for example. That is a significant cost. To ease that cost burden it has been spread out over time.

**The Hon. MARK PEARSON:** Considering the alarm about this industry over these years, surely to give the industry such leeway is an indicator, is it not, Minister, that they really cannot catch up with what community standards are?

**Mr KEVIN ANDERSON:** Well, I think they are catching up to community standards, Mr Pearson. I think the industry, again, is doing a significant amount of work in terms of welfare. What we saw in the catastrophic event of a couple of years ago to where we are today is a marked improvement. Is there room for further improvement? Yes, there is. But what I can say to you is that this industry is on the right path and I have great confidence that those in the industry want to continue to do the very best they can.

**The Hon. MARK PEARSON:** Considering that statement "on the right path", let us have a measure of it. As you would remember, the graves of hundreds and hundreds of greyhounds were dug up over that time. It was extremely alarming to the public and maybe to some aspects of the industry. In the commission's last *Greyhound Retirement and End of Life Report* of October to December 2019, 20 per cent of the greyhounds who were "retired" in that quarter were listed as being rehomed privately by their owner or trainer to someone outside the greyhound industry. And now you know where I am going here.

Does that not mean that there is, in effect, a gap in the tracking of greyhounds if any greyhound can be rehomed to a third party and it is then captured under the Companion Animals Act, not the integrity commission's

regulations? Therefore, under the Companion Animals Act, that animal can be killed and not tracked by the integrity commission. How can we assure the community and give them confidence that this overarching commitment to all-of-life tracking is actually happening? Because it is not now.

**Mr KEVIN ANDERSON:** Mr Pearson, it is a good point that you make. It is something that I am very conscious of—something that I know the Greyhound Welfare & Integrity Commission is working on. It has been identified as a problem from when pups are born, whelped, raced or whether they just generally become companion animals or farm animals all the way through to their end of life.

**The Hon. MARK PEARSON:** Is your department or is the integrity commission going to investigate the fate of those greyhounds that move from the register with greyhound racing or the integrity commission or the industry across to a companion animal?

**Mr KEVIN ANDERSON:** The Greyhound Welfare & Integrity Commission, Mr Pearson, is doing a lot of work to fill that gap. They can only go from the current records and start that process forward. There have been information gaps prior to 2017, so this is a serious issue that I am acutely aware of and needs to be looked at, and is occurring so that we have that traceability.

**The Hon. MARK PEARSON:** If it is so serious and you are so concerned, why do we not just go back to what we promise the community—all-of-life tracking—even if the animal is surrendered, sold or given to a third party and therefore is under the Companion Animals Act? Minister, you, with the stroke of a pen, could make sure that, irrespective of where that greyhound goes, it must be tracked for all of life and that, would it not, would give an assurance to the community that, yes, we are making sure that we have no ghost animals like we found in the graves several years ago—and there are probably many still down there?

**Mr KEVIN ANDERSON:** It is something that we are working towards, Mr Pearson—that whole-of-life traceability. The Greyhound Welfare & Integrity Commission is looking at setting up an electronic database so that they can trace from birth all the way through and, again, whether they race or not and if they end up becoming companion animals there will be that traceability—whether that is through a chip or whatever other mechanism they are looking at. It is important that the welfare of that animal is tracked all the way through to rehoming.

**The Hon. MARK PEARSON:** How do the integrity commission, the industry and the community know it can be tracked through the Companion Animals Register?

**Mr KEVIN ANDERSON:** From my perspective, the Companion Animals Register sits with the Prevention of Cruelty to Animals [POCTA] Act. I am responsible for the racing of that particular animal. What we want to be able to do is, when it is in a racing regime, ensure it has the proper paperwork and it has the traceability of the animals so that it does transfer across. There has been that gap. That is what we are working on at the moment and it is important work that the Greyhound Welfare & Integrity Commission is doing.

**The Hon. MARK PEARSON:** But really the most reassuring way to address it is to ensure that there is the same commitment to tracking right through to end of life when it was registered through the greyhound industry, but right through if it is sold on to a third party. The best way would be to continue that tracking, would it not, Minister?

**Mr KEVIN ANDERSON:** That is correct.

**The Hon. MARK BANASIAK:** Just briefly going back to a subject the Opposition was talking about—mass buying or panic buying—and particularly the online reselling of items, do you think this exposes some gaps in our legislation where we are not adequately protecting or cannot adequately enforce online selling behaviour? We sort of leave it to the eBays and Gumtrees of the world to police this sort of thing.

**Mr KEVIN ANDERSON:** I would like to ask the Fair Trading Commission in relation to online price gouging in that regard, Mr Banasiak, so we do have the correct answer for you.

**Ms WEBB:** In relation to online generally, we do have powers to enforce that—so misleading and deceptive conduct, as the Minister referred to. When we find that happening online we definitely take action. In fact, our largest ever civil penalty of more than \$3 million related to an online seller of mobile phones. What we are trying to say here is that if all people are doing is selling things at an inflated price, they have got the right to do that. It is a free market. People can price goods at whatever price they like and then they have to see if people will buy it at that price. But if there is any element of misleading or deceptive conduct online we can certainly take action.

**The Hon. MARK BANASIAK:** Minister, just going back to what you said about local rules being put in place by retailers, one of the local rules that has been put in place by Woolworths is that they are now refusing

refunds for change of mind for some of these items that have been mass bought. How does that marry up with consumer laws around everyone having the right to seek redress and a refund? Is this not just making the problem about mass shortages of product worse if they are not allowed to return the product when they come to their senses?

**Mr KEVIN ANDERSON:** Mr Banasiak, I have not been made aware of that particular instance where they have refused a refund on a change of mind. Do you have a specific instance? We will be very happy to follow it up and see what—

**The Hon. JOHN GRAHAM:** It is quite public.

**The Hon. MARK BANASIAK:** Yes. Local Woolworths stores have got signs all over the shelves saying that they are refusing refunds on these high-profile items that are being taken from the shelves—the toilet paper, the pasta, the rice; all that staple stuff. They are refusing now to refund to people who are returning those items.

**Mr KEVIN ANDERSON:** On a change of mind?

**The Hon. MARK BANASIAK:** That is what they call it: A change of mind.

**Mr KEVIN ANDERSON:** Okay.

**Ms WEBB:** The way the Australian Consumer Law works and the way our Fair Trading websites and all our guidance says is that you do not have a right to a refund just because of a change of mind. Many large stores in Australia do offer refunds for change of mind so often department stores do let people get a refund for a change of mind but they have no obligation to do so under the law, and people are well within their rights to say that they will not give a refund in those circumstances under Australian Consumer Law. That is our very clear guidance that we always give to people—that they do not have that right.

**Mr KEVIN ANDERSON:** I just have the correct information here, Mr Banasiak, because this is important. Australian Consumer Law ensures that should a good or service fail to meet a consumer guarantee you have the right to ask for a repair, replacement or refund. These guarantees do not enable a consumer to return a product if they no longer want or need the product.

**The Hon. MARK BANASIAK:** It just seems to be potentially making the shortage problem a bit worse when the stores will not allow returns. I mean, you would agree that it makes the problem worse?

**Mr KEVIN ANDERSON:** It does make the problem worse and, again, we call for calm right across the board. We are asking for people to please bear in mind the goods they need, take care of each other and do not panic buying. We ask people to be calm during this time.

**The Hon. MARK BANASIAK:** Now switching tack to greyhounds, the former Minister said that the Government had committed \$41 million to the industry, including \$30 million for safety upgrades to New South Wales tracks and \$11 million to set up the commission. Where has the \$30 million gone?

**Mr KEVIN ANDERSON:** So there was \$41 million.

**The Hon. MARK BANASIAK:** And \$11 million to set up the commission.

**Mr KEVIN ANDERSON:** That is correct.

**The Hon. MARK BANASIAK:** And \$30 million for safety upgrades.

**Mr KEVIN ANDERSON:** That is correct. I have the numbers here to be able to furnish you with, but can I say that that money has been spent on emergency remediation works for tracks.

**The Hon. MARK BANASIAK:** How much of that \$30 million has been spent?

**Mr KEVIN ANDERSON:** There has been \$7 million spent on emergency and urgent remediation works on tracks across New South Wales.

**The Hon. MARK BANASIAK:** And what is happening with the others?

**Mr KEVIN ANDERSON:** Obviously their tracks are of a standard where they can still race. Currently Greyhound Racing NSW are looking at track standards. They are looking at the University of New South Wales to get that in order and stand it up.

**The Hon. MARK BANASIAK:** Is that including a straight track which was promised two or three years ago by Greyhound Racing NSW?

**Mr KEVIN ANDERSON:** A straight track for a particular location?

**The Hon. MARK BANASIAK:** Yes, the CEO made a public statement on 2 August last year that a new straight track was imminent. I am wondering whether you have any insight as to imminent and at what cost?

**Mr KEVIN ANDERSON:** Yes, straight tracks are part of the track safety upgrades body of work that is being done with the University of New South Wales. There is discussion about the benefits of a straight tracks versus reducing the turns. That is all part of that body of work and straight tracks are certainly in that mix.

**The Hon. MARK BANASIAK:** I agree that they are in the mix but there was an announcement made by the CEO in August last year and we are still nowhere in terms of building this straight track. This was a project that was supposed to happen two or three years ago. When is it going to happen?

**Mr KEVIN ANDERSON:** Is it a straight track for a particular location or across the board?

**The Hon. MARK BANASIAK:** He said in his announcement that the straight track was imminent. That would imply that the Minister would have some knowledge about where the straight track was going. I put it to you, do you know where the straight track was apparently going to go?

**Mr KEVIN ANDERSON:** Under the track safety standards body of work that is being undertaken at the moment with Greyhound Racing NSW and the University of New South Wales they are looking at a mix. There are some tracks that will still be fit for purpose that do have bends in them and do have corners in them. There is also the opportunity to implement straight tracks should that need occur. Greyhound Racing NSW along with the Greyhound Welfare & Integrity Commission are looking at that track safety upgrade program now.

**The Hon. MARK BANASIAK:** What is happening with the Grafton racetrack? There was an announcement made but there does not seem to be any work happening with that. Have you got any information on the Grafton track?

**Mr KEVIN ANDERSON:** Yes, I can get information on the Grafton track. That was a \$4.6 million upgrade for Grafton. Certainly welcomed by the greyhound racing industry in Grafton.

**The Hon. MARK BANASIAK:** Was that coming out of the \$30 million?

**Mr KEVIN ANDERSON:** Yes, that was coming out of the urgent remediation works for Grafton. That is something that we certainly believe happened and we have seen that occur across a number of tracks in New South Wales.

**The Hon. MARK BANASIAK:** Just for clarity, you are talking the \$4.6 million was out of that \$7 million.

**Mr KEVIN ANDERSON:** That is correct.

**The Hon. MARK BANASIAK:** You said "emergency" but then you said "urgent remediation", I was not sure whether there were two separate funds there.

**Mr KEVIN ANDERSON:** No.

**The Hon. MARK BANASIAK:** Can you give us an update on the new generation track for Goulburn. There was an announcement during the campaign about a potential new track for Goulburn. Has any work been done in that space?

**Mr KEVIN ANDERSON:** That was an announcement by the Deputy Premier for separate funding toward Goulburn. It is a \$1.2 million project and \$700,000 was announced by the Deputy Premier. To my understanding, that work and planning continues in that regard.

**The Hon. MARK BANASIAK:** It seems that Queensland and Victoria are the major beneficiaries of the track study work done by Professor David Eager while we are footing the bill for the majority of the funding. When is New South Wales going to start to see some of that benefit come back our way? It seems like Queensland and Victoria are reaping the benefits while we are not.

**Mr KEVIN ANDERSON:** I am not sure I understand the premise of your question, Mr Banasiak, in terms of Queensland and Victoria reaping the benefit of the funding.

**The Hon. MARK BANASIAK:** Not the funding, but the work that has been done by the professor. They seem to be getting on with the job and New South Wales is dragging the chain. They are going ahead leaps and bounds with their track work whereas we seem to be lagging behind.

**Mr KEVIN ANDERSON:** I think we are at different stages. I am not familiar with the Queensland or Victorian track progress reports, but certainly in New South Wales a significant amount of work is being done with Greyhound Racing NSW and the University of New South Wales to ensure that the track safety upgrade plan progresses and is fit for purpose for New South Wales.

**The Hon. DANIEL MOOKHEY:** Minister, I just want to turn now to the COVID-19 issue in your capacity as the Minister responsible for regulating the racing industry. Obviously the ban on gatherings above 500 people is going to have a huge impact on the racing industry. Do you know how many racing events will need to be cancelled or postponed?

**Mr KEVIN ANDERSON:** It will depend, Mr Mookhey, on the event itself. For example, I have had contact with the CEO of Greyhound Racing NSW, Mr Tony Mestrov, as well as the chief executive officer of harness racing, Mr John Dumesny, and Mr Peter V'landys from Racing New South Wales. Significant events like the Golden Slipper this Saturday will be for owners, trainers and connections only as long as there is no more than 500 at that particular event. Regional races—be they harness, greyhounds or thoroughbred—will be looked at on a case-by-case basis. Many of those events rarely pull 500 spectators, so each individual track and event, under the guidance of their racing ruling body, will make that decision to ensure that they comply with no more than 500 on course at any time.

**The Hon. DANIEL MOOKHEY:** On the autumn racing carnival you mentioned the Golden Slipper as one that will be affected and effectively going to a no crowds position. What other events have you been advised in those conversations with Mr V'landys, or anyone else, as to what the impact will be on the racing carnival?

**Mr KEVIN ANDERSON:** Any of the main events coming up in the racing autumn carnival, particularly in metropolitan areas—so, for example, Sydney, Newcastle and Wollongong where they are more than likely pull 500 or more. At Tamworth we had the heat of the country championships last Sunday or the Sunday previously. There were over 1,500 people at that event. As I am sure there are at other major centres like Wagga Wagga, Orange and Bathurst. In terms of those significant events then those race clubs will make that decision.

**The Hon. DANIEL MOOKHEY:** When do you expect them to have made that decision and provided you with the advice and for that matter the public as well?

**Mr KEVIN ANDERSON:** It came into play today. I have advised all three racing codes and the chief executive officers of those three organisations, three race clubs, to call it early and to let their patrons, let connections, owners and trainers know as soon as possible their intention around that particular event.

**The Hon. DANIEL MOOKHEY:** Obviously, the dramatic cancellation, postponement or even a shift to nil crowds is going to have a severe impact on employment in those industries.

**Mr KEVIN ANDERSON:** Correct.

**The Hon. DANIEL MOOKHEY:** As the racing Minister what are you doing for the people that are going to have their jobs affected by these shifts?

**Mr KEVIN ANDERSON:** It is a significant challenge, Mr Mookhey, there is no doubt about that. Again, day by day we are addressing the challenges that are brought before us. We know that there will be a significant impact. We know the Federal Government stimulus package, and obviously from a New South Wales Government perspective, I am deeply concerned about the flow-on impact to caterers, to cleaners, to everybody involved.

**The Hon. DANIEL MOOKHEY:** Have you had advice as to how many jobs are going to be affected?

**Mr KEVIN ANDERSON:** No, I have not had that advice yet.

**The Hon. DANIEL MOOKHEY:** Have you sought advice as to how many jobs are going to be affected?

**Mr KEVIN ANDERSON:** Mr Mookhey, that is on my agenda this afternoon. As you know this only came into play today. I have been talking to racing controlling bodies over the weekend to look at what plans are in place to protect the welfare of the community as well as owners, trainers and connections. That is the next part of our conversation.

**The Hon. JOHN GRAHAM:** Minister, I might turn to your view you expressed about this no change of mind policy. Accepting your position that the no change of mind policy might actually be making things worse on the ground what discussions have you had with supermarkets about your concerns?

**Mr KEVIN ANDERSON:** Mr Graham, I will ask—

**The Hon. JOHN GRAHAM:** I am asking, Minister, about your discussions with supermarkets, not the agency's.

**Mr KEVIN ANDERSON:** I have not had any direct discussions with supermarkets in relation to that no change of mind policy yet. These are all again, as you would appreciate and understand, a day-to-day issue. We are in unprecedented times. Those challenges will present themselves and we are prepared and ready to meet them head on and we will deal with each one as they come forward.

**The Hon. JOHN GRAHAM:** I am just wondering who you have raised it with, Minister. Anyone who has been shopping over the weekend or last week has been confronted with these signs at the checkout register indicating this view. Have you raised this view elsewhere in government that this no-change-of-mind policy might actually be making things worse on the ground?

**Mr KEVIN ANDERSON:** If it is making things worse on the ground, then that will need to be part of our discussions about what we do to protect our communities, Mr Graham. We will be having those discussions, no doubt, as the day progresses.

**The Hon. JOHN GRAHAM:** Accepting your view that you think it might be making things worse, is this a National Cabinet view or is this just your view as the lead Minister?

**The Hon. SCOTT FARLOW:** Point of order: I do not think that was what the Minister said.

**The Hon. JOHN GRAHAM:** I think very clearly—

**The CHAIR:** What is the point of order?

**The Hon. SCOTT FARLOW:** The point of order is that Mr Graham is mischaracterising the Minister's comment.

**The Hon. DANIEL MOOKHEY:** The Minister can answer that however he sees fit.

**The CHAIR:** I will accept the point of order. I will allow the Minister to clarify the position and then questioning can continue.

**Mr KEVIN ANDERSON:** Thanks, Mr Farlow. What I will make an observation on, Mr Graham, is that every day new challenges are presenting themselves. The National Cabinet, of which New South Wales is a member, will no doubt be having these discussions on how we deal with them.

**The Hon. JOHN GRAHAM:** I will turn to the broader question of building defects in cladding. I just want to ask in the pandemic context about one aspect of it, which is this: Many of the buildings with flammable cladding may well be closing over the coming month and may not be in the sort of use that they have been over coming months, given the policies that are now in place. Have you had any discussions with the Treasurer about the options that this cladding removal program might be part of the stimulus package that the Treasurer and the Premier are considering? Victoria has money on the table; New South Wales does not. Have you raised with the Treasurer the option of including cladding removal in the stimulus package?

**Mr KEVIN ANDERSON:** No, I have not, Mr Graham.

**The Hon. JOHN GRAHAM:** Is it an option to use this opportunity, when these buildings are not so much in use, to get this flammable cladding off the buildings?

**Mr KEVIN ANDERSON:** I am open to all suggestions in terms of what we do to look after our communities. Particularly in relation to the cladding, there is a strategic plan in place through Fire and Rescue, looking at what we can do to keep our communities safe.

**The Hon. JOHN GRAHAM:** There is a strategic plan but no funding. Victoria has funding but we do not. Is this not the chance for a stimulus funding to get money on the table to get this cladding off the walls?

**Mr KEVIN ANDERSON:** I might make a comment. What Victoria does is certainly a matter for it. What we have got in place is a completely different pathway to remediation and rectification of these buildings.

**The Hon. JOHN GRAHAM:** I agree it is completely different: There is no money. That is part of the problem. Will you commit to raising this with the Treasurer? Could this be considered as part of the stimulus?

**Mr KEVIN ANDERSON:** That will be the discussions that I will have obviously with the Cladding Taskforce to look at where we are up to. But again we are in unique—



**The Hon. JOHN GRAHAM:** Will you commit to raising this with the Treasurer? Does that not just make common sense? These buildings might not be in use, certainly not to the use that they have been. Is this not an opportunity to do something here? Will you raise this with the Treasurer?

**Mr KEVIN ANDERSON:** Mr Graham, again it brings me back to my first point: Everything is on the table in these unique circumstances. That issue has not been raised previously.

**The Hon. JOHN GRAHAM:** I am raising it, Minister. Will you raise it with the Treasurer?

**The Hon. SAM FARRAWAY:** Point of order: The Hon. John Graham has had five interjections to the Minister from asking the original question. Yes, he kept rephrasing it but the Minister never actually finished the entirety of his answer. That is five interjections from the Hon. John Graham.

**The CHAIR:** I think we can have at least a sentence from the Minister before the interjection. But again, Mr Graham, you are free to direct the question.

**The Hon. JOHN GRAHAM:** The floor is all yours, Minister. Will you raise this?

**Mr KEVIN ANDERSON:** Thank you very much, Mr Graham. Again I reiterate that we are in unique circumstances. We will consider many options in relation to what our community needs to keep it safe. The stimulus package via the Federal Government and the State Government will be put in place. We will continue to look after our communities the way that we should do and rightfully so.

**The Hon. DANIEL MOOKHEY:** But why do you not at least seek from the Treasurer funding to remove flammable cladding from government buildings? It delivers on your requirements as the New South Wales Government to get rid of this cladding and it delivers stimulus because it is construction. It sounds like a no-brainer. Will you at least go and talk to them about getting some funding as a stimulus measure to remove the cladding from government buildings?

**Mr KEVIN ANDERSON:** In relation to the work being done on cladding on those buildings with cladding, many buildings are already having the cladding removed. What we are doing is working strategically through the councils to further identify those buildings that need assessment and, ultimately, rectification. We will follow down that path but again, Mr Mookhey, I cannot discuss—and I am not part of the National Cabinet. What I will do is continue to look after our community in my remit as the Minister for Better Regulation and Innovation. The welfare of our people in our communities right across regional New South Wales must come first.

**The Hon. DANIEL MOOKHEY:** How many government buildings have had the cladding removed?

**Mr KEVIN ANDERSON:** There are eight buildings left to go.

**The Hon. DANIEL MOOKHEY:** There were 17, I think, before.

**Mr KEVIN ANDERSON:** We have reduced, as you might recall, before this—

**The Hon. DANIEL MOOKHEY:** No, they were not. Sorry, memory—

**Mr KEVIN ANDERSON:** I am happy to take that. We have brought it down to eight. Thanks for doing a good job.

**The Hon. COURTNEY HOUSSOS:** We were not saying that, let's be clear.

**Mr KEVIN ANDERSON:** No, I did not think so, Ms Houssos.

**The Hon. DANIEL MOOKHEY:** But there are eight government buildings that still have flammable cladding on them. Surely you can go to the Treasurer and say, "Give us some stimulus money to get rid of it." It is stimulus and it is public safety.

**Mr KEVIN ANDERSON:** I am not in National Cabinet so I cannot—

**The Hon. DANIEL MOOKHEY:** You do not need to be in the National Cabinet to have that conversation with the Treasurer.

**The Hon. JOHN GRAHAM:** Why not pick up the phone to the Treasurer?

**Mr KEVIN ANDERSON:** The plan that we have in place now, Mr Graham, is to strategically work through the issue of those buildings that have cladding, that are being assessed, that are already assessed and have already been rectified. That plan is in place at the moment. I am confident that we will continue to work down through the Cladding Taskforce, which is doing a great job, Fire and Rescue and councils. I put a shout-out to councils, which I believe are doing a fantastic job in working with the Cladding Taskforce in addressing this issue.

**The Hon. JOHN GRAHAM:** Minister, I have to say that this is pretty hopeless when it comes to a response from the Government. You have known this issue is coming not since last Friday but since 25 January when we had the first case in Australia. It is now 16 March. You have told us you have given no guidance to consumers. You have told us you have not begun inspections about misleading medical products. Now you have refused to confirm you will talk to the Treasurer about the State stimulus. When are you going to act on some of these issues? Why are you waiting?

**Mr KEVIN ANDERSON:** Mr Graham, what we are doing is putting the welfare of the people of New South Wales first and foremost. To talk about the stimulus package, again that is part of National Cabinet and I am part of the New South Wales Government.

**The Hon. COURTNEY HOUSSOS:** Minister, are you aware that the New South Wales Government—

**The Hon. SCOTT FARLOW:** Point of order: The Minister was trying to finish his answer. He got about five words into it before the Hon. Courtney Houssos interjected. I ask that the Minister be able to finish his response.

**The Hon. COURTNEY HOUSSOS:** To the point of order: The Minister has returned to clearly his talking points after every single answer. At the conclusion of his talking points, I interjected to ask him whether he was aware that the New South Wales Government is actually creating a stimulus package at the moment. He seems unaware of this.

**The CHAIR:** As to the point of order, the Minister could try to be directly relevant to the question. Members should allow the Minister to finish the end of the sentence.

**Mr KEVIN ANDERSON:** Thank you, Ms Boyd.

**The Hon. JOHN GRAHAM:** I might turn to cladding, given you have said there is a strategic plan. What I really want to know is where is that plan up to? On 16 August the Building Commissioner turned up to the Public Accountability Committee. He was days into his job and he promised to put a response on your table within a fortnight. He came back and confirmed later to that same committee that he has put that plan on your desk as the Minister. It is a plan to deal with flammable cladding in New South Wales to speed up the response and really get cracking. We have seen no change over that time in the Government's approach. It is the same policies and the same plan as what was in place when the Building Commissioner was appointed. Where is the plan? Why have you not acted as Minister on the Building Commissioner's recommendations?

**Mr KEVIN ANDERSON:** Mr Graham, I might start with where you said there is "no change". We have made significant inroads into clearing buildings and assessing buildings that have cladding in New South Wales. I might add that cladding when used appropriately is fit for purpose. It is the cladding that has been identified as a risk that we are working towards. The Cladding Taskforce, which I think has met something like 52 times now, is methodically, practically and strategically working through those buildings to keep people safe.

**The Hon. JOHN GRAHAM:** Minister, this is the same response we have had from the Government before the Building Commissioner was appointed. He has told the public through this committee that he has made a recommendation to the Government regarding the restoration of buildings affected by cladding and the options that surround it and that the Government has not acted on those options. You have not acted as Minister on any of those options. Where is your response, months later?

**Mr KEVIN ANDERSON:** We are carefully considering the Building Commissioner's work plan. It is in Cabinet and we will carefully consider what those options are.

**The Hon. JOHN GRAHAM:** Minister, he gave you this response in August. He gave it to you within a fortnight. You have sat on it since then. When are you going to respond? Why have you not responded to what the Building Commissioner describes as a pressing issue? They are his words.

**Mr KEVIN ANDERSON:** It is a pressing issue, Mr Graham.

**The Hon. JOHN GRAHAM:** Then why not act?

**Mr KEVIN ANDERSON:** That is why the cladding task force continues to methodically work through those buildings to clear buildings and keep our community safe. The Building Commissioner's work plan is in Cabinet.

**The Hon. JOHN GRAHAM:** Minister, we have been questioning your agency, and it has been subject to some difficult questions over time. We have not had the chance to ask you these questions. In the end the responsibility keeps coming back to Cabinet and the fact that as Minister, as Cabinet, you have not acted. Why

are you sitting on this issue? The Building Commissioner has given you a view about options. Why have you not acted? I just cannot understand why you have not put whatever the Building Commissioner's careful reflections are into action here.

**Mr KEVIN ANDERSON:** Can I say that the Building Commissioner completely endorses the work done and the strategic approach, the practical approach, by the cladding task force in clearing buildings. We are bringing that number down, there is no doubt about that. Councils are doing a good job in—

**The Hon. JOHN GRAHAM:** He does not endorse it. He has made recommendations about additional options. You have not acted. Why not?

**Mr KEVIN ANDERSON:** It is before Cabinet, but what I can tell you in relation to the support of the Building Commissioner of the progress and the plan going forward and how to deal with cladding across New South Wales is the Building Commissioner supports the cladding task force. Again can I say that the number of buildings are coming down, they are being cleared and they are being rectified. A significant number have already had that work done.

**The Hon. JOHN GRAHAM:** I do not accept that, but we will come back to that. Minister, there have been two fires in Melbourne and fires in the United Kingdom, in New Zealand, in Dubai, in Shanghai, in Europe and in South America. It is a matter of time before we have one of these incidents in Sydney. That is what we know. How can you sit there and not act, knowing that people are living or working or moving through these buildings with cladding still on them and you still have not acted months later? This was mid-last year.

**Mr KEVIN ANDERSON:** We are acting. A significant amount of work is done in relation to the cladding issue in New South Wales. I think the plan that we have in place to keep our people safe addressed the issue of those buildings that have to have those fire safety orders or the rectification in place. The plan that we have is methodical, it is working, and the number of buildings with cladding is coming down.

**The Hon. JOHN GRAHAM:** The cladding task force is doing its job; you are not doing your job as Minister. You have not acted on the Building Commissioner's recommendations. How can you sit there and say this is still with Cabinet? This was August last year. How do you explain that? What is the hold-up?

**Mr KEVIN ANDERSON:** The work plan is with Cabinet, but a part of the Building Commissioner's discussions around cladding certainly input through the cladding task force.

**The Hon. JOHN GRAHAM:** Well, give us some clue what the hold-up is with Cabinet? It has been sitting with Cabinet since August, sitting with you as the Minister, on your desk, since August. What is the hold-up here? Give us some clue.

**Mr KEVIN ANDERSON:** I cannot comment on Cabinet, but what I can comment on is the fact that the number of buildings and the plan that the New South Wales Government has in place to address that issue is strategic and practical and it is working. We are seeing—

**The Hon. JOHN GRAHAM:** We will turn to some of those details.

**The Hon. DANIEL MOOKHEY:** Just one question, Minister. You said at the first instance that the strategic plan is with Cabinet to remove cladding, but you changed your language halfway through to the work plan of the Building Commissioner. Are they two discretely different things or are they the same thing you are talking about?

**Mr KEVIN ANDERSON:** The same thing.

**The Hon. DANIEL MOOKHEY:** So you are saying right now that the plan to remove highly flammable cladding is a subset of the work plan, and that has gone to Cabinet, even though the Building Commissioner said he gave you a plan on cladding within two weeks? Why all of a sudden has that separate plan that the Building Commissioner has given you not been made public, and where are we up to on that?

**Mr KEVIN ANDERSON:** The discussions around the Building Commissioner's work plan is with Cabinet, and I will not comment on that. What we are talking about is the cladding task force's plan, which has been in place for some time. The last time we met we talked about what we were doing on this.

**The Hon. DANIEL MOOKHEY:** We said we had a cladding task force and it came up with a plan. Then we had a Building Commissioner appointed and we said that this person is going to be the person who gets it done. The Building Commissioner says, "I have given you a strategic plan on cladding", within two weeks of appointment and we then had, incidentally, a bit of a kerfuffle with the Building Commissioner about whether he

changed his mind on that, but we found out that he did. Why have you not acted on that discrete plan that the Building Commissioner gave you?

**Mr KEVIN ANDERSON:** Those discussions are with Cabinet.

**The Hon. MARK PEARSON:** I am going to be nagging on about greyhounds, Minister, an extremely important issue. A 2016 study by the University of Technology of Sydney [UTS] recommended that the number of dogs in each race be moved from eight to six to reduce track congestion, which leads to injuries and deaths after catastrophic injuries. This has since been adopted in the United Kingdom and Ireland. In light of this research, why does the draft code not cap race numbers and reduce the standard start number from eight to six?

**Mr KEVIN ANDERSON:** That discussion paper is out at the moment. We are happy to receive all recommendations and options. We will carefully consider them when they do come back. I know there has been some discussion around the number of starters from eight to six. We will have that discussion. Ultimately it is up to Racing NSW and Greyhound Racing NSW; they are the controlling body.

**The Hon. MARK PEARSON:** Of the code?

**Mr KEVIN ANDERSON:** Of Greyhound Racing NSW, and the Greyhound Welfare Integrity Commission.

**The Hon. MARK PEARSON:** Is this issue going to be considered? This is a report, a study, at the University of Technology in Sydney, which has been adopted by Ireland and the United Kingdom. Would you not think that that itself and what Britain has done with this issue, with this study, would it not be a recommendation that you would think that the Government itself would want to put in place, not waiting for whether Greyhound Racing NSW or the integrity commission is seeking it?

**Mr KEVIN ANDERSON:** I would ask the Office of Racing, Mr O'Brien, to make a comment in relation to that.

**Mr O'BRIEN:** I understand the UTS study you are referring to was commissioned by Greyhound Racing NSW; that was one of the recommendations out of it. It would be up to Greyhound Racing NSW to consider those recommendations and how they are adopted as part of its overall strategy.

**The Hon. MARK PEARSON:** The Greyhound Welfare Integrity Commission is meant to be concerned about the welfare of dogs used in greyhound racing, obviously—that is the very reason it was established—and the integrity of the industry. However, the commission generally seems to take a very pro-industry approach. For example, making statements that the industry is "vibrant", then "continuing to grow" with 440 new participants between July and December last year. How can the community have confidence that the commission is truly independent from industry pressure if they are making those sorts of comments?

**Mr KEVIN ANDERSON:** I would make an observation that I think it is in the best interests if you are working a particular industry to not only have the governance but also the operational component, and from a governance perspective the Greyhound Welfare Integrity Commission hold that and the welfare component and the integrity part of it, but certainly from an operational perspective Greyhound Racing NSW run the day-to-day operations.

**The Hon. MARK PEARSON:** But what is in question here is the independence of the commission, not Greyhound Racing NSW.

**Mr KEVIN ANDERSON:** I would not suggest that the independence of the commission is in question. Like any industry, like anybody that is involved in a particular industry, if they are doing their job, then the industry should be progressing and moving forward. If not, then they would need to look at other avenues. So I think they would be just commenting on the fact that perhaps they are doing a good job and the industry is moving forward.

**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.

**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. The Greyhound Welfare & Integrity Commission publishes quarterly reports on injuries sustained by greyhounds while racing in New South Wales. In the last quarter, over 800 dogs were injured, with an average of five dogs a month suffering from catastrophic injuries which inevitably led to euthanasia on the track. What strategies are being devised and implemented, presumably on the basis of this information, to minimise the incidence and severity of greyhound racing related injuries as per the goal in the commission's injury reports?

**Mr KEVIN ANDERSON:** Any injury or catastrophic event is something that we would not like to see—towards zero—so I think that the track safety upgrades that Greyhound Racing NSW is looking at implementing with the University of New South Wales to make tracks safer is certainly a very positive move forward. We have seen a number of tracks having remediation works undertaken to make them safer, looking at what they can do to make it easier for dogs and safer for dogs. We heard Mr Banasiak talk earlier about straight tracks—lots of discussion around the benefit of straight tracks—so the track safety upgrade plan being worked on by Greyhound Racing NSW and the University of New South Wales will be most welcome because ultimately it is about the welfare of those dogs.

**The Hon. MARK PEARSON:** I note from the trendline data in the latest injury report that most levels of injury have gone up since the introduction of the "race injury treatment" scheme at the end of March 2019. Minister, has the scheme been evaluated since this introduction, because the raw data is saying that injuries have increased? So this is not a reflection of an industry which is leaping and bounding forward in welfare, and then it goes to the question: Can it? These injuries are systemic. The greyhound racing industry cannot exist unless there is a serious welfare issue for these animals, and that is what Justice McHugh concluded as well.

**Mr KEVIN ANDERSON:** The short answer, Mr Pearson, is that, yes, there is always room for improvement. That is why the track safety upgrade program, in consultation with the University of New South Wales and Greyhound Racing NSW, is so important to make sure that those track safety programs are implemented. In relation to the total injury rates, the number I have here for New South Wales was 3.72 per cent of all starts. That is lower than the most recent report of total injury rate in Victoria, of 3.95 per cent. So in terms of injuries, I think that the focus on welfare is certainly paying dividends. But, again, we would want to see that towards zero; we would want to make sure that they are looked after.

**The Hon. MARK PEARSON:** Minister, did you read Justice McHugh's report, which led to your Government implementing a temporary ban on greyhound racing or announcing that there will be a ban on greyhound racing in New South Wales? Did you read Justice McHugh's report?

**Mr KEVIN ANDERSON:** Yes, I did.

**The Hon. MARK PEARSON:** The difficulty we have is that his first recommendation was to shut the industry down, considering how many inquiries there had been into the industry, over almost 15 years, and they just cannot fix it and have a greyhound racing industry. That is his conclusion. You have a problem, have you not, in trying to support an integrity commission when, at the end of the day, no matter how many things we fix here and there, the essential existence of the greyhound industry has harm to animals occurring at a level which would never be acceptable in any other circumstance?

**Mr KEVIN ANDERSON:** In my view, Mr Pearson, the catastrophic events of a couple of years ago had to occur. There were unprecedented animal cruelty practices being undertaken across New South Wales. It had to stop. The report by Mr McHugh, and subsequently the changes brought on by the Greyhound Welfare & Integrity Commission, the Government and Greyhound Racing NSW are why welfare was split from the operational component, so that there could be focus on welfare. I was in Bathurst about a month ago. I went through the Greyhound Welfare & Integrity Commission's premises and talked to staff there—

**The Hon. MARK PEARSON:** Did you talk to the dog?

**Mr KEVIN ANDERSON:** I did. He was asleep at the time. As you know, they are very, very lackadaisical, you might say.

**The Hon. MARK PEARSON:** Unless they have an animal bled in front of it.

**Mr KEVIN ANDERSON:** To come back to your point, I think welfare remains at the top and I think they are on the right track.

**The Hon. MARK BANASIAK:** Why is the Government continuing to short-change the greyhound industry when it comes to point of consumption tax and tax harmonisation?

**Mr KEVIN ANDERSON:** Thanks for your question, Mr Banasiak. In terms of the point of consumption tax, that result goes back to the racing industry and, when it comes to wagering, you would know that wagering parity is going to be brought in line with other States. So I think that the return to the industry has seen significant investment back in the industry—whether it be through greyhound racing, through thoroughbreds or harness racing—and that has allowed them to invest back in the industry to look at things like track safety upgrades, to look at what they need to do to support the industry.

**The Hon. MARK BANASIAK:** Their current market share is around 22 per cent, but they get around 13 per cent of the funding back. My questions is: Are you being pressured by the other racing codes to not give them their fair share?

**Mr KEVIN ANDERSON:** In terms of that market share, that is a commercial intercode agreement between the three of them: greyhound racing, harness racing and thoroughbreds. That is a commercial agreement set in place and the return to those codes is proportionate with their percentage.

**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. Does GWIC have time lines for acting on and reporting on complaints? Do they have a set of standards that they need to adhere to or KPIs that they need to adhere to by the time they receive the complaint, investigate and deliver a result?

**Mr KEVIN ANDERSON:** I make an observation to the Hon. Mark Banasiak that when I visited the Greyhounds Welfare Integrity Commission headquarters at Bathurst there were plenty of people employed in that industry and they walked me through the process in respect of people ringing, people with inquiries about the registration of a particular dog or rules and regulations, the code of conduct and many aspects of the industry. I can certainly take on notice if there is a time line, but Mr O'Brien might have something further to add.

**Mr O'BRIEN:** I am aware that the commission has an internal complaints panel and that it assesses and deals with complaints received under its misconduct and complaints handling policy.

**The Hon. MARK BANASIAK:** But you have got no detail about time frames or anything like that?

**Mr O'BRIEN:** I do not have details of the time line, no. Most of the commission's policies are published on its website.

**The Hon. MARK BANASIAK:** Going to the draft code of practice, some questions have been raised and clarity is needed on some of these elements. In part 3 it talks about health and wellbeing and this inheritable disease or defect. It says, "Have the greyhounds parents or any other existing offspring or the parents tested for inheritable disease or defect?" But there is no real clarity as to what those defects include. Some greyhound trainers have come to me and said, "What does that include?" Does it include things like Roman noses, undershot jaws or is it just specific things that would be detrimental to the dog's performance as a greyhound race dog? They are seeking clarity from you on some of these things.

**Mr KEVIN ANDERSON:** That is why we have gone back to the industry, to clarify a lot of questions. We have moved on from 2017 and that catastrophic event. What we want to try and do is provide clear guidelines for industry participants. The code of conduct will allow the industry to have their say, whether it be through Greyhound Racing NSW or the Greyhound Breeders Owners & Trainers Association. We will carefully consider the comments, suggestions and recommendations that come in from the industry and we will be taking them on board.

**The Hon. MARK BANASIAK:** You do not have any clarity on that at the moment in respect of what that would entail?

**Mr KEVIN ANDERSON:** No. We will have when the recommendations, comments, suggestions and submissions come through the code of conduct and industry-wide we are encouraging people to bring that in. Obviously then the vets will have their role and they will be able to clarify those issues that you are talking about.

**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.

**The Hon. COURTNEY HOUSSOS:** That implies that there has been no progress since November last year on remediating any of the buildings on the cladding register, is that correct?

**Mr KEVIN ANDERSON:** I would think that there has been a lot of work done in the process of rectification that is planned, is underway or completed. Those councils that are responsible for those buildings in their jurisdictions are working very closely with the Cladding Taskforce. If you like, I will ask Mr Dunphy, who is on that Cladding Taskforce, or Mr Tansey, who chairs the Cladding Taskforce, to make a comment in relation to that.

**The Hon. COURTNEY HOUSSOS:** Before you do, Minister, you said that the Cladding Taskforce has met a few times. How many times have you gone along to the Cladding Taskforce?

**Mr KEVIN ANDERSON:** I think I have had three meetings with them.

**The Hon. COURTNEY HOUSSOS:** You have been to three out of 52 meetings that the Cladding Taskforce has held, is that correct?

**Mr KEVIN ANDERSON:** They were meeting prior to my appointment. There are many organisations and committees that I meet with, whether they be quad bike safety, whether they be the mental healthy task force. I have been to three of the Cladding Taskforce meetings of recent times.

**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.

**The Hon. COURTNEY HOUSSOS:** Maybe some funds to start the remediation process might be a good starting point. Mr Tansey, did you have anything quickly to add?

**Mr TANSEY:** Just to your point about whether the total number of buildings has reduced. It is in fact reducing. I recall appearing in that other committee here with you back in December and the total number at that point was 463 buildings as of last Friday and that is the figure you would have accessed from the website. It is down to 444 in total, but it is also the fact that the progress of buildings from their very first identification through to being assessed, having plans for action and then remediation is the trajectory we want to see. The other thing I would highlight is that back in December when the figures were at 463 total, we had 77 under remediation. That is now up to 94 and the headline figure is really the total number cleared has increased by about 93 as well.

**The Hon. COURTNEY HOUSSOS:** The total number cleared has—

**Mr TANSEY:** If you look at the website, the number of initially identified buildings was 664, high risk initially. We are now down to 444.

**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.

**The Hon. COURTNEY HOUSSOS:** You said that there 19 buildings that have been taken off the list since December.

**The Hon. JOHN GRAHAM:** Fourteen have been remediated.

**The Hon. COURTNEY HOUSSOS:** Fourteen have been remediated. Where is the 19 from?

**The Hon. JOHN GRAHAM:** Yes, 19 are off the list.

**Mr TANSEY:** We have gone from 463 total, which I remember was handed to you in evidence back in December in the other inquiry, down to 444 as of Friday last week.

**The Hon. COURTNEY HOUSSOS:** This is the 34 additional buildings that came onto the register late last year. When did they come onto the register?

**Mr TANSEY:** About the end of November, early December.

**The Hon. COURTNEY HOUSSOS:** It was after the list had been provided to the upper House, is that correct?

**Mr TANSEY:** I am trying to remember the timing. That is probably about right.

**The Hon. COURTNEY HOUSSOS:** That was provided about 31 October or early November.

**Mr TANSEY:** That would be about right.

**The Hon. COURTNEY HOUSSOS:** Of that we have seen 19 buildings. Minister, this is pretty glacial progress on an issue that is of utmost importance to the public safety. Are you satisfied with the pace of change in the case of remediation?

**Mr KEVIN ANDERSON:** I think that there is a significant body of work being done to look at what we do need to do to strategically work our way through this. Again Ms Houssos, there are some buildings that through their assessment process might just need, say, for instance around the foyer or it might just be a windowsill or others might have whole facades on them. Each building is unique in respect of what the remediation would look like. We are relying on councils, working closely with councils through the Cladding Taskforce to provide that information to them.



**The Hon. COURTNEY HOUSSOS:** Minister, you are saying that there is a time for a strategic plan. Surely there is a time for removing flammable cladding from buildings. Surely the time is now and to put some money up against that promise rather than saying it is up to councils.

**Mr KEVIN ANDERSON:** That work is being done. As Mr Tansey just indicated, 19—

**The Hon. JOHN GRAHAM:** No, it is not, Minister. The question is about funding. That work is not being done. There is no funding.

**Mr KEVIN ANDERSON:** Mr Graham, we are significantly making inroads into this very complex problem.

**The Hon. COURTNEY HOUSSOS:** Minister, I dispute your characterisation that you are making significant inroads when there are 14 buildings that have been remediated. According to your own information, there are 94 buildings where you do not know whether it is underway, you do not know whether it has begun, you do not know whether it has just been approved. There is still a lack of clarity and your Government is refusing to put money behind this problem.

**Mr KEVIN ANDERSON:** Can I take you back, in terms of progress, to put some context around when we first started with this cladding issue? There were 4,127 properties identified as having potential cladding assessed by—

**The Hon. COURTNEY HOUSSOS:** Minister, we have been on this journey—

**The Hon. SAM FARRAWAY:** Point of order: The Hon. Courtney Houssos has got to allow the Minister to answer the question. You have interjected two or three times from your original question. I call on the Chair to allow the Minister to answer the question and to ask Ms Houssos to stop interjecting.

**The Hon. DANIEL MOOKHEY:** To the point of order: The member is entitled to direct the Minister to become directly relevant.

**The Hon. SAM FARRAWAY:** Further to the point of order: The Minister has got to be given the opportunity to answer the question.

**The Hon. COURTNEY HOUSSOS:** And he is allowed to be heard in silence.

**The Hon. DANIEL MOOKHEY:** All Ms Houssos was doing was directing the Minister to be directly relevant to her question.

**The Hon. MARK BANASIAK:** I appreciate not interjecting and that we need to give the Minister the time to provide a little bit of context, but—

**The Hon. COURTNEY HOUSSOS:** We do not need a full history lesson.

**The Hon. MARK BANASIAK:** I respect that we do not need a full review of the history. I ask that the Minister be mindful of being directly relevant to the question. If members are going to interject to ask the Minister to be directly relevant you can do it in a polite or a calm way.

**Mr KEVIN ANDERSON:** Thank you, Mr Acting Chair. I was just responding to Ms Houssos in relation to work that has been done. I take her back to the 4,127 properties that were first started, now we have brought that down to where we are today—

**The Hon. COURTNEY HOUSSOS:** Minister, we have been on that journey with you. We want to know what is being done to remediate those buildings now. That is where our questioning is going. Your own NSW Building Commissioner says that it will take until 2025 to restore confidence in the building industry. We have no target for removing flammable cladding. That is a direct threat to public health and safety. You are sitting on your hands while this issue is occurring and the public is at risk. Why are you not committing to put public funding behind this so that we can resolve this issue?

**Mr KEVIN ANDERSON:** I think we are taking action and we have a strong plan in place to remediate those buildings. Whether it is through the rectification that is planned or whether it is underway or completed, we have significantly reduced that number of buildings. As we just heard from Mr Tansey, Ms Houssos—

**The Hon. COURTNEY HOUSSOS:** I do not accept your characterisation of "significantly reducing the number". They are not being remediated. The only way you are getting buildings off that register is by saying that you are de-categorising them. The fundamental problem remains that there are 258 buildings that are still being assessed.

**Mr KEVIN ANDERSON:** When you talk about de-categorising, that means that they are fit for purpose. So we are working our way down—

**The Hon. COURTNEY HOUSSOS:** There are 444 buildings in New South Wales that have got flammable cladding on them and you are saying that you are happy with the progress. There is no target for renewal. There is no public money. We are now in a situation, given the pandemic that is in place at the moment, where we might have residents isolated in their homes for extended periods and you are doing nothing to speed up the pace of removing this flammable cladding from the buildings that they will be living in for 24 hours a day. How can you sleep at night, Minister? This is outrageous—

**The Hon. SHAYNE MALLARD:** Ask your question! Goodness me.

**The Hon. SAM FARRAWAY:** Ask a question!

**The Hon. COURTNEY HOUSSOS:** The lack of action on this issue that we have raised here at budget estimates; we have raised it through the public—

**The Hon. SHAYNE MALLARD:** Point of order: This is not adhering to the process that is adopted for upper House inquiries. I will not quote which one it is, but you are supposed to treat the witnesses with respect and give them due process. Badgering and yelling at the Minister does not impress anyone other than *The Daily Telegraph*. I ask the Chair to call the member to order in line with the protocols of our committees.

**The Hon. COURTNEY HOUSSOS:** To the point of order: I will not have the way that I am questioning characterised as "badgering" or "yelling" I am not badgering or yelling at the Minister. But this is an issue of significant public interest. It is an issue that we have been pursuing for an incredibly long period of time and you can forgive me for getting a little bit concerned on behalf of the safety of residents of New South Wales on this issue when the Minister is clearly failing to act.

**The Hon. SAM FARRAWAY:** To the point of order: Item 19 of the procedural fairness resolution is pretty clear on the treatment of witnesses. It states:

**19. Treatment of witnesses**

Witnesses will be treated with courtesy at all times.

Asking the Minister how he is going to sleep at night over a policy decision is not a fair way to treat witnesses here during budget estimates. I call on the Chair to bring the Hon. Courtney Houssos into line.

**The CHAIR:** I will rule on the point of order because I think now each of us is just having a go. I was actually quite pleased when the Hon. Courtney Houssos asked the Minister whether he could sleep at night, because that was an actual question.

**The Hon. SAM FARRAWAY:** Not one that should have been asked, though.

**The CHAIR:** If we could try and allow the Minister to answer the question that would be great, but I do not uphold that the questioning was "badgering". I think we do need to allow the Minister to speak, though, after you ask the question.

**The Hon. COURTNEY HOUSSOS:** Let me rephrase the question: At the current pace it will take longer than a decade to remediate the flammable cladding on New South Wales buildings. Do you think that is an appropriate pace of addressing this key issue of public safety?

**Mr KEVIN ANDERSON:** I think the NSW Cladding Taskforce is doing everything within its power as fast as it possibly can, working with local councils. The local councils do provide the advice in relation to how to do that.

**The Hon. DANIEL MOOKHEY:** Minister, I just want to talk to you now about the public building aspect of this. I was uncharacteristically generous to you earlier and it turns out I was incorrect: At the last estimates hearing you said that there were eight public buildings known of that had flammable cladding. You just repeated the eight number earlier. Is it still the case that there are eight public buildings that have flammable cladding on them?

**Mr KEVIN ANDERSON:** That is the number I have in front of me, Mr Mookhey.

**The Hon. DANIEL MOOKHEY:** Notwithstanding that, you have just talked in extensive dialogue with my colleague about the extensive progress that has been made on this issue; it was eight back in September and eight six months later. These are government-owned buildings. No progress has been made in terms of

removing cladding from public buildings. That is the only inference we can draw. Why has a single New South Wales government building not had its flammable cladding removed since we last asked you this question?

**Mr KEVIN ANDERSON:** Mr Mookhey, each cluster is responsible for the buildings in its remit.

**The Hon. JOHN GRAHAM:** And you are the lead Minister.

**Mr KEVIN ANDERSON:** I would ask Mr Tansey to talk further in relation to that.

**The Hon. DANIEL MOOKHEY:** Very briefly, Mr Tansey.

**Mr TANSEY:** As the Minister said, individual clusters are responsible for their own portfolio-owned buildings and their rectification, and the task force oversees and tracks that progress. The point I would make to the progress, too, is that it is not necessarily a matter of overnight work to rectify these buildings. Some of them will be significant buildings and the process of rectification can take some time.

**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.

**The Hon. DANIEL MOOKHEY:** In terms of the other seven, are there any others in your cluster?

**Mr KEVIN ANDERSON:** Each cluster is responsible for those government-owned buildings.

**The Hon. DANIEL MOOKHEY:** Yes. You have said that three times. I am asking you, do you know which clusters are responsible? Are there any other ones in yours?

**Mr KEVIN ANDERSON:** Not to my knowledge but I can triple check that for you, Mr Mookhey. Mr Tansey?

**Mr TANSEY:** None of those eight buildings are in the customer services cluster.

**The Hon. DANIEL MOOKHEY:** But your cluster is the lead cluster on this. Have we had any conversations with the relevant Ministers about the ones that are in their clusters?

**Mr KEVIN ANDERSON:** The Cladding Taskforce would have updated the secretaries or senior officials responsible to each of those clusters and kept them abreast of buildings in their remit and they would have had those discussions.

**The Hon. DANIEL MOOKHEY:** To be fair to you, Minister, the inference that you are leaving is that this is not a matter of urgency. There are eight buildings under the direct control of the New South Wales Government. That has not changed since September. What you are saying is that other than some reports to the secretaries, no-one else has been having discussions about this. Has there been a ministerial level discussion about showing some leadership, modelling best behaviour about how to remove these buildings?

**Mr KEVIN ANDERSON:** The Cladding Taskforce is responsible through the chair, Mr Tansey, to make sure that the appropriate—

**The Hon. DANIEL MOOKHEY:** I know Mr Tansey is responsible for leading the task force and I presume Ms Hogan is responsible for having this dialogue with the other secretaries. I am asking you—as the Minister—have you had any conversations with your ministerial colleagues about, "Hey, there are seven buildings that are public here, maybe we should do something about it"? Any conversation whatsoever that you have had, any ministerial colleague suggesting they should be removing the cladding from their buildings?

**Mr KEVIN ANDERSON:** Mr Mookhey, I have had conversations with Ministers in relation to areas of concern and it is directed back through the Cladding Taskforce, which is the appropriate mechanism.

**The Hon. DANIEL MOOKHEY:** So which Minister is not doing their job? If you have had discussions, which Minister have you spoken to?

**Mr KEVIN ANDERSON:** We have had discussions that have gone back through the Cladding Taskforce, which is the appropriate mechanism for that work to be done.

**The Hon. DANIEL MOOKHEY:** Should these public buildings, the eight of them, be public? Should the public know which of the eight government buildings have cladding in them?

**Mr KEVIN ANDERSON:** Each cluster is responsible for their building and the Government's position has been quite clear all along. We do not believe that buildings that are on the register should be made public.

**The Hon. DANIEL MOOKHEY:** Not that I thought I would ever find myself in this circumstance but your ministerial colleague Ms Pavey—who is the Minister for property in New South Wales—came before estimates last week and was asked if she felt it was reasonable that it was in the public interest that this information should be disclosed.

**The Hon. JOHN GRAHAM:** That is the register.

**The Hon. DANIEL MOOKHEY:** That is the register. This is what she said:

I think it is information that should be available, certainly.

So the Minister for property is saying that the public should know which public buildings are. But you the Minister responsible are saying it is not. Have you had a discussion with the Minister for property as to which policy should be prevailing? Hers or yours?

**Mr KEVIN ANDERSON:** To be fair, Mr Mookhey, part of your response and quoting the Minister is not in context. If I had that note, I would be able to read to you exactly what the Minister said.

**The Hon. DANIEL MOOKHEY:** I just read to you exactly what she said. I can read it to you again.

**Mr KEVIN ANDERSON:** In context—

**The Hon. SCOTT FARLOW:** Point of order—

**The CHAIR:** I will hear the point of order.

**The Hon. SCOTT FARLOW:** The Minister is attempting to answer Mr Mookhey's question and part of that is in clarifying what the Minister actually said. I would ask that the Minister be able to finish his answer.

**The Hon. DANIEL MOOKHEY:** All I was doing was reading from *Hansard* so the Minister can be directly relevant to my question.

**The Hon. SHAYNE MALLARD:** Selectively.

**The CHAIR:** I take the point of order that the Minister should be allowed, as a matter of procedural fairness, to clarify. However, if there is more you need to read in order to direct the Minister to the relevant bit, please do but make sure you allow plenty of time for him to then respond.

**The Hon. DANIEL MOOKHEY:** I will. My colleague the Hon. Peter Primrose asked whether it was in the public interest for this to be disclosed. Ms Pavey said:

I think it is information that should be available, certainly.

**Mr KEVIN ANDERSON:** So further down, the Minister responds:

There are privacy issues in relation to this. I would have to take advice from other agencies around it. There are potentially provisions. In an ideal world you would want that information to be made public but if there is other advice and other information that prevents that from happening in the greater general interest then that also should be considered.

**The Hon. DANIEL MOOKHEY:** So what privacy requirements are stopping the New South Wales Government from identifying which New South Wales government-owned buildings have got flammable cladding?

**Mr KEVIN ANDERSON:** So, Mr Mookhey, the Government strongly opposed the public release of the cladding register and a document which lists personal details, including names and addresses. The Government lodged a legal challenge against the release of the register—

**The Hon. DANIEL MOOKHEY:** So, Minister, I would like you to be directly relevant and not give us a recitation of the same talking points that we heard in the Standing Order 52 debate. You have said privacy concerns. That is the part of the transcript that you quoted from the Minister. I am asking you which privacy considerations are stopping the New South Wales Government from revealing which New South Wales government-owned buildings have flammable cladding on them?

**Mr KEVIN ANDERSON:** That is all part of the legal claim that has been upheld by the Independent Legal Arbiter appointed by the Parliament, the Hon. Keith Mason, AC, and the list remains privileged, meaning it cannot be published.

**Mr DAVID SHOEBRIDGE:** Minister, are you aware of the system in place for installing cladding, cladding that is not flammable but has been installed with glue on external faces of buildings? Are you aware of that?

**Mr KEVIN ANDERSON:** No, I am not, Mr Shoebridge.

**Mr DAVID SHOEBRIDGE:** Minister, did you get a briefing on the evidence that the Public Accountability Committee received from both the Building Commissioner and a senior engineering practice in New South Wales about that process where largely compressed concrete flat cladding is being affixed to buildings with glue? Did you get a briefing about that at all?

**Mr KEVIN ANDERSON:** No, I have not received a briefing on that, Mr Shoebridge. If you are seeking advice on that, I would like to ask Mr Dunphy to—

**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 Shoebridge, 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.

**Mr DAVID SHOEBRIDGE:** It is an issue I have raised directly with the Building Commissioner. Has the Building Commissioner come to you and raised these concerns with you?

**Mr KEVIN ANDERSON:** No, he has not.

**Mr DAVID SHOEBRIDGE:** I will explain to you what the safety concern is. If you have compressed concrete sheeting or other hard non-flammable cladding affixed to a building with glue, construction adhesive which meets the Australian standards for construction adhesive, that adhesive loses its adhesive qualities when it reaches 80 degrees Celsius. Were you aware of that, Minister?

**Mr KEVIN ANDERSON:** No, I was not.

**Mr DAVID SHOEBRIDGE:** Would you agree with me that if a building is on fire, it is likely that the temperature will exceed 80 degrees Celsius?

**Mr KEVIN ANDERSON:** That is fair comment.

**Mr DAVID SHOEBRIDGE:** Yes. So if the temperature exceeds 80 degrees Celsius, the glue loses its adhesive qualities. The non-flammable cladding then start raining down to the ground. Do you follow that logic through?

**Mr KEVIN ANDERSON:** Yes, I do.

**Mr DAVID SHOEBRIDGE:** It then rains down to the ground in what could be a deadly shower for emergency service workers going into the building and residents leaving the building. Do you agree that that is a sub-optimal outcome?

**Mr KEVIN ANDERSON:** Mr Shoebridge, I understand your intimate knowledge of this particular area. Your question was part of a question on notice—

**Mr DAVID SHOEBRIDGE:** But do you agree it is a sub-optimal outcome?

**Mr KEVIN ANDERSON:** My understanding is that the department is looking into this particular issue that you have talked about and if it is a serious concern we will address it.

**Mr DAVID SHOEBRIDGE:** What have you done since that hearing when that concern was made clear on the public record? What have you done?

**Mr KEVIN ANDERSON:** We are carefully considering and looking into that issue that you have made.

**Mr DAVID SHOEBRIDGE:** Minister, you were not even aware of it. You are telling me you are carefully considering it but you were not even aware of it. How is it that as the Minister responsible for flammable cladding and for building standards you were not even aware of this major public hazard until I raised it with you in estimates? What has gone wrong?

**Mr KEVIN ANDERSON:** What I can tell you is that the department, which I think is doing a fantastic job, particularly around building and construction, has advised me that it is aware of it and are looking into it. So if it is a concern, we will address it.

**Mr DAVID SHOEBRIDGE:** What do you mean "if it is a concern"? How could it not be a concern?

**Mr KEVIN ANDERSON:** We will do our due diligence.

**Mr DAVID SHOEBRIDGE:** What do you mean by "if it is a concern"? Surely you accept it is a concern.

**Mr KEVIN ANDERSON:** Absolutely, if there is a threat to safety it is a concern.

**Mr DAVID SHOEBRIDGE:** How could you not be aware of such a significant threat to safety? Why are you not being briefed about these things.

**Mr KEVIN ANDERSON:** I have just been advised. Certainly we will take that on board.

**Mr DAVID SHOEBRIDGE:** We accept that the glue thing is suboptimal. Can we start from that starting point that the glue thing is suboptimal?

**Mr KEVIN ANDERSON:** I will check and again I will have to take advice on whether and what you are saying is correct, Mr Shoebridge.

**Mr DAVID SHOEBRIDGE:** What about the other system in place for attaching this non-flammable cladding to buildings that does not use construction adhesive but uses double-sided tape? Were you aware of that construction method with the cladding using double-sided tape?

**Mr KEVIN ANDERSON:** Yes.

**Mr DAVID SHOEBRIDGE:** You were aware of it?

**Mr KEVIN ANDERSON:** Yes, I am Mr Shoebridge.

**Mr DAVID SHOEBRIDGE:** Tell me what you know about it?

**Mr KEVIN ANDERSON:** The fact again it is part of the discussion that is being held with the department in relation to what we do need to do to take to the building Ministers forum and if there are issues around cladding—and again these issues are bringing them forward. I thank you for your great interest because I know you have a significant interest in this issue. We appreciate your input, so that helps us to formulate the correct policies going forward. The building products safety panel that has recently been set up in the Cladding Taskforce, chaired by Mr Peter Dunphy, will look at the correct technical advice going forward when the rectification process does occur so that we do not end up with that cycle of defects and the products that go on are of the Australian Standard, as they are meant to be.

**Mr DAVID SHOEBRIDGE:** I listened very carefully to your answer and I did not interrupt. But I heard not a single piece of knowledge imparted from you to the Committee about this concern about double-sided tape being used to stick cladding onto premises. Did you exhaust your knowledge on the matter in the answer you just gave the Committee. If not, do you have an actual knowledge you can provide to the Committee?

**Mr KEVIN ANDERSON:** It will come under consideration under the building products safety panel that has been set up and chaired by Mr Dunphy in the Cladding Taskforce to look at those issues. If they are a concern, if they do not meet the Australian Standards, then they should not be used.

**Mr DAVID SHOEBRIDGE:** I will put this proposition to you. The double-sided adhesive tape being used loses its adhesive qualities at 50 degrees Celsius. Do you accept that if a building catches on fire it is likely the temperature will exceed 50 degrees Celsius

**Mr KEVIN ANDERSON:** With all due respect, I am not a fire expert but I would expect that significant temperatures would be reached.

**Mr DAVID SHOEBRIDGE:** Can we agree on a common understanding that a building on fire will exceed 50 degrees Celsius? Can we agree on that as a starting point?

**Mr KEVIN ANDERSON:** Again I am not a fire expert but it would get very hot. I do not have the temperatures in front of me. I accept the premise of your question.

**Mr DAVID SHOEBRIDGE:** I will start on the premise, even if you do not accept.

**Mr KEVIN ANDERSON:** I accept the premise of your question.

**Mr DAVID SHOEBRIDGE:** That fires exceed 50 degrees Celsius, I will start on that premise. I accept you might want to get advice from that Minister.

**Mr KEVIN ANDERSON:** I accept the premise of your question.

**Mr DAVID SHOEBRIDGE:** I will start on the assumption that fires exceed 50 degree Celsius. If a building is on fire and the cladding is stuck to the outside of the building by double-sided adhesive tape that loses its adhesive qualities at 50 degrees Celsius, do you agree with me that that will again lead to a shower of dangerous debris coming down on emergency services workers entering the building and residents or occupants fleeing the building. Do you agree that that will be the outcome?

**Mr KEVIN ANDERSON:** I suspect that would be the outcome, yes, and providing a dangerous situation.

**Mr DAVID SHOEBRIDGE:** You said you were aware of this issue about double-sided tape. What have you done specifically on this to address that safety issue?

**Mr KEVIN ANDERSON:** That safety issue, particularly around the product being used, is part of the Cladding Taskforce building products safety panel that has recently been set up and chaired by Mr Dunphy. So what that does, it clearly looks at all of the products that are being used. Are they of the Australian Standards? Are they appropriate for the use? If they are not, then action will be taken because we do not want the cycle of defects that we are seeing. So the technical advice set up by the building products safety panel is critical to ensure that the correct products with Australian Standards are used in the correct method.

**Mr DAVID SHOEBRIDGE:** Minister, this issue that you said you are aware of about double-sided construction adhesive tape being used to affix cladding to the outside of buildings, have you referred that issue to the building products safety panel? Can you tell this Committee unconditionally that that express issue has been referred to the building products safety panel?

**Mr KEVIN ANDERSON:** I do know, Mr Shoebridge, that the building products safety panel that has recently been set up under the chair Mr Dunphy will be looking at a range of issues. I am certainly not going to ask Mr Dunphy for your benefit.

**Mr DAVID SHOEBRIDGE:** Minister, with all due respects, my question was not about a range of issues, it was extremely specific: this issue. Have you referred it?

**Mr KEVIN ANDERSON:** I have not referred it directly to Mr Dunphy.

**Mr DAVID SHOEBRIDGE:** Have you referred it somewhere else?

**Mr KEVIN ANDERSON:** The building products safety panel—

**The Hon. SCOTT FARLOW:** Point of order: The Minister is trying to answer Mr Shoebridge's question.

**Mr DAVID SHOEBRIDGE:** No, he is not.

**The Hon. SCOTT FARLOW:** I ask that Mr Shoebridge allow the Minister to answer—

**Mr DAVID SHOEBRIDGE:** At least be frank in your points of order. He is not trying to answer.

**The CHAIR:** We will allow the Minister a period of time in which to respond, at least a full sentence.

**Mr DAVID SHOEBRIDGE:** A very good ruling.

**Mr KEVIN ANDERSON:** I am happy to answer your question, Mr Shoebridge, because it is a serious issue. I would like to ask Mr Dunphy, the chair, if he has considered those issues.

**Mr DAVID SHOEBRIDGE:** No, Minister, before it goes to Mr Dunphy, my question was what you have done. You said that you have not referred it directly to the building products safety panel. I am asking you what you meant by "directly"? Have you referred it somewhere else?

**Mr KEVIN ANDERSON:** No, I have not.

**Mr DAVID SHOEBRIDGE:** So you have not done anything?

**Mr KEVIN ANDERSON:** No.

**Mr DAVID SHOEBRIDGE:** You have not done anything, have you, Minister.

**Mr KEVIN ANDERSON:** The discussions being held with the building—

**Mr DAVID SHOEBRIDGE:** You have not done anything, have you?

**Mr KEVIN ANDERSON:** I am happy to refer it to Mr Dunphy.

**Mr DAVID SHOEBRIDGE:** No, Minister, Mr Dunphy cannot answer whether you have done anything. My proposition is to you. You have not done anything, have you?

**Mr KEVIN ANDERSON:** What we have done is discuss a range of products under the building products safety panel that will be taken into consideration. I would ask just to clarify: Because this is a serious



issue and I do respect the amount of knowledge that you have, I would ask Mr Dunphy to specifically talk about adhesive tape in the building products safety panel.

**Mr DUNPHY:** Just to confirm, this is an operational matter. It has been a number of products and regularly products are brought forward to either the department or through to the Cladding Taskforce. These are one of a range of products which have been referred to us. We are in the process of investigating them to look at what controls are appropriate and also to provide further advice around what actions we will take in relation to the matter. The Minister has also mentioned that one of the initiatives of the Cladding Taskforce is to set up the cladding products safety panel and that panel is specifically designed to look at all cladding materials, including replacement materials and to provide advice on what is appropriate cladding materials that meet the requirements of both the building standards and also any Australian Standards as well.

It will also look at the external wall assembly methods, which will include things like double-sided tape. It will look at all of those standard procedures and provide advice both to local councils and also to Fire and Rescue members of the panel so that they can provide appropriate advice to strata managers, who are obviously dealing with some of these issues in their building. The purpose of the panel is to ensure that we have got consistent and authoritative advice about all of these materials that are being used in the market. There are a number of remedies that we can do to address them. At the moment we are going through the investigation phase to identify what are the appropriate controls and what are the appropriate advice we should be giving to building owners and also to local councils in relation to it. So the matter is in hand; it is being addressed.

**Mr DAVID SHOEBRIDGE:** In hand?

**The CHAIR:** We will come back to that.

**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 many 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.

**The Hon. MARK BANASIAK:** Minister, just talking about small builders—I know you might try and deflect this to icare but it does touch on the Home Building Compensation Fund—outside of the bill that you have got at the moment, what work are you doing to ensure that small builders are not being disadvantaged by icare essentially legislating how much business they can take? At the moment they are being limited in terms of the size of job they can take. So if it is \$3 million they might—in a year period they can only have maybe two or three jobs on the go. You have got councils dragging the chain in terms of approving DAs which then leaves these jobs sitting on their books or contributing to this quota or this limit.

I am just wondering, what are you doing to ensure that small builders are not being disadvantaged in the market by being essentially limited by icare? I know you are not responsible for icare but you are responsible for small builders.

**Mr KEVIN ANDERSON:** Thank you, Mr Banasiak. Small builders are a significant part of the building and construction industry. They make up a large percentage of the \$134 billion industry that is building and construction in New South Wales. What we are doing is making sure that any issues that are raised by small builders are pushed back through icare, being the controlling entity there. But what I am saying is that on Friday I was at the Housing Industry Association's Home Show where issues with—sole traders and single builders also came up to me to talk to me about various issues.

As I said, they are a significant part of the building and construction industry. We want to ensure that they remain viable and they remain sustainable, and any issues that are raised with me I am very happy to take them forward on their behalf to make sure that they get the best deal possible so that they can continue to work.

**The Hon. MARK BANASIAK:** Did they raise the concerns about the Home Building Compensation Fund having a maximum payout of \$340,000 but yet they are still charged on a percentage basis, based on the contract price?

**Mr KEVIN ANDERSON:** No, they did not raise it with me.

**The Hon. MARK BANASIAK:** I will pass it to Labor or I can defer to Mr Shoebridge, if you want to?

**The CHAIR:** Back to Mr Shoebridge for a few minutes.

**Mr DAVID SHOEBRIDGE:** Thank you, Madam Chair. Minister, I cannot comprehend why you have not issued a banning notice to prohibit cladding being affixed to buildings in New South Wales with double-sided tape. I cannot understand why you have not issued a banning notice. Can you explain why you have not done that?

**Mr KEVIN ANDERSON:** Again, Mr Shoebridge, as we heard from Mr Dunphy, who is chairing the cladding product safety panel, there are products that—they will get the advice they need to and make the directions appropriately with the Australian standards. That work is ongoing, carefully considering those products.

**Mr DAVID SHOEBRIDGE:** Minister, do you understand that one of the principal reasons we have not been able to move forward on addressing the problem with flammable cladding is because building owners do not know what it is safe to replace the current flammable cladding with? Do you understand that that is one of the obvious problems?

**Mr KEVIN ANDERSON:** Yes, I do. That is why, if I might add an observation, Mr Shoebridge, about the technical advice that the Cladding Taskforce is providing councils in relation to the rectification—ultimately, the completion of getting that building back to a safe standard. So there is a significant body of technical advice that has been provided.

**Mr DAVID SHOEBRIDGE:** No, Minister. You see, right now there are building owners that have been given banning notices and prohibition notices and rectification notices from councils about their flammable cladding. They are engaging in the very expensive process of pulling off their flammable cladding and replacing it with nonflammable cladding. Do you know that is happening right now?

**Mr KEVIN ANDERSON:** Yes.

**Mr DAVID SHOEBRIDGE:** And that can be costing owners tens, hundreds of thousands or millions of dollars to do that. Do you know that that is very expensive?

**Mr KEVIN ANDERSON:** Yes.

**Mr DAVID SHOEBRIDGE:** Are you not troubled by the fact that there is a fair body of evidence out there that says some of that replacement cladding—whilst the cladding itself is nonflammable—is being put on with glue or double-sided tape, and that these building owners may then have to just go and do it all over again when you eventually get to the point of banning that construction method? Are you not troubled by that? I am. Why aren't you?

**Mr KEVIN ANDERSON:** Mr Shoebridge, I want to ensure that if there are questions in relation to the rectification of a building, whether they be through a council or back through the Cladding Taskforce, the technical advice being offered to those who are undertaking that rectification work should be of the highest order. I might ask Mr Dunphy to provide some further comment in relation to that.

**Mr DAVID SHOEBRIDGE:** Before we go to Mr Dunphy—and I am more than happy for Mr Dunphy to give us some more detail—if cladding is being stuck on with glue that loses its adhesive qualities at 80 degrees Celsius or stuck on with double-sided tape that loses its adhesive qualities at 50 degrees Celsius, you do not need to have a PhD in construction methods to work out that that is unsafe, to act and to ban that system, do you? It does not require a PhD. It just requires some bloody common sense, Minister.

**Mr KEVIN ANDERSON:** Well, if it is not an Australian standard and it is an issue then certainly through the product safety and the technical advice, they will work through that.

**Mr DAVID SHOEBRIDGE:** Minister, there is a reason we have people like Minister: It is because you have responsibility and you can do things. The reason we have people in that job is to apply some common sense and act rapidly to fix things like this. I am saying to you: Why do you not just do the commonsense thing and right now say, "I am going to issue a banning notice that says you cannot fix cladding with adhesive glue or double-sided tape because it is unsafe?" Just do it. Why don't you do something? Do it.

**Mr KEVIN ANDERSON:** Mr Shoebridge—and again I respect your knowledge and appreciate your deep understanding of these issues—if the advice from the product safety panel that comes out of the Cladding Taskforce is not of the Australian standard than that, as a matter of course, will be removed and will not be allowed to be reapplied to that building.

**Mr DAVID SHOEBRIDGE:** But, Minister, I put to you earlier that the problem is that the National Construction Code does not deal with the system and ensuring that the system of flammable cladding does not produce dangerous debris. Just simply deferring it to the Australian standards or deferring it to the National Construction Code does not answer the question. Do you understand that problem?

**Mr KEVIN ANDERSON:** Mr Shoebridge, what I will say is this: I am happy to take that forward to the Building Ministers' Forum when we next meet in relation to the National Construction Code. If it is a significant problem that is not being addressed through the National Construction Code or the Building Code of Australia on the advice of the product safety panel through our Cladding Taskforce, I would be happy to bring that forward. But can I say, these are suggestions that we do take on board. We do listen to the industry. We do move forward so that we do have a safe environment so there is no cycle of defects by putting the wrong product back on the building, which ultimately becomes a significant cost problem to those who are associated with the building.

**Mr DAVID SHOEBRIDGE:** Minister, will you accept that if you do not act and any of this work that is done from the time you are put on notice about it, which was at the previous budget estimates if you were listening, until the time you fix it—will you accept the financial obligation of fixing it or are you going to demand those building owners do the whole thing again? Will you accept that if your failure to act means that building owners are put to the job of rectifying twice—will you accept the financial obligation to pay for the next fix?

**Mr KEVIN ANDERSON:** Mr Shoebridge, again, if there is a problem with the National Construction Code in addressing that particular product that you have spoken to and spoken about—

**Mr DAVID SHOEBRIDGE:** It is the system, not the product, Minister.

**Mr KEVIN ANDERSON:** Okay, through the system.

**Mr DAVID SHOEBRIDGE:** Do you not understand that? It is the system, not the product.

**Mr KEVIN ANDERSON:** Then it will be raised at the next Building Ministers' Forum to ensure that the system, if there is a problem, is fixed so that it does not occur.

**The Hon. JOHN GRAHAM:** Minister, I want to return to this question about public buildings. This is a major public safety issue and I want to know what the public knows about this. You know what is on the register. The agency knows what is on the register of high-risk buildings with flammable cladding. Members of the upper House have been able to see some of those documents under privilege. They know what is on the register. What I want to know is what the public knows about this issue. Can you take us through, in your own words, what steps you have taken as the lead Minister in this issue? What steps has the Government taken to make the public aware of where this dangerous flammable cladding is and what the risks are to them?

**Mr KEVIN ANDERSON:** At no time, Mr Graham, would we put any member of the public's safety at risk. I can assure you of that. It is paramount in everything we do, right across the board. Each agency that has a particular building that you have referenced to would be in constant contact with the cladding task force, as well as the secretariat and senior officials, and those buildings would be being dealt with in the appropriate way. So there is no—

**The Hon. JOHN GRAHAM:** I want to know about the public. What does the public know?

**Mr KEVIN ANDERSON:** There would be no issue around public safety in relation to these buildings.

**The Hon. JOHN GRAHAM:** Does the public know what these buildings are? What steps have you taken to notify them?

**Mr KEVIN ANDERSON:** I would have to take that on notice in relation to the public because the particular buildings might have transient people going through them. Obviously, they would need to be—

**The Hon. JOHN GRAHAM:** That is a very good point. In that case, would the public have the first clue that they were transiting through a building with dangerous flammable cladding?

**Mr KEVIN ANDERSON:** I would have to take that on notice, Mr Graham.

**The Hon. JOHN GRAHAM:** This cannot be the first time that question has come up, Minister.

**Mr KEVIN ANDERSON:** I understand the premise of your question and I get that where you ultimately want to be is to name the type of building that has people going through it. But, by the same token, we need to respect the rules and the regulations in relation to naming of those buildings. Each secretary and each senior official in relation to those clusters would be managing that risk and ensuring that at no time is the safety of the public—

**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.

**The Hon. COURTNEY HOUSSOS:** Have you asked the question? Have you, as the Minister, asked the question?

**Mr KEVIN ANDERSON:** Not specifically of a shop owner, Ms Houssos.

**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.

**The Hon. JOHN GRAHAM:** Can you give us any assurance that—would a hotel guest have the first clue that they are staying in a hotel with dangerous flammable cladding? How would they know?

**Mr KEVIN ANDERSON:** It is a good question, Mr Graham.

**The Hon. JOHN GRAHAM:** It is a good question.

**Mr KEVIN ANDERSON:** What I might do is ask Mr Dunphy if anything has been done in relation to that.

**Mr DUNPHY:** There has been extensive communication with all the owners of all of the flammable-clad buildings. The idea—and the fact is that this is on managing the risk. So it is about ensuring that the building owners, the occupiers of the building, understand that there is flammable cladding, that they need to review their systems, that they need to put in place interim arrangements in terms of controlling those risks. So in all of these circumstances, the risk has been assessed.

**The Hon. JOHN GRAHAM:** This is not about managing the risks.

**Mr DUNPHY:** Well, it is about—

**The Hon. JOHN GRAHAM:** This is about who knows.

**Mr DUNPHY:** It is about managing the risk.

**The Hon. JOHN GRAHAM:** We have asked about managing the risk. I am asking who knows. Does a hotel guest know? Mr Dunphy, you are welcome to answer that question.

**Mr DUNPHY:** People need to know on a need-to-know basis, and the need to know—

**The Hon. JOHN GRAHAM:** Does a hotel guest need to know?

**Mr DUNPHY:** No.

**The Hon. JOHN GRAHAM:** No?

**Mr DUNPHY:** In terms of actual control—

**The Hon. SAM FARRAWAY:** Point of order—

**The CHAIR:** I will hear the point of order.

**Mr DUNPHY:** —the focus is on controlling the risk—

**The CHAIR:** I need to hear the point of order.

**The Hon. SAM FARRAWAY:** There are questions and answers going backwards and forward. I think people need to be given the opportunity to actually get their answer out without interjecting with further questions.

**The Hon. JOHN GRAHAM:** I am returning to the Minister, Mr Dunphy, but I took your answer to say that hotel guests do not need to know at the moment. Is that correct?

**Mr DUNPHY:** In terms of the arrangements, it is about the building owners and the occupiers of the building to actually ensure that they have got in place appropriate controls for fire safety—

**The Hon. JOHN GRAHAM:** We will return to that.

**Mr DUNPHY:** —and that they build into that the fact that not everybody in the building may be aware of the status of the building.

**The Hon. JOHN GRAHAM:** Thank you, Mr Dunphy.

**Mr DUNPHY:** But they need to make sure that the controls are appropriate.

**The Hon. JOHN GRAHAM:** I am going to come back to you later. Minister, a lot of university building has been going on over recent years. Do university students sitting in lectures or walking on campus know if their building is covered in flammable cladding?

**Mr KEVIN ANDERSON:** Again, Mr Graham, it would be up to the owner of that particular building—the vice chancellor or whoever it may be that is in charge of that building—to put the appropriate risk measures in place. If there is an issue, then it would be up to them to delineate down and—

**The Hon. JOHN GRAHAM:** But they might not know. They have got to manage the risk but they have no obligation to tell the students. When those students go home to sleep at night in university-provided accommodation—again, a lot of this built recently—do they know if that is covered in flammable cladding?

**Mr KEVIN ANDERSON:** If they are residents of a particular college that is subject to rectification orders, then I suspect they would because they would be residents and all residents have been told.

**The Hon. JOHN GRAHAM:** So they might not know during the day, sitting on campus, but they might be told at night if they are a permanent resident at that building?

**Mr KEVIN ANDERSON:** Mr Graham, again, it comes down to the owner of the building to inform, in a commercial sense—we have made contact with residents and tenants of high-rise residential through the rent roll and we are tracking—and it was this Committee—

**The Hon. JOHN GRAHAM:** We have talked about tenants extensively; I accept that. If I go or if I send my family to a major entertainment centre in Sydney—some of those that might have this cladding on it—how do I know, as a member of the public, whether this cladding is there or not?

**Mr KEVIN ANDERSON:** Again, it would come down to the owner of that particular building. It is hypothetical, Mr Graham, but in terms of—

**The Hon. JOHN GRAHAM:** It might be hypothetical.

**Mr KEVIN ANDERSON:** But in terms of that particular building, it is up to the owner, in a commercial sense, to inform their tenants and the occupants of their building if they believe that they are managing that risk appropriately.

**The Hon. JOHN GRAHAM:** How does the public know, though? When does the public get to find out? You know; your agency knows; we know.

**The Hon. SHAYNE MALLARD:** Point of order—

**The Hon. JOHN GRAHAM:** When does the public get to know?

**The CHAIR:** I will hear the point of order.

**The Hon. SHAYNE MALLARD:** I have listened for some period of time to this line of questioning and I am concerned that it transgresses the determination of the arbiter on this matter. The House has considered this matter. It goes to the point of identifying specific buildings, which the arbiter has said we cannot do. That has got privilege. Members can go and look at the register, which some of us have done under privilege. But Mr Graham is heading towards the point of almost identifying or trying to elicit the identification of a building or buildings, and I think that contravenes the arbiter's ruling. The House has upheld that arbiter's ruling.

**The Hon. JOHN GRAHAM:** To the point of order—

**The Hon. SHAYNE MALLARD:** You might like to seek advice on from the Clerk on that.

**The Hon. DANIEL MOOKHEY:** To the point of order: My colleague at no point identified any building and his questions were not designed to elicit the revelation of any building. It was clear: What do people know who are passing through these spaces? At no point did he identify the spaces or anything that would even come close to doing that. At no point did he ask the Minister to identify those places either, which is actually the better reading of how we are meant to treat privileged information. He was simply asking what would people who are using these spaces be told.

**The Hon. SHAYNE MALLARD:** Further to the point of order: Not just in terms of how the Chair does it, but you might like to seek advice on that matter. The Hon. John Graham was clearly eliciting around entertainment centres in the city. I do not know where that is going.

**The Hon. DANIEL MOOKHEY:** He made no reference to any privileged information.

**The CHAIR:** I hear the point of order. I understand the caution being advised and I would remind the Hon. John Graham to continue to be cautious. I will also remind witnesses to be aware of that when they are answering the questions. Did you want to continue with that final question, because you were interrupted?

**The Hon. JOHN GRAHAM:** I would be happy to continue, although we are out of time. So I might hand over.

**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.

**The Hon. MARK PEARSON:** Does the Minister have any plans to cut red tape by reducing the regulatory powers of the Greyhound Welfare & Integrity Commission?

**Mr KEVIN ANDERSON:** There will be a statutory review of the Greyhound Welfare & Integrity Commission due to commence in a couple of months as part of the industry platforms. We look forward to the industry providing their thoughts, their recommendations that have been two years in the making now. Two years on people would have a fair idea in terms of how GWIC operates, whether it is on a racetrack or as part of the registration process, so the whole operation of GWIC comes up for statutory review. We look forward to receiving stakeholder submissions and recommendations and suggestions and we will that process take place.

**The Hon. MARK PEARSON:** The sale of young greyhounds to new industry participants is a very significant proportion of the industry's trading value. As a consequence the industry continues to overbreed, that is a given. How is the Greyhound Welfare & Integrity Commission planning to resolve this problem?

**Mr KEVIN ANDERSON:** I will make an observation first before asking Mr O'Brien. My understanding was that that issue of overbreeding has been addressed, particularly over the last couple of years given the numbers because it was a serious issue raised in the report. My understanding is it is not that but I will ask Mr O'Brien to clarify.

**Mr O'BRIEN:** Since 2014-15 there has been about a 50 per cent reduction in the number of greyhounds annually.

**The Hon. MARK PEARSON:** Since 2014-15?

**Mr O'BRIEN:** Yes, since then.

**The Hon. MARK PEARSON:** What is the percentage?

**Mr O'BRIEN:** If you look at 2018-19 it is about 52 per cent down from 2014-15.

**The Hon. MARK PEARSON:** And how is that measured?

**Mr O'BRIEN:** When a greyhound is born.

**The Hon. MARK PEARSON:** When do we know a greyhound was born?

**Mr O'BRIEN:** Greyhound breeders are required to notify the commission.

**The Hon. MARK PEARSON:** At birth?

**Mr O'BRIEN:** On the whelping of the dog.

**The Hon. MARK PEARSON:** In the last quarter the commission reported that 18 greyhounds were accepted for rehoming by the Greyhounds As Pets program managed by Greyhound Racing NSW out of the 272 retired dogs and the further 150 that were put down during that quarter. That is 18 greyhounds out of a total of 272 retired dogs, but a further 150 were put down also during the quarter. Would you agree that the current industry rehoming rates fall considerably short of the number of retired greyhounds who actually need homes?

**Mr KEVIN ANDERSON:** There is always room for improvement in rehoming greyhounds, Mr Pearson.

**The Hon. MARK PEARSON:** Do you think we can ever get there realistically? When we know how many greyhounds are either retired or need ongoing care, how is it possible for us to provide homes for all those animals?

**Mr KEVIN ANDERSON:** There are a number of pathways a dog can go down or be directed to in relation to rehoming, whether they spend their retirement with the owner who may have raised that dog, whether that dog goes down the path of the Greyhounds As Pets program through Greyhound Racing NSW. I understand that there is a significant amount of work being done by Greyhound Racing NSW in relation to perhaps purchasing a property. Very similar to what Racing NSW does to rehome retired racehorses, they are looking at a property where they may be able to rehome greyhounds so there is that pathway.

**The Hon. MARK PEARSON:** But is it not really the case the evidence coming through is that these retired greyhounds are shuffled off to a property somewhere where they have sheds, maybe an old greyhound training centre, and we are just having dogs being locked in three square metre pens? They would be lucky to get exercise each day and that is their fate, because if you kill them you have committed an offence. This is why we talked about earlier there is now the pressure to remove this tracking so that they can be given to someone else who is not a greyhound trainer or has anything to do with the greyhound industry and they can kill them. This is a very serious issue and we cannot crunch the numbers to assure the community that every greyhound born into this industry really faces a reasonable life.

**Mr KEVIN ANDERSON:** It comes back to our earlier point about that traceability. This is where the Greyhound Welfare & Integrity Commission is doing a significant body of work for that whole cycle of life from when they are born or whelped, whether they raced or not, all the way through to whether they become part of POCTA and the Companion Animals Act, obviously that is through the local government.

**The Hon. MARK PEARSON:** That is where they become ghost animals, at that point.

**Mr KEVIN ANDERSON:** That is where we do not want them to be though. That is the point I am getting to you. If we have a traceability we will be able to track the end of life.

**The Hon. MARK PEARSON:** This review is taking the traceability away because if you were to give a directive to say that no greyhound is to become a companion animal in the sense that it is no longer traceable by the Greyhound Welfare & Integrity Commission regulators then we would have absolute assurance, would we not?

**Mr KEVIN ANDERSON:** We would still have traceability because under the Companion Animals Act—and it is not my remit Mr Pearson—they still are chipped. They still are able to be tracked, so you would have that—

**The Hon. MARK PEARSON:** But you can kill them. You cannot kill them under the Greyhound Welfare & Integrity Commission regulatory body, but as soon as they shift across to this area where you say you do not have portfolio responsibility for, it means that they are killed. This is where your responsibility is because we are looking at an animal that is suddenly moved out of sight and we do not know what is happening to it.

**Mr KEVIN ANDERSON:** In terms of the racing remit, that is my bailiwick, but then it moves to the Companion Animals Act. So we are hoping that the work that GWIC is doing now—and there has been a significant gap because of a paper-based system—is for whole-of-life traceability; where the animal goes, whether it is through the rehoming of Greyhound Racing NSW, the Greyhounds As Pets, whether the dog stays on the property of the owner or the trainer or whether it moves into another home where it might be a mum and dad with a couple of kids. These dogs are placid. These are great dogs.

**The Hon. MARK PEARSON:** Or it might be a mate of a trainer who can kill it?

**Mr KEVIN ANDERSON:** Your words, Mr Pearson, not mine. I am focused on tracing all the way through.

**The Hon. MARK PEARSON:** Assure us that they are and do not allow that capacity to hand it over to a mate or sell it off and then we lose sight of it. I think we have covered that quite closely. 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.

**The Hon. MARK PEARSON:** Doesn't the reduction of the fee go against the policy of limiting the numbers of greyhounds born into the industry so as to reduce wastage?

**Mr KEVIN ANDERSON:** I think part of the reason for the reduction in fee is that, as Mr O'Brien alluded to earlier, there was a 52 per cent reduction in breeding numbers and what the greyhound racing industry wanted to do was a natural correction to allow breeding numbers to get back to a sustainable level. This is an industry where every financial assistance possible—and you would expect the mums and dads, one greyhound, that is their life—to allow them to be part of an industry they love and treasure. That is their life. They take their dog to a track and they race it and they treat it better than their own. Part of that is to allow them to stay in the industry.

#### (Luncheon adjournment)

**The Hon. JOHN GRAHAM:** Minister, I want to continue asking some questions on that broad topic: What does the public know about this flammable cladding? I want to ask first about a measure—what looks on the face of it to be a sensible measure—in place in Victoria and ask whether this is the case or could be the case in New South Wales. That is this: One of the measures that is taken in Victoria to let members of the public know where those buildings with flammable cladding are is that the Victorian Building Authority has a database of



buildings with cladding based on the audit inspections and will share this information with genuine purchasers and potential tenants. Is that the case? I do not believe it is here. Would you consider it?

**Mr KEVIN ANDERSON:** Can I clarify in terms of what you are asking? You are saying that potential purchasers of a particular building—

**The Hon. JOHN GRAHAM:** I will quote from the document, the report of the Victorian flammable Cladding Taskforce. It states:

The VBA receives many inquiries from residents, owners and those looking to purchase or occupy specific properties. The VBA has a database of buildings with cladding based on the audit inspections and will share this information with genuine purchasers and potential tenants.

Why do not we do that in New South Wales?

**Mr KEVIN ANDERSON:** On the back of the recommendations and suggestions of this Committee last time we met about advising tenants—

**The Hon. JOHN GRAHAM:** I am aware of the general tenants; this is about prospective tenants.

**Mr KEVIN ANDERSON:** —what we can tell you is that those who occupy that building, tenants in particular—I will address that first and foremost—all current tenants in buildings on the cladding register were again advised of the work of the New South Wales planning task force.

**The Hon. JOHN GRAHAM:** Minister, I am aware of that. I do not want to cut you off, but this is on the public record. There is no doubt. I am asking here about a separate issue: Genuine purchasers and potential tenants before they get to sign up, can they ring up and ask, "Is this a building with flammable cladding?"

**Mr KEVIN ANDERSON:** I will ask Mr Tansey in terms of the advice around what we did there for potential owners of buildings.

**Mr TANSEY:** If I can go first to renters.

**The Hon. JOHN GRAHAM:** No, Mr Tansey. I might come back to you on that. We are short of time. Minister, if that is where you are at I will come back in the agency section. I will finish with you because we do have other issues to raise. Having run through those on that question, what does the public know about these buildings with flammable cladding? We have talked about shoppers in shopping centres, guests in hotels, students at university, there might be law courts here; we have talked about centres of entertainment and fans who might be there. Is it fair to characterise your Government's approach as the owners knowing, you have taken some steps to notify tenants, but the public in each of those instances does not know or does not need to know? Is that a fair characterisation of your Government's position because that is the evidence you have given us?

**Mr KEVIN ANDERSON:** The evidence I have given is that owners of buildings, particularly those whether they be commercial or event venues, will have been informed in relation to any rectification order.

**The Hon. JOHN GRAHAM:** I am agreeing with that. Owners know, tenants know, the public does not know—not shoppers, not hotel guests, not students at university, not fans at centres of entertainment; they may not know. That is fair is it not, Minister?

**Mr KEVIN ANDERSON:** In terms of your line of questioning, Mr Graham, in relation to the register I am not sure if you are going down the path to try to elicit a particular view.

**The Hon. JOHN GRAHAM:** Absolutely not. I am asking what does the public know?

**Mr KEVIN ANDERSON:** Again, we deal with the owners of the building to ensure that they look at their risk portfolio and go, "Is there a need to know?" And if they believe that their people need to know then they will do that.

**The Hon. JOHN GRAHAM:** This is the position of the Government—I am trying to put it fairly—the public does not need to know. That is the position you are putting?

**Mr KEVIN ANDERSON:** No, what I am putting to you is that we have had contact with owners of buildings and those who are in control of those buildings.

**The Hon. JOHN GRAHAM:** I agree. Members of the public?

**Mr KEVIN ANDERSON:** They would look at the risk profile and they would make the decision to keep the people safe that are in the building at the time.

**The Hon. JOHN GRAHAM:** Yes, that is different to the public knowing. These are two different issues. Is there a risk? Owners have to deal with that. Do they have to tell the public? Absolutely not. That is fair, is it not, Minister; that is your Government's position?

**Mr KEVIN ANDERSON:** You are talking about the public register or the register of those buildings. In terms of the buildings that are on the register, we know that the tenants and residents of those buildings have been informed. It was a suggestion of this Committee last year—and it might have been Mr Mookhey—that we do something about making sure that tenants were informed. We have done that.

**The Hon. JOHN GRAHAM:** But not contractors, not tradies, not couriers coming through these buildings; they will not know, will they, Minister?

**Mr KEVIN ANDERSON:** If there is work being undertaken on a particular building then I would expect that the owners of the building or the strata, whoever was the project manager, would be aware of the safety risks.

**The Hon. JOHN GRAHAM:** And that might include if there is a childcare centre on this list? That would be the same—parents might not know?

**Mr KEVIN ANDERSON:** It would be the responsibility, apart from the contact they have had with the Cladding Taskforce, to ensure that level of risk is managed and that they appropriately keep the people in that building safe.

**The Hon. JOHN GRAHAM:** Safe, but not tell them?

**Mr KEVIN ANDERSON:** Keep them safe.

**The Hon. DANIEL MOOKHEY:** For the eight public buildings that are under the Government's control, what is the public being told about those buildings, particularly the people who are visiting those buildings? For example, if I have a meeting at SafeWork, am I told? Notwithstanding SafeWork is not a public building but the eight that are, what are you doing? Agencies that are working in buildings that have flammable cladding, regardless of whether or not they own it, what are they telling people?

**Mr KEVIN ANDERSON:** The clusters that we work with across government that obviate buildings that have cladding associated with them, their secretaries or their senior officials have constant contact with the Cladding Taskforce and they have the budgets, they would be managing how they would deal with those particular buildings.

**The Hon. DANIEL MOOKHEY:** As a matter of policy, are they required to tell the public about flammable cladding on public buildings? Is that a rule you have set? Is that a direction that the Cladding Taskforce has made or is it entirely at the discretion of those cluster secretaries?

**Mr KEVIN ANDERSON:** That would be a question for the cluster secretary. What I am—

**The Hon. DANIEL MOOKHEY:** I am asking you, Minister, because you set the policy. Is there a policy that tells the secretaries what they have to disclose to the public about buildings that you own?

**Mr KEVIN ANDERSON:** The rules and regulations that have been set by the Cladding Taskforce in relation to information being passed on to those people who would be in an affected building that has been assessed would be notified. That is up to the owner, as we have been down that path, Mr Mookhey. It would be up to the owner. It would be up to the strata corporation or the project managers.

**The Hon. DANIEL MOOKHEY:** But, Minister, I am repeating these questions that we asked in September. To be fair, we asked your predecessors as well about not just the people who work there but the people who visit these public buildings. In terms of the ones that are already on the public record, we know that there are health facilities. We know that there are educational facilities. We know that they are constantly visited by the transient class that you just described earlier today. Are they told?

**Mr KEVIN ANDERSON:** Are you saying, Mr Mookhey, that there are those facilities on the register? You just highlighted education.

**The Hon. DANIEL MOOKHEY:** No.

**Mr KEVIN ANDERSON:** Are you saying you are revealing those properties that are on the register?

**The Hon. DANIEL MOOKHEY:** Minister, just listen carefully. 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.

**The Hon. DANIEL MOOKHEY:** Minister, let us turn to another issue of creeping public importance, and that is silicosis. In the six months till January, we had 70 people test positive for a preventable occupational disease, which is a rise of about 770 per cent just within two years. You will agree with me that those numbers are alarming, will you not?

**Mr KEVIN ANDERSON:** I will make an observation on that in a moment but please continue, Mr Mookhey.

**The Hon. DANIEL MOOKHEY:** I am asking you: Do you agree that 70 cases of a preventable disease is alarming?

**Mr KEVIN ANDERSON:** I would say that any case of anyone having silicosis is disturbing. It is alarming.

**The Hon. DANIEL MOOKHEY:** An increase to 70 is amongst the fastest growing in the country and it is no longer a case of—I think we were disputing before—whether it was just because more people are being screened. Actually, the rate of people who are getting it has gone up from 0.00-something per cent to above 3 per cent. Are you worried about the trajectory of this issue?

**Mr KEVIN ANDERSON:** I would make an observation in relation to those numbers. I would ask Ms McCool to come in and provide additional comment in a moment but certainly observing those numbers, it is part of the significant education component and awareness that SafeWork has been doing across New South Wales. There has been significant interaction with businesses. There has been significant interaction with the health department to make sure that we get on top of this issue. It has been dormant for so long. So I would suspect that the number of cases that we are seeing rise is as a result of the education process saying, "If you think so, please go and get checked." I will ask Ms McCool to add further comment.

**The Hon. DANIEL MOOKHEY:** We can talk to Ms McCool shortly when we get to the agency but we have limited time with you. In respect to the public policy initiatives that you have announced, you said on 21 February that New South Wales will be moving to ban dry cutting, which is welcome. When is that coming into effect?

**Mr KEVIN ANDERSON:** I understand, Mr Mookhey, that that will come in on 1 July, which is part of the whole new exposure standard, which will bring it down to 0.05, and a raft of other measures to keep our people safe.

**The Hon. DANIEL MOOKHEY:** Is that going to be effected by a regulation?

**Mr KEVIN ANDERSON:** What will happen is there will be dry cutting of manufactured stone that will create a silicosis register as well. In addition, we are looking at bringing down the silica exposure standard to 0.05 and supporting businesses with up to \$1,000 rebates to get their workplaces—

**The Hon. DANIEL MOOKHEY:** That is good but I was asking you: Is it being effected through a regulation?

**Mr KEVIN ANDERSON:** It all comes in on 1 July.

**The Hon. DANIEL MOOKHEY:** Is it a regulatory instrument under the Act? I am trying to understand what is the legal basis on which you are putting this forward.

**Mr KEVIN ANDERSON:** That is true, Mr Mookhey.

**The Hon. DANIEL MOOKHEY:** So it an Act.

**Mr KEVIN ANDERSON:** It is a regulation.

**The Hon. DANIEL MOOKHEY:** Under the Act.

**Mr KEVIN ANDERSON:** It is a regulation.

**The Hon. DANIEL MOOKHEY:** Is it public already?

**Mr KEVIN ANDERSON:** Yes, Mr Mookhey, we have been quite—

**The Hon. DANIEL MOOKHEY:** Where is the exposure draft?

**Mr KEVIN ANDERSON:** We have been quite open in relation to the regulations and the new exposure standards that we have are putting out there. Firstly, I would ask Ms McCool to talk a little bit about the five-year chemical strategy. This is something that we have been working to keep workers safe.

**The Hon. DANIEL MOOKHEY:** I am interested in talking to Ms McCool later on about the five-year chemical strategy but I am asking you specifically now: Is there a place where the industry that wants to comply with this can go and see the regulation? Where is that?

**Mr KEVIN ANDERSON:** What we have done is something in the vicinity of about 270 businesses, may be even more, that we have gone out and had consultation with.

**The Hon. DANIEL MOOKHEY:** Minister, it is really not a trick question. Is the regulation in a draft form that people can see?

**Mr KEVIN ANDERSON:** Mr Mookhey, what we have done is we have consulted extensively right across the board with significant—I might run you through a couple of numbers, if I may.

**The Hon. DANIEL MOOKHEY:** No, we have to be directly relevant here, Minister.

**Mr KEVIN ANDERSON:** We are being directly relevant.

**The Hon. DANIEL MOOKHEY:** You are not in a position to tell us whether or not it is public. We can pursue that again with the agencies this afternoon. With the health register, is that being made on 1 July too? Is that what you said, that it is being established on 1 July?

**Mr KEVIN ANDERSON:** What we have done is significant work with NSW Health to make silicosis a notifiable disease so that we can trace back when a worker presents to a doctor. If that person is diagnosed with silicosis, the doctor would then be able to notify SafeWork and we would be able to trace that back.

**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.

**The 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.

**The Hon. DANIEL MOOKHEY:** You mentioned the manufactured stone rebate. The last time we had the opportunity to ask your officials about this, they said that only six applications have gone out the door and been received. How many are we up to now?

**Mr KEVIN ANDERSON:** I can check that.

**Ms McCOOL:** There are 12.

**The Hon. DANIEL MOOKHEY:** So it has doubled to 12. That means we still have 235 worksites that have not even stepped forward to ask for the thousand dollars. Is the program still closing on 1 July 2020?

**Mr KEVIN ANDERSON:** If I might make an observation before I ask Ms McCool. I make an observation in relation to the 12 businesses that have applied for the rebate—

**The Hon. DANIEL MOOKHEY:** But whilst you make that observation can you just answer the question: Is the scheme closing on 1 July 2020?

**Mr KEVIN ANDERSON:** I will just check with Ms McCool on that.

**Ms McCOOL:** At this point, yes.

**The Hon. DANIEL MOOKHEY:** Minister, you wanted to make an observation.

**Mr KEVIN ANDERSON:** Yes, thank you. There have been 12 businesses that have applied for the \$1,000 rebate to assist them in their workplace. There are many businesses across New South Wales that are already doing the right thing.

**The Hon. DANIEL MOOKHEY:** We have 12 by March. The program opened on 1 January—is that correct—or thereabouts?

**Ms McCOOL:** Yes.

**The Hon. DANIEL MOOKHEY:** You announced it in September last year; you said that this was the New South Wales Government's response to the silicosis crisis—a \$1,000 rebate. It took three months for the scheme to open, it has been open for three months and we have 12; it closes in three months. Surely you would regard that as a failure.

**Mr KEVIN ANDERSON:** No, I do not think it is a failure. It is testament to the fact that there are many businesses in New South Wales that are already doing the right thing in relation to their workers.

**The Hon. DANIEL MOOKHEY:** So if there are businesses that are already doing the right thing, then the logic of that is that this rebate is unnecessary. So are you going to end it by 1 July or are you going to continue it?

**Mr KEVIN ANDERSON:** What that tells us is that there are many businesses across New South Wales that are doing the right thing because we know that workers' safety is paramount. Many, many businesses put workers' safety at the top of everything they do—and so they should, because they are their greatest resource. The 12 businesses that have applied for that \$1,000 rebate, we have been able to assist them. It is a continuous observation period. We will get to July and if there is a need for further I am very happy to consider that because, ultimately, what it is is it is protecting workers' safety and if I can do that—if I can protect workers' safety further—I will do that.

**The Hon. DANIEL MOOKHEY:** You say that the reason why the take-up rate is paltry is because businesses are doing the right thing, but we learnt through orders for papers that of the 246 that your agency inspected, 73 per cent of them had silica-related offences. That is over 167, from memory, had silica-related offences in just the last two years. You are saying we can trust them to do the right thing and it does not matter whether or not they are using our relatively limited rebate anyway in those businesses we trust. How can you be sitting there saying we should be able to trust these businesses when the evidence points to systemic breaches of the law when it comes to something as dangerous as silica?

**Mr KEVIN ANDERSON:** One thing that we do is work very closely, or SafeWork works very closely, with businesses right across New South Wales to ensure that those who are not doing the right thing and those who do not have the correct safety measures in place—and I can tell you that, of all the visits, 93 notices were issued, 85 improvement and five prohibition, 97 per cent of notices have fully been complied with, with two notices of improvements outstanding. So as well as those who have applied for the rebate to upgrade their facilities, there are also those that SafeWork are continually working with to guide them, if you like, because, first and foremost, I firmly believe in the education process to lift them up to the standard and then, if they do not comply, hit them with penalty notices.

**Mr DAVID SHOEBRIDGE:** Minister, could you just acknowledge that the rebate scheme has been an unmitigated failure, having only paid 12 rebates for a maximum of \$12,000? Can we start with that acknowledgement that it has not worked?

**Mr KEVIN ANDERSON:** I do not accept that. What I do accept is there are businesses out there who are doing the right thing and there are others who do need assistance and support, and sometimes a little bit more support than others, to get them up to the standard where they need to be, and that is what SafeWork are doing—working with them cooperatively to make sure we have a safe industry and that the standards at which they should be operating to protect the workers are being met.

**Mr DAVID SHOEBRIDGE:** Minister, it would have cost the State collectively more to hold the press conference to announce the rebate than you have paid out in the rebates. Do you accept that that is form over function when your press conference is a bigger economic commitment than the actual rebates that you pay out following your press conference? That is the classic form over function, is it not?

**Mr KEVIN ANDERSON:** I think the functionality of what we are trying to achieve to educate businesses across New South Wales is to lift the standard of work practices of those businesses and manufacturers. With 12 people having sought to access that rebate and the others, and as I have just read out, in terms of the 413 visits that have also been conducted with other industries, which includes tunnelling, domestic and civil construction and foundry work, SafeWork is working with those businesses to ensure that they are brought up to standard and do keep their workers safe.

**Mr DAVID SHOEBRIDGE:** It would be useful if you could just make a concession that that particular project has not achieved what you want to achieve and therefore you are going to be directing your attention to other projects that will be successful. If we could start with that, Minister, that would be helpful. Can you acknowledge that a statewide rebate scheme in an industry where you have checked hundreds of employers with countless breaches and only had 12 rebates is not a useful contribution and that you will be directing your attention in other places? Can we get that assurance?

**Mr KEVIN ANDERSON:** I am not going to deny any business the opportunity to seek the rebate to upgrade their premises or their worksites to keep workers safe. What we have done is go right around New South Wales; there have been many symposiums, and I attended a SafeWork silicosis information day in Tamworth and others. That tells me that there are a number of businesses that are doing the right thing, and I am not going to deny anyone or any business seeking support to increase workers' safety.

**The Hon. DANIEL MOOKHEY:** Just none of them are.

**Mr DAVID SHOEBRIDGE:** Minister, this is not about denying people or businesses the right, this is about seeing that this program is not getting its achieved outcome. I find it frustrating that you do not accept that a statewide rebate scheme open to hundreds and hundreds of employers, who we know have had thousands collectively of breaches of work health and safety relating to silica dust, when it only gets to twelve \$1,000 rebates it is frustrating when you will not accept that that is not working. Do you not understand how frustrating that is, Minister?

**Mr KEVIN ANDERSON:** I am not going to make a mockery of the financial assistance offered to businesses and the take-up. I think those 12 businesses would be very grateful to have received that funding and I am sure that as SafeWork continue to go around and educate, those businesses that need to lift standards will do so and if they do not then they will be working closely with SafeWork to make it happen.

**Mr DAVID SHOEBRIDGE:** Minister, you were asked some questions about the State silicosis register. Do you remember that series of questions from Mr Mookhey?

**Mr KEVIN ANDERSON:** Yes.

**Mr DAVID SHOEBRIDGE:** And Mr Mookhey put on the record, I think, the 14 lung diseases that are captured by the Queensland register.

**The Hon. DANIEL MOOKHEY:** Seven.

**Mr DAVID SHOEBRIDGE:** Sorry, the seven diseases that are captured by the Queensland register. Do you understand that the recommendation from the law and justice committee has been to support a national register and, in the absence of a national register, to start a State register? Do you understand that is the kind of hierarchy?

**Mr KEVIN ANDERSON:** Correct.

**Mr DAVID SHOEBRIDGE:** And the ultimate goal is to get to a national register. Do we all agree on that?

**Mr KEVIN ANDERSON:** I do not have a problem with that at all. If it looks at protecting our workers and getting to the bottom of where we need to be, certainly.

**Mr DAVID SHOEBRIDGE:** Yes, but rather than not have a problem with it, do we agree that we have a bipartisan agreement that a consistent national register is where we want to get? Do we have that sort of across-politics position: that we all want a national register?

**Mr KEVIN ANDERSON:** I think that would be a good thing to work towards.

**Mr DAVID SHOEBRIDGE:** Do you not see that if we want to have a consistent national register that the best way of achieving that is to have all the State registers that we establish have a common set of diseases that they report against, that they have as much commonality as possible? Do you agree that that is really useful in establishing the ultimate goal of a national register?

**Mr KEVIN ANDERSON:** Mr Shoebridge, we are working and right at the forefront of establishing the register in New South Wales through the NSW Health department. As you can understand, working through these issues, we want to make sure that doctors are comfortable, that medical practitioners are comfortable with our direction, as is SafeWork, so we will land on a position in terms of those other diseases and come back, as I said to Mr Mookhey, with NSW Health advice on what they can do in terms of being notifiable.

**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.

**Mr DAVID SHOEBRIDGE:** Minister, the Design and Building Practitioners Bill is before the House. One of the key elements of that bill is having a function in the insurance market. Do you agree?

**Mr KEVIN ANDERSON:** It is part of getting the insurance market back on side to be able to provide the products that they need, yes.

**Mr DAVID SHOEBRIDGE:** If I could simplify it, the bill does two primary things. It gets the building designer to issue a certificate saying that the building was designed in accordance with the appropriate code and standards and then there is another certificate issued by the builder effectively saying that the building was built in accordance with the certified designs and then was constructed in accordance with the construction code. Those certificates are two of the principal outcomes: One from the designer saying, "Designed in accordance with the national construction code"; and the second from the builder saying, "Built in accordance with the code and in accordance with the approved designs". They are the key new integrity measures in the bill. Do you agree?

**Mr KEVIN ANDERSON:** Yes.

**Mr DAVID SHOEBRIDGE:** And you are saying to the people of New South Wales that those certificates have value because if you buy a property and it has not been designed in accordance with the national

construction code or it has not been built in accordance with the code or in accordance with the approval, you can then sue the designer or the builder for rectification or for damages. That is one of the key benefits, is it not, to hold people to account?

**Mr KEVIN ANDERSON:** Correct.

**Mr DAVID SHOEBRIDGE:** But, of course, in an industry that is rife with phoenixing, two dollar companies, shelf companies being established to do projects and designs, those certificates are only of value if they are attached to an insurance product. Do you agree with that?

**Mr KEVIN ANDERSON:** Correct.

**Mr DAVID SHOEBRIDGE:** Is there an insurance market currently available for designers? If we legislate that tomorrow, is there an insurance market currently available for designers to actually insure for the purposes of the certificate, the compulsory insurance for the purposes of the certificate?

**Mr KEVIN ANDERSON:** Part of the Design and Building Practitioners Bill is to look at what we do to get accountability, transparency and quality back into the market. Part of that process is looking at weeding out those building practitioners who are the bad apples. And from the amount of consultation that we have done right across the board, significant consultation roundtables as well as industry players, they too want the bad apples gone. So alleviate the concerns, get rid of the bad apples, and then the insurance market has a product to offer a particular project that there is quality accountability and transparency through the regulated designs so that buildings are built as per those designs.

**Mr DAVID SHOEBRIDGE:** Minister, that was an abstruse answer to my question, which was: Is there an insurance market to provide insurance for the design certificates? Is there currently a market?

**Mr KEVIN ANDERSON:** There is an insurance market currently for buildings. There is an insurance market there. That work is continuing. It is operating as per normal. What we have got to do is get better at it.

**Mr DAVID SHOEBRIDGE:** Sorry, what is this insurance market for buildings? There is no insurance provided for buildings greater than three storeys, Minister. You must know that. There is no insurance being provided to cover consumers' purchases for buildings greater than three storeys. You must know that.

**Mr KEVIN ANDERSON:** What we have done is recently at the Building Ministers' Forum at our request we invited the Insurance Council of Australia to address the building Ministers. We also had certifiers there. We had others in the room—

**Mr DAVID SHOEBRIDGE:** No, Minister. You must know that no-one is providing insurance for buildings greater than three storeys in New South Wales, newly constructed buildings, to protect home owners who buy into them. You must know that, Minister.

**Mr KEVIN ANDERSON:** So—

**Mr DAVID SHOEBRIDGE:** You must. You just must.

**Mr KEVIN ANDERSON:** So, part of what we are doing with the Design and Building Practitioners Bill, as you would know, is to try to provide the environment where insurance companies will come back to the market. They have told us that—

**Mr DAVID SHOEBRIDGE:** Now you accept that they are not in the market. Is that where we get to the point? They are not in the market. I know you have a plan, you say, to get them back, but do you accept they are not in the market now? No-one is willing to sign off on a multistorey residential building and provide consumers insurance protection in New South Wales at the moment. Do you accept that?

**Mr KEVIN ANDERSON:** If you can provide instances there, I would be happy to take that on notice, Mr Shoebridge. But as far as what we are doing to address that issue with the insurance companies a little bit concerned about where the industry is—

**Mr DAVID SHOEBRIDGE:** A little bit concerned?

**Mr KEVIN ANDERSON:** —what we are trying to do—

**Mr DAVID SHOEBRIDGE:** A little bit concerned? They have fled the industry. They are refusing to provide professional indemnity to certifiers because they do not know what the hell is being built. There is no insurance market to underwrite these certificates. Minister, how is it that you do not understand that?

**Mr KEVIN ANDERSON:** We do understand it. That is why through the Design and Building Practitioners Bill we are going to lay the platform for better confidence, not only for the consumer but also the insurance market.

**Mr DAVID SHOEBRIDGE:** The bill does not provide improvements, other than through those two principle measures that I put to you, which is a certificate which no-one can get insurance at the moment. The Design and Building Practitioners Bill will not fix this. For that to work, you need a whole lot of other work to fix the quality of buildings. The Design and Building Practitioners Bill is the cart before the horse.

**Mr KEVIN ANDERSON:** I take you to pillar two of the Building Commissioner's work plan, which is the ratings tool. Part of setting up the ratings tool, which aggregates information which is available now on particular projects, what that will do will then red flag whether there is a risk of noncompliance. What we are able to do then is identify—are you taking a breath there, Mr Shoebridge?

**Mr DAVID SHOEBRIDGE:** I am listening carefully. This is pillar two. You are able to identify what?

**Mr KEVIN ANDERSON:** We are able to identify if there is a risk of noncompliance. That then flags an audit of that particular project. That project then is audited and if there are defects there, they would be able to be fixed.

**Mr DAVID SHOEBRIDGE:** Minister, none of that is under the design and building bill. That is all totally separate to the bill. Do you agree with that?

**Mr KEVIN ANDERSON:** What I am saying to you is—

**Mr DAVID SHOEBRIDGE:** Do you agree it is totally separate to the bill?

**Mr KEVIN ANDERSON:** But that is part of the work plan of the Building Commissioner in the Design and Building Practitioners Bill, which will allow him to do that work.

**Mr DAVID SHOEBRIDGE:** I am running out of time. Minister, I put to you two propositions. The first proposition is there is no current insurance market to provide insurance cover for the certificates from designers. Do you agree or disagree?

**Mr KEVIN ANDERSON:** If you assist us with the Design and Building Practitioners Bill, we would be able to then fix that problem into the future.

**Mr DAVID SHOEBRIDGE:** You neither agree or disagree. I put this other proposition to you. There is no current or even the prospect of an insurance market that will provide insurance for the builders certification under your Design and Building Practitioners Bill. Do you agree or disagree on that one?

**Mr KEVIN ANDERSON:** I disagree purely because the work being done—

**Mr DAVID SHOEBRIDGE:** That is okay. You are in a fantasy world, Minister.

**The Hon. SCOTT FARLOW:** Point of order—

**Mr DAVID SHOEBRIDGE:** Nobody is even across that market development.

**The CHAIR:** I will hear the point of order.

**The Hon. SCOTT FARLOW:** The Minister was trying to provide an answer to Mr Shoebridge's question. Mr Shoebridge did not allow him to get more than three words out before Mr Shoebridge then editorialised—

**Mr DAVID SHOEBRIDGE:** Because we were starting to go into unicorn territory.

**The Hon. SCOTT FARLOW:** I would ask that the Minister is able to answer.

**Mr DAVID SHOEBRIDGE:** You were going into the unicorn rainbow territory and there was no point.

**The Hon. JOHN GRAHAM:** I will draw your attention to the time, Chair.

**The Hon. SHAYNE MALLARD:** To the point of order: My point of order is about the decorum of the meeting. Mr Farlow made a point of order. Mr Shoebridge was yelling over the top of his point of order. He should be allowed to make—

**Mr DAVID SHOEBRIDGE:** I accept that. I am sorry. I apologise.

**The CHAIR:** Given that we are now moving on to the Opposition time again, that gives everyone a bit of a chance to calm down.

**The Hon. DANIEL MOOKHEY:** In the first part of your evidence on the silicosis questioning you said that the dust disease register would be established by way of regulation as part of the workplace exposure standards [WES] standards, including the ban on dry cutting. We just learnt from Ms McCool that is not actually accurate that an amendment to the health Act is required. But there is still no bill in Parliament in either of the Houses to effect that amendment whatsoever. How is it possible that we can have any confidence that this scheme is going to start on 1 July when there is not actually the key legal instrument required for it to go into effect? When will there be a bill in Parliament?

**Mr KEVIN ANDERSON:** Again, Mr Mookhey, a significant amount of work has been done on this. On the back of the inquiries that have been held in Parliament about silica and rightly so. The four key points being banning of dry cutting, the health register, which we talked about already, the 50 per cent reduction in workplace exposure, as well as support businesses for the rebates. I ask the secretary to provide further information.

**The Hon. DANIEL MOOKHEY:** We have got eight minutes. I just want to know when is the law change required for this register to go into effect, that would be entering either of the Houses of Parliament, so we can have some confidence that your commitment for a 1 July register will be achieved?

**Mr KEVIN ANDERSON:** We expect that 1 July is when these new standards will come into place. We will be working towards that. It will be right to go by 1 July 2020. But I will ask for further clarification from Ms McCool.

**Mr DAVID SHOEBRIDGE:** We can get that from the agency.

**The Hon. JOHN GRAHAM:** We can return to that.

**The Hon. COURTNEY HOUSSOS:** I want to ask the question about unlicensed electrical work. This has been extensively covered in the media. I know you have been asked questions here about it before. It has also been canvassed extensively in the inquiry into building standards. Are you aware of the issue?

**Mr KEVIN ANDERSON:** Unlicensed electrical work? Could you go further on that question.

**The Hon. COURTNEY HOUSSOS:** When the inquiry into building standards received a file several centimetres thick from the Electrical Trades Union showing examples not only of unlicensed electrical work occurring in the general community but also of it occurring on government projects, specifically on the projects of NorthConnex and WestConnex. This has been written about in *The Daily Telegraph*, it has been written about in *The Sydney Morning Herald*. There was an article on 28 January in *The Australian*. Are you aware of that issue?

**Mr KEVIN ANDERSON:** I will ask Mr Dunphy to pass comment—

**The Hon. COURTNEY HOUSSOS:** I will have follow-up questions for Mr Dunphy.

**Mr KEVIN ANDERSON:** I will make an observation that any tradesperson that does any unqualified, unregistered, illegal work is of deep concern to me, whether they be electrical or in any form of the trades field. To get further detail on that particular issue I will ask Mr Dunphy to make a comment.

**The Hon. COURTNEY HOUSSOS:** I am going to have some follow-up questions for Mr Dunphy this afternoon on this issue. There have been a number of inquiries that we have made of him in other forums. The concern about the unlicensed work is not just happening in buildings or in private residences. This is on major government projects—on the NorthConnex, on the WestConnex, on the light rail project, on the M5 extension. This is happening on a range of projects. There are open Facebook groups that are advertising for unlicensed work on government projects. Have you done anything about this, Minister?

**Mr KEVIN ANDERSON:** Are you saying that there is advertising for unlicensed work on government projects?

**The Hon. COURTNEY HOUSSOS:** That is exactly what—

**Mr DAVID SHOEBRIDGE:** That is not what Ms Houssos is saying. That is the repeated evidence we have got in the inquiry.

**Mr KEVIN ANDERSON:** I would ask Mr Dunphy to specifically respond to that from a safe work perspective.

**The Hon. COURTNEY HOUSSOS:** I have raised this with Mr Dunphy previously and I will ask him further questions on this this afternoon. I ask you, Minister, if you are aware of it.

**The Hon. JOHN GRAHAM:** This is your chance to go on the record with any of your views.

**Mr KEVIN ANDERSON:** My views are quite clear. If they are unlicensed, then they should not be allowed to work.

**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.

**The Hon. COURTNEY HOUSSOS:** We have got very limited time so I will come to Mr Dunphy this afternoon, but I appreciate that undertaking that you will further investigate this.

**The Hon. JOHN GRAHAM:** Minister, I just want to turn finally to cladding. You have told us 14 buildings fixed, 444 to go. This will take decades to finish at that rate. This is my concern: You have got good agency staff working very hard on this issue but they just do not have the tools to do the job. They need the resources. That is your job as Minister: to get the money. Victoria has got \$600 million; New South Wales has zero. When the NSW Building Commissioner put his plan on your ministerial desk seven months ago did it have any recommendations about resourcing, about low-interest loans, about any measures to speed this up?

**Mr KEVIN ANDERSON:** Mr Graham, the suggestions from the Building Commissioner are currently before Cabinet, but what I can say is—and I will not comment on those discussions—the Building Commissioner is working closely with the NSW Cladding Taskforce and is, through his extensive knowledge of the building industry, assisting the NSW Cladding Taskforce to look at what can be done.

**The Hon. JOHN GRAHAM:** But Minister, this is about the resourcing. This is your job. I will just ask you one more time the question I asked you this morning: Will you please pick up the phone to the Treasurer? We are hearing that the Federal Government might announce a second stimulus package on top of the \$17 billion it is already thinking about. In that context, will you pick up the phone to the Treasurer and ask that this be included, that flammable cladding be included in a State stimulus package?

**Mr KEVIN ANDERSON:** We have a clear plan that we are working to. We are taking strong action in relation to the very serious issue of flammable cladding on buildings in New South Wales.

**The Hon. JOHN GRAHAM:** But no money?

**Mr KEVIN ANDERSON:** We are putting significant resources—whether it be through staff or technical advice, whether that be to building owners or councils themselves. We have set up this task force, I believe, significantly resourced to be able to deal with the issues that are coming our way.

**The Hon. DANIEL MOOKHEY:** Minister, just moving on back to the coronavirus issues: SafeWork NSW recently issued a notice to Qantas, amongst others, about some noncompliance with the law in respect to safety steps that they should be taking in respect to coronavirus including, for example, making sure tray tables are being wiped, which they were not, with disinfectant; how to use tissues, face masks, soiled nappies, blood and vomit—which is common on particularly long-haul travel. Obviously this is creating great concern for airline workers and airline workforces as well. Have you ordered any special enforcement or inspections at the airport in respect to coronavirus and SafeWork NSW's responsibilities?

**Mr KEVIN ANDERSON:** In relation to Qantas, I am advised that it has been complying with the orders from SafeWork NSW about making sure that it does provide a safe environment, not only for workers but also passengers.

**The Hon. DANIEL MOOKHEY:** But you would agree with me that it was unacceptable that Qantas had to wait for SafeWork NSW to tell it, for example, how to clean a tray table, that you would expect that an airline like Qantas would know how to do that anyway. Do you agree with me that we should expect better from our airlines than that?

**Mr KEVIN ANDERSON:** I think we are in unprecedented times. When you look at particularly what is happening with cleaning of premises and personal hygiene in relation to this particular issue, the issue was brought to Qantas' attention. It is dealing with it and it is getting on with making sure that its workers and passengers are safe.

**Mr DAVID SHOEBRIDGE:** Minister, just to complete that round, have you then directed your officials and inspectors to go and share that learning and direction with the other airlines—and if not, will you do it this afternoon?

**Mr KEVIN ANDERSON:** Mr Shoebridge, Qantas has agreed to abide by the directives from SafeWork NSW and I understand it is doing that. It would want its passengers and its workers to be completely safe. If it was not complying with recommendations then—

**Mr DAVID SHOEBRIDGE:** Minister, you may have misunderstood my question—that is okay. I apologise for speaking over you earlier. My question was: Are you going to direct your inspector staff to go and share the learnings that you got from Qantas and the changes that are happening at Qantas with all the other airlines that operate in and out of New South Wales, and could you do that this afternoon, because we are in a public health crisis?

**Mr KEVIN ANDERSON:** Mr Shoebridge, I am advised that SafeWork NSW is contacting ground handling companies at the airport to review their procedures.

**Mr DAVID SHOEBRIDGE:** Can you endeavour to make sure that all other airlines are being put on notice in a similar way to which Qantas was put on notice? Will you do that as Minister?

**Mr KEVIN ANDERSON:** But given the very public airing of Qantas and the fact that it has been given a directive, other airlines I would expect, being right across this country, would know that they would need to lift standards as well. But certainly we have contacted ground handlers to make sure that they are reviewing their procedures, as I am sure everyone is—as the Parliament is doing exactly the same. I am happy to continue on a day-to-day basis to address the challenges that the coronavirus is throwing up.

**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.

**Mr DAVID SHOEBRIDGE:** Thank you.

**The CHAIR:** Thank you, Minister. That is the end of the time that you are required—

**Mr KEVIN ANDERSON:** Is it? Really?

**The Hon. DANIEL MOOKHEY:** We have got two minutes left. We are happy to keep going.

**The CHAIR:** In the two minutes—

**The Hon. DANIEL MOOKHEY:** Yes, we have got two minutes.

**The CHAIR:** I am not sure that is allowed by the resolution. Are we allowed to do two minutes?

**Mr DAVID SHOEBRIDGE:** I think time is up.

**The CHAIR:** The crossbench has another four minutes. I apologise; I did not realise. Mr Banasiak, did you—

**The Hon. SHAYNE MALLARD:** You cannot default it to the Labor Opposition.

**The Hon. JOHN GRAHAM:** Yes, you can.

**The Hon. DANIEL MOOKHEY:** You do not need to, but you can.

**The Hon. SHAYNE MALLARD:** We do not think you can. We do not think it is fair.

**The Hon. MARK BANASIAK:** I can default it to you, if I like, but I will not.

**Mr DAVID SHOEBRIDGE:** Why don't you default it to me, Mr Banasiak, and then I will default it to the Opposition?

**The CHAIR:** We are wasting time. Correction: There is a minute and a half left. If the Opposition wants to use that, it can.

**The Hon. DANIEL MOOKHEY:** Minister, back to the airport issue: The actual prohibition that was put onto Qantas was to consider the specific tasks workers undertake and understanding where workers may come into contact with bodily fluids; to make sure that—

**Mr KEVIN ANDERSON:** Could you slow down a bit, Mr Mookhey, I cannot quite understand you.

**The Hon. DANIEL MOOKHEY:** I will get to the most important point. You directed Qantas to make sure that personal protective equipment is being used at all times in the cleaning of their flights. That is crucial as every form of health guidance that has been issued to date by anybody is for you to make sure that people who are in contact with any surfaces have proper personal equipment. Can you give us any assurance that Qantas has actually followed these guidelines? How did you check?

**Mr KEVIN ANDERSON:** My understanding is that they are following those guidelines, Mr Mookhey, but I will ask the secretary to provide comment to ensure.

**Ms HOGAN:** I would actually have to ask Ms Webb but, I am afraid—

**Ms WEBB:** As you know, we actually served a notice on Qantas. As part of our ensuring that they are complying with those requirements, our inspectors are liaising with them.

**The Hon. DANIEL MOOKHEY:** You issued that on 2 March 2020, which is now two weeks ago from today. It has been two weeks. Obviously a lot of people have flown and a lot of flights have been taking place in those two weeks. Do we have any assurance that that has been followed, or not?

**Ms WEBB:** Yes. The assurance is that it has been followed. But in the interests of making sure that they have changed systemically, not just overnight but systemically, we are continuing to liaise with them until we are satisfied that there is full compliance.

**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.

**The Hon. DANIEL MOOKHEY:** Given that we have 30 more seconds on this, what steps have you taken to check whether Virgin has complied or whether Virgin, the other major domestic carrier in this country, has been inspected, is complying and is also active, and for that matter Jetstar? Do the big three.

**Mr KEVIN ANDERSON:** Given the high-profile details surrounding the directive for Qantas—

**The Hon. DANIEL MOOKHEY:** I only fly Qantas.

**Mr DAVID SHOEBRIDGE:** Why? Do you hate Rex?

**Mr KEVIN ANDERSON:** Who said that?

**The Hon. DANIEL MOOKHEY:** He said that—The Greens.

**Mr KEVIN ANDERSON:** That is unfortunate.

**The Hon. DANIEL MOOKHEY:** Minister, don't get distracted, stay focused. What have we done with Virgin? What have we done with Jetstar?

**Mr KEVIN ANDERSON:** I would expect them to be complying.

**The Hon. DANIEL MOOKHEY:** We all expect them to be complying.

**Mr KEVIN ANDERSON:** If you would let me finish, Mr Mookhey. The challenges that we are finding ourselves in are that there would be one area that would be highlighted, then you would expect others in an industry alongside would lift standards as well. It is in their best interest to do so: to look after workers and safety.

**The Hon. DANIEL MOOKHEY:** Yes, but Minister I would not have expected you to have had to issue a notice like this to Qantas but you did. By the same token, we would all expect Virgin and others to be following best practice but we have regulators and Ministers to ensure that they do. Have you actually asked Virgin to follow the same procedures? Have you sent your inspectors to check?

**Mr KEVIN ANDERSON:** What we have done is contacted other ground-handling companies, as I said earlier, to ensure the safety—

**The Hon. DANIEL MOOKHEY:** The airline. There is a difference between ground handling and the airline.

**Mr KEVIN ANDERSON:** —of not only passengers but workers. We are in unprecedented times. We ask people to be calm. We ask people to ensure that they follow the guidelines of each individual workplace that they are in.

**The CHAIR:** Thank you very much, Minister. That is the end of your questioning. The Committee will take a two-minute break to allow the Minister to leave and then we will continue with questions from the Opposition for the remaining witnesses.



**Mr KEVIN ANDERSON:** Can I just say, Ms Boyd, thank you for your time. Again, we appreciate the unprecedented times we find ourselves in with the coronavirus. Thank you.

**(The Minister for Better Regulation and Innovation withdrew.)**

**The Hon. JOHN GRAHAM:** First, we have indicated we would direct a range of further issues to the officials in order to concentrate on the answers with the Minister. I am conscious that we did that a number of times during the session and there might be issues that the officials have knowledge of after that interaction over a number of hours that they would like to first put on the record and then we will turn to our questions. Is there anything you want to respond to first that you think would be helpful for the Committee?

**Ms HOGAN:** Just from Ms Webb, please.

**Ms WEBB:** When the Minister was asked about information from Fair Trading relating to coronavirus for consumers and businesses, he indicated that Fair Trading is about to put something up on its website. It is now up there, so I just wanted to let the Committee know.

**The Hon. JOHN GRAHAM:** And what is that in relation to?

**Ms WEBB:** It is called "Coronavirus (COVID-19) FAQs on consumer and business rights". It deals with event cancellations, travel cancellations, pricing and price gouging, availability of ordered and/or stock items, rental issues for overseas students, health and travel advice.

**The Hon. JOHN GRAHAM:** When was that put up?

**Ms WEBB:** I think it went up about midday.

**The Hon. DANIEL MOOKHEY:** Where is it again?

**Ms WEBB:** It is on the Fair Trading website. If you go to the home page you will see "Coronavirus FAQs".

**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.

**The Hon. DANIEL MOOKHEY:** Are you providing any advice to businesses as to whether or not this is a practice they can engage in, or not?

**Ms WEBB:** I am not aware that we have had that asked of us but we could think about doing that, yes.

**The Hon. DANIEL MOOKHEY:** Over the course of the afternoon, Ms Webb, is it possible we can get some advice on that?

**Ms WEBB:** Yes, okay. That is fine.

**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.

**The Hon. COURTNEY HOUSSOS:** In the building inquiry we covered the number of inspectors extensively. You told me there are 14 electrical and gas, 33 plumbing, and 20 building. Are the 15 on top of that?

**Mr DUNPHY:** Yes. I am referring here to the SafeWork inspectors.

**The Hon. COURTNEY HOUSSOS:** So these are SafeWork, not Fair Trading.

**Mr DUNPHY:** Not Fair Trading inspectors, yes. There is a specific group, a specialised team, that deals with infrastructure projects and that covers the major infrastructure projects, so it includes Sydney Metro, NorthConnex, WestConnex, Western Sydney Airport, the light rail, the Parramatta light rail, Snowy Hydro and Inland Rail. All of those programs are a major focus of the team. They have regular inspections of those infrastructure projects and have regular monitoring and surveillance of the work that is being done within those projects.

**The Hon. COURTNEY HOUSSOS:** Okay. I come back to my original question, which is: If they go out, I assume it was one of those 15?

**Mr DUNPHY:** Yes.

**The Hon. COURTNEY HOUSSOS:** One of those 15 that went out?

**Mr DUNPHY:** It would have been.

**The Hon. COURTNEY HOUSSOS:** What do they inspect when they go out?

**Mr DUNPHY:** It varies on the issues that they are focusing on at the time. It may be looking at falls from heights; it might be to do with scaffolding issues; it may be to do with silica exposure and if it is tunnelling. So there is a range of different things that they will be looking at. It may be in response to a complaint. Often a number of the follow-up inspections will be because there has been a complaint either from a worker or from a member of the public, and we will go out and inspect those as well. I do not have the specific details of those particular inspections on me but it would have been either because of a proactive inspection or a reactive inspection based on a complaint.

**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.

**The Hon. DANIEL MOOKHEY:** I think Ms Hogan, I will direct to you and you can direct to whoever accordingly. I just want to pick up where we were up to on silicosis.

**Ms HOGAN:** Ms McCool is the expert. Would you like me to bring her to the table?

**The Hon. DANIEL MOOKHEY:** Sure. I just want to pick up where we were with the Minister. We have the regulation going into effect or at least operational by 1 July. Is that regulation public?

**Ms McCOOL:** The Act and regulation is in drafting and there is consultation to occur once it is drafted. Are you referring to the on the spot through the—

**The Hon. DANIEL MOOKHEY:** No. I am referring to the reduction in the WES.

**Ms McCOOL:** That does not need a change in legislation so we—

**The Hon. DANIEL MOOKHEY:** Okay. So the reduction—non-legislation regulation.

**Ms McCOOL:** No.

**The Hon. DANIEL MOOKHEY:** So you are saying to drop the workplace exposure standards from 0.1 to 0.05, how is that being effected?

**Ms McCOOL:** The Minister's decision was that it was adopted or implemented in three years of the date of the decision for New South Wales and would commence on 1 July.

**The Hon. DANIEL MOOKHEY:** What will happen on 1 July? What does the standard go to?

**Ms McCOOL:** It is 0.05.

**The Hon. DANIEL MOOKHEY:** So it is going to 0.05?

**Ms McCOOL:** So it was be halved.

**The Hon. DANIEL MOOKHEY:** It is going to be halved, yes; that is what we know. I am asking through which legal instrument will that be effected?

**Ms McCOOL:** Safe Work Australia republishes the workplace exposure standard as per the regulations. In our regulation, as I said, it does not have a definition in terms of—

**The Hon. DANIEL MOOKHEY:** Okay, so when the Minister said that the New South Wales Government is going to 0.05, what he was actually saying was that Safe Work Australia is prescribing that as the new national standard from 1 July?

**Ms McCOOL:** Yes, and we have up to three years in order to implement.

**The Hon. DANIEL MOOKHEY:** We have up to three years for businesses in New South Wales to get to 0.05?

**Ms McCOOL:** No, from the national decision, each jurisdiction has up to three years to implement. So Queensland, South Australia and ourselves will start on 1 July. Victoria started in December but the other jurisdictions have not committed to a date yet.

**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.

**The Hon. DANIEL MOOKHEY:** If we are tagging onto Safe Work Australia for the purposes of reduction of WES, first of all, does that apply to all industries or non-mining industries or is it just manufacturers?

**Ms McCOOL:** All industries.

**The Hon. DANIEL MOOKHEY:** Does that include mining?

**Ms McCOOL:** Yes, tunnels, foundries, construction.

**The Hon. DANIEL MOOKHEY:** So it is a national exposure?

**Ms McCOOL:** Yes.

**The Hon. DANIEL MOOKHEY:** When the Minister said that the decision to effect the ban on dry cutting is going to be effected through the same regulation, what exactly was he talking about?

**Ms McCOOL:** At the moment we can issue a prohibition which bans the practice. Once you have received a prohibition you cannot recommence that work. So there is, in effect, already a ban. What on-the-spot will do is further enforce that. So it will be an on-the-spot penalty as well.

**The Hon. DANIEL MOOKHEY:** Let us tease out the difference there a little. I accept that Mr Dunphy and you, Ms McCool, gave this evidence before the law and justice committee about the existing ban, or the existing practice of Safe Work. Let us use that as a point in time. I think you gave that evidence around 14 February

or thereabouts. You advanced, as did you, Mr Dunphy, the very strong case that you believed it was already banned. Do you recall that evidence?

**Mr DUNPHY:** That is right, yes.

**The Hon. DANIEL MOOKHEY:** I think the argument, Mr Dunphy, that you advanced was in order for you to comply with the general duty to maintain a safe workplace it is impossible to engage in the practice of dry cutting and satisfy that obligation. Is that the thrust of your evidence?

**Mr DUNPHY:** Yes, that if you are dry cutting you would exceed the exposure standards. So essentially it is prohibited because any dry cutting would already put you in breach of the legislation.

**The Hon. DANIEL MOOKHEY:** But then on 21 February the Minister said "No, we will be banning it." The Minister for Better Regulation and Innovation, Kevin Anderson, said a ban on all dry cutting would expose workers to silicon dust would start on 1 July. Did you see that?

**Mr DUNPHY:** I did, yes.

**The Hon. DANIEL MOOKHEY:** A week prior to him saying that you were in front of the law and justice committee saying it is already banned and he is in the media saying it is going to be banned. What is the exact policy? Is it banned or is it not banned?

**Mr DUNPHY:** The policy already was on our website that it was banned that you are prohibited from doing it. What the Minister has announced is that this was really to ensure that was no confusion or there was an abundance of clarity that it was a requirement and we will now write that in the legislation so it is very specific. I think the criticism was that it was too obtuse to rely on the exposures that people may not understand that.

**The Hon. DANIEL MOOKHEY:** Certainly that was a criticism that we were advancing at law and justice but just now you say it is going to be advanced through legislation. What does that mean?

**Ms McCOOL:** The on-the-spot has to require an amendment to the regulation, which is being drafted now.

**The Hon. DANIEL MOOKHEY:** So the on-the-spot proposition is designed to allow you to on-the-spot do what?

**Ms McCOOL:** Issue a penalty.

**The Hon. DANIEL MOOKHEY:** A penalty infringement notice?

**Ms McCOOL:** That is right.

**The Hon. DANIEL MOOKHEY:** Are you saying, so I can properly understand it, that in order for you to have that power a legislative change will be required?

**Ms McCOOL:** That is correct.

**The Hon. DANIEL MOOKHEY:** What legislation needs to change?

**Ms McCOOL:** The Work Health and Safety Regulation.

**The Hon. DANIEL MOOKHEY:** So the Work Health and Safety Regulation. And you are planning to come to Parliament with a bill to that effect?

**Ms McCOOL:** It needs to go to the Governor, as I understood, because it is a regulation.

**Mr DUNPHY:** Yes, it is a regulatory amendment.

**The Hon. DANIEL MOOKHEY:** I understand. So it is amendment to regulations, not legislation?

**Ms McCOOL:** Yes.

**The Hon. DANIEL MOOKHEY:** Got it. When is that happening?

**Ms McCOOL:** On 1 July.

**The Hon. DANIEL MOOKHEY:** When is it going to—

**Mr DUNPHY:** It is being drafted so it will be ready to commence on 1 July.

**The Hon. DANIEL MOOKHEY:** It is going to regulation and that is what you are currently drafting but it is not yet at the stage of consultation?

**Ms McCOOL:** That is correct.

**The Hon. DANIEL MOOKHEY:** When do you intend for it to be at the stage of consultation?

**Ms McCOOL:** We have had a look at the first draft. It essentially has to outline what is acceptable practice. So that is going through the technical review at the moment. All going well, very shortly it will go for consultation.

**The Hon. DANIEL MOOKHEY:** A technical review and then it goes to consultation. Publicly when will people in this industry see it?

**Ms McCOOL:** As I said, it just needs to go through the review, so very shortly. You can probably appreciate we call it uncontrolled dry cutting, so that is where we need to outline through the regulation what would constitute penalty. That kind of information, as I said, is just being worked through.

**The Hon. DANIEL MOOKHEY:** Is it your view that after you issue that notice that the base position now which is to issue prohibition notices will no longer be required—that is, you will be able to assume that all 246 sites have to be obeying that and none of them can put their hand on their heart and say, "We obeyed the law" if they have not been given prohibition notices? Do you understand what I am saying?

**Ms McCOOL:** It is essentially both. You would receive a prohibition on the spot. In terms of if anyone has already had a prohibition, that is where a penalty can apply up to \$100,000. So a prohibition is never lifted. You can never go back to the same activity. So in the future any new instances, knowing we have not seen any instances of dry cutting for quite a long time, there were about 30 to 35 instances that we have seen knowing that some were in industries other than manufactured stone. So from that point it will be a prohibition and the on the spot. But in terms of any current prohibitions, if it is breached it can escalate to penalties up to \$100,000.

**Mr DUNPHY:** The mechanism would be the actual prohibition in the regulation to stop the work from occurring. The prohibition, if we went and decided and we saw someone dry cutting, is to stop that from happening immediately and then we can take other actions following that.

**The Hon. DANIEL MOOKHEY:** Is that regulation or any other form of policy change that the Government is currently considering, are you considering any adjustments to the minimum standard of personal protection equipment, that a person working in manufacture sites do not have to follow?

**Ms McCOOL:** In terms of you have got to look at the hierarchy of control. So personal protection equipment is your last form of control.

**The Hon. DANIEL MOOKHEY:** I just said that.

**Ms McCOOL:** It depends how you have gone through your risk assessment and what controls you have put in place will even determine whether it is P1, P2, PAPR mask. Essentially it is the control measures in front. However, what has been decided is a national code of practice which will obviously set a clear benchmark around the country for what compliance looks like.

**The Hon. DANIEL MOOKHEY:** I accept your point that it is the last aspect of the hierarchy of controls but am I inferring correctly that your view is whether or not we mandate it or not will depend on what happens in the national code of practice?

**Ms McCOOL:** No, right now, as I said, if people are doing all the right things and they are either wet cutting, they are using vacuum control, they are using ventilation, the normal mask would be a P2 mask. If you are not doing those type of controls, or they are not in full operation, you may need to wear a PAPR mask, for example. So it is not a definitive rule as to "you must wear this mask". A minimum would be P2.

**The Hon. DANIEL MOOKHEY:** Ms Webb, you made a point at the law and justice committee that your resources are finite and being able to sustain this level of inspection and compliance in manufacturer sites is not something that you would be able to do permanently.

**Ms WEBB:** I am not sure I said those exact words, but I agree that we have to prioritise the risks that we address, and having all done this work on manufactured stone, you might not be keeping it up at this intensity, depending on what we find.

**Ms McCOOL:** We have got a five-year strategy. As you know, we are 2½ years in. In 2020 there will be 2,400 visits, which is including every manufactured stone site being visited again, 15 tunnelling visits, 50 for major infrastructure, 2,100 in construction, 20 of the foundry sites.

**The Hon. DANIEL MOOKHEY:** Would you please go a bit slower? It is 2,400 visits, 15 tunnelling—

**Ms McCOOL:** Yes, 15 tunnelling, 50 in major infrastructure, so hospitals, roadworks, 2,100 in construction, 20 in foundries—that is the 20 foundry sites in New South Wales, so that is all of them—and all manufactured stone sites will be visited again. That brings you to 2,400.

**The Hon. DANIEL MOOKHEY:** Okay. And are you engaging with AESAG in terms of identifying new sites for manufactured stone or others?

**Ms McCOOL:** We have served notices previously to get the list of who they supply to.

**The Hon. DANIEL MOOKHEY:** When are you doing that again?

**Ms McCOOL:** There is no definitive date we do that.

**The Hon. DANIEL MOOKHEY:** Okay. Can I ask, Ms Webb, when you said therefore that after all that activity is being planned—sorry. That is all to be done in 2020, Ms McCool?

**Ms McCOOL:** Yes.

**The Hon. DANIEL MOOKHEY:** And then afterwards you will be making a decision as to any adjustments in intensity, Ms Webb or Mr Dunphy or Ms McCool?

**Ms WEBB:** With all our activities across all the risks and all the industries that we regulate it is a continual process, so we would be continuing. But as Ms McCool says, it is a five-year plan so we will definitely be continuing this work.

**The Hon. DANIEL MOOKHEY:** Do you have the data today as to how many inspections you have done of tunnelling projects?

**Ms McCOOL:** Yes, I can give you that. When you look at the construction infrastructure in relation to tunnelling—this was provided on 9 September—there has been 220 proactive visits. In 2020, as I said, there will be 15 tunnelling from there.

**The Hon. DANIEL MOOKHEY:** Of the 220, how many of them were on the WestConnex project?

**Ms McCOOL:** There were 70 proactive.

**The Hon. DANIEL MOOKHEY:** And that covers—do know the tunnels you were checking?

**Ms McCOOL:** We have got 50 on Sydney Metro and 42 on NorthConnex.

**The Hon. DANIEL MOOKHEY:** So 50 on Sydney Metro—

**Ms McCOOL:** Yes. That is to the end of 2019.

**The Hon. DANIEL MOOKHEY:** So 50 on Sydney Metro, 40 on NorthConnex and you said 70 on WestConnex?

**Ms McCOOL:** That is correct.

**The Hon. DANIEL MOOKHEY:** And over what period of time was that?

**Ms McCOOL:** That was in the calendar year 2019.

**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.

**The Hon. DANIEL MOOKHEY:** So the 70 proactive on WestConnex, 50 on Sydney Metro and 40 on NorthConnex—can we go through them? Of the 70 on WestConnex, what did you find?

**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.

**The Hon. DANIEL MOOKHEY:** Okay.

**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.

**The Hon. JOHN GRAHAM:** Yes, great—which would be useful. Specifically on the NorthConnex—sorry. Did you want to add something there?

**Mr DUNPHY:** I will just say in terms of construction visits it is quite usual that there is a high number of notices issued just because of the dynamic nature of construction sites, the range of risks, as Ms McCool has pointed out, and the high-risk nature of them. So it is not unusual compared to some other workplaces to actually see a much higher number of notices.

**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.

**Mr Dunphy:** I do not have the specifics of the issue but again, as Ms McCool has pointed out, there is a range of hazards that we identify when we go onto these sites. In tunnelling, mould is sometimes an issue given the nature of water penetration and other issues, so we certainly can provide you with information about that.

**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.

**The Hon. DANIEL MOOKHEY:** That would be great. Do you also maintain data on what health and safety representatives are doing on those sites in terms of any notices that they issuing? Do you maintain that data?

**Mr Dunphy:** Not specifically, unless they have sought a request for service for us to review a notice. So if a health and safety rep has issued a provisional improvement notice on site, sometimes their inspectors will be called in to review that notice. We would have data on that if there had been any of those. But in terms of just the issuing of an improvement notice by a health and safety rep—a provisional improvement notice—if that is complied with, we would not normally have those details.

**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. Just for these purposes, those three would be good. Can I just ask, do you maintain data on the number of workplace deaths in New South Wales?

**Mr DUNPHY:** We do, yes.

**The Hon. DANIEL MOOKHEY:** How many did we have in 2019?

**Mr DUNPHY:** The number of workplace deaths is—we have traumatic injury fatalities, which are people who are killed through a traumatic injury. That is what we report nationally and that is the figure we report against the national targets. I have got the figures from 2012 through to 2018.

**The Hon. DANIEL MOOKHEY:** You do not have the 2019 figures yet?

**Mr DUNPHY:** No, they have not been finalised and published yet.

**The Hon. DANIEL MOOKHEY:** When do you anticipate they will be?

**Mr DUNPHY:** We are expecting them shortly. We provide all of the data—it has to be checked because it is compared between jurisdictions and Safe Work Australia has a role in making sure we are all reporting on the same—

**The Hon. DANIEL MOOKHEY:** It is the census date that you report to, is it not?

**Mr DUNPHY:** That is right, yes. We provide it up as the fatalities occur, and then they will provide a report. At the moment I do not have 2019, but for 2018 there were 47 fatalities. If we go back to the start of the original year of our roadmap, and also the 10-year target period, in 2012 there were 83 fatalities.

**The Hon. DANIEL MOOKHEY:** We will go off the 2018 numbers. Of the 47, how many of them resulted in prosecutions?

**Mr DUNPHY:** I would need to break down those details as to how many did occur in relation to a prosecution. Some of those will not; it depends on the nature of the fatalities. Sometimes it will be a sole farmer who may have tragically died at a family farm. In those cases we do not prosecute; there is nobody to prosecute. But the majority of where there has been a fatality, we would certainly investigate with the purposes of prosecution.

**The Hon. DANIEL MOOKHEY:** Were all 47 investigated?

**Mr DUNPHY:** Again, all will have been preliminary investigated. If we get to the point where we identify it was a sole farmer, we would not go to the full extent of that full investigation, necessarily.

**The Hon. DANIEL MOOKHEY:** I accept that. I am asking about the ones that do not fall within that category.

**Mr DUNPHY:** That is right, yes. If it appears for most of those that there is somebody who may be culpable, we would certainly carry out a full investigation.

**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.

**The Hon. DANIEL MOOKHEY:** That would be good. I want to talk about a couple of incidents that have come up recently. Firstly, SafeWork NSW investigated the tragedy of a 49-year-old who effectively had his face blown off through a pressure accident at the IMAX site, on a construction site in November last year. The last available information we had was that a SafeWork NSW spokesperson said that they had been notified. Have you completed a preliminary investigation into that incident?

**Mr DUNPHY:** That is still under full investigation.

**The Hon. DANIEL MOOKHEY:** So it has gone past preliminary investigation and it is in a full investigation stage?

**Mr DUNPHY:** Generally, with most fatality matters, we would normally go to full investigation. That would be one that has.

**The Hon. DANIEL MOOKHEY:** I am trying to understand what you said before when you were describing this category of preliminary investigation.

**Mr DUNPHY:** Yes.

**The Hon. DANIEL MOOKHEY:** If you are saying that all workplace deaths go to full investigation, what is the relevance of the preliminary investigation stage?

**Mr DUNPHY:** As I said, there are certain circumstances where there may not be a party to actually investigate. As I have mentioned, where you may have a sole farmer who has been killed at work or died at work and there is nobody to investigate, in those preliminary investigations we would rule out the full investigation of that matter.

**The Hon. DANIEL MOOKHEY:** We can agree that is the exception. Is that fair?

**Mr DUNPHY:** Yes.

**The Hon. DANIEL MOOKHEY:** This one is at the stage of full investigation?

**Mr DUNPHY:** Yes.

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

**Mr DUNPHY:** A full investigation typically takes up to 12 months, and if it is a more complex case it could take longer. But there is a statute of limitations of two years. We must have it completed within the two-year period, but we aim to try to have most investigations completed within 12 months.

**The Hon. DANIEL MOOKHEY:** We will have more to say about that, or not, towards the end of this year?

**Mr DUNPHY:** That is right.

**The Hon. DANIEL MOOKHEY:** Can we talk about the tragedy of the nurse who found herself killed when she was visiting a patient? You recall the incident?

**Mr DUNPHY:** Yes, it was a very tragic circumstance.

**The Hon. DANIEL MOOKHEY:** It took place, I think, around Christmas last year. Where are we up to on that?

**Mr DUNPHY:** Again, that one is under investigation and at this stage I do not have any further details. But I can provide you with an update if there is any further information in relation to that.

**The Hon. DANIEL MOOKHEY:** But you can confirm that you are investigating?

**Mr DUNPHY:** That is right.

**The Hon. DANIEL MOOKHEY:** There is some conjecture that you are not because it took place in a home and not in what some would describe as an ordinary workplace. Can you address that concern?

**Mr DUNPHY:** Yes. The work health and safety legislation does not—workplaces can be anywhere so it does take into account that people do home work and that they do home visits, all of those circumstances. If somebody is, as part of their work, visiting somebody's home or if they are on public property, that would still be considered a workplace. So that would not be a reason for excluding the investigation.

**The Hon. DANIEL MOOKHEY:** Yes, and that certainly accords with my understanding of the law but you can confirm that is the basis upon which you are proceeding, that the home—

**Mr DUNPHY:** I do not know the particulars, but that would not rule out the investigation.

**The Hon. DANIEL MOOKHEY:** Putting aside the issue to do with that specific incident, after you were notified of the incident, did you review NSW Health's procedures in any way, shape or form in respect to nurse home visits?

**Mr DUNPHY:** I was not in the role at the time when this occurred, so I would need to check that.

**Ms WEBB:** I know we have had quite a bit of engagement with both the nurses' union and Health over this matter. Certainly, just the standard part of any investigation would be to look at what the procedures were at the time of the incident. Then the investigation team, if they thought there should be some improvement, would definitely be doing something about that. That is all a generality, but we can certainly specifically say what we have done. I am certainly aware of some conversations with Health and the nurses' union.

**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.

**The Hon. DANIEL MOOKHEY:** I am just asking about specific changes to home visit procedures that arise from this incident.

**Mr DUNPHY:** That is looking specifically at work-related violence and psychosocial hazards, so it is looking at the whole issue of patient care.

**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.

**The Hon. JOHN GRAHAM:** You have talked about the reporting that is done, the similarity with reporting for some of these workplace deaths and the fact that it is a national reporting scheme. It is reportedly easier to access that information from Safe Work Australia or from some of the other jurisdictions about exactly what is going on in their States. Why don't we make that information as publicly available in New South Wales as is the case in those places?

**Mr DUNPHY:** I think we do do every effort to communicate that because it is a very important risk communication tool, as you rightly point out. If there is more we can do certainly we are very happy to look at that. It is a part of the SafeWork roadmap, which is our strategy to 2022—the six-year strategy. That is about reporting annually on how we are travelling with that and one of the key things are the fatality targets and how we are travelling on those. We know that we are actually on track in terms of at present meeting those targets, not only the national targets, which are 20 per cent, but we imposed an even much higher target in New South Wales of a 30 per cent reduction in fatalities.

**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.

**The Hon. JOHN GRAHAM:** Thank you for that. I wanted then to turn to one specific incident which was of particular concern on 29 and 30 October 2019. It related to an incident at Banfield Road, Macquarie Park—a construction site—and a discussion about fall from height risks and unsafe access and egress. I will just report some of the specific details of what then happened and I will ask you either to respond now or to respond on notice. On inspecting the crane base at the site, union officials and SafeWork inspectors reportedly identified structural integrity concerns with the crane and surrounding scaffolding. The principal contractor was instructed to cease crane operations.

Whilst standing in the car park in the process of leaving the site, union officials brought SafeWork inspectors' attention to the fact that the crane had already started operating again in direct contravention of the safety direction. SafeWork inspectors allowed the crane to continue operating, leaving the site without taking action to enforce the prohibition. That is the incident as it has been reported. I am raising that with you in order to clarify, firstly, the facts but then, if those facts are accurate, obviously that is a concerning report. Can you give us any background on that incident at this point?

**Mr DUNPHY:** If you could just give me the date again?

**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.

**The Hon. DANIEL MOOKHEY:** I turn to another matter to do with SafeWork. You would recall the tragic incident of two babies being given incorrect gas at Bankstown-Lidcombe Hospital? Do you recall that?

**Mr DUNPHY:** Yes.

**The Hon. DANIEL MOOKHEY:** Do you recall that one of them died and the other one was left with a traumatic brain injury?

**Mr DUNPHY:** That is correct, yes.

**The Hon. DANIEL MOOKHEY:** You began legal proceedings against South Western Sydney Local Health District, that is correct?

**Mr DUNPHY:** That is correct, yes.

**The Hon. DANIEL MOOKHEY:** But then you ceased those proceedings?

**Mr DUNPHY:** In relation to that, we have entered into an enforceable undertaking. Under the work health and safety legislation there are a number of options available to the regulator—prosecution is one of them. In lieu of prosecution, an enforceable undertaking is also another option. In that case, the local area health service sought an enforceable undertaking. Can I say that in accepting an enforceable undertaking they are never a very light undertaking. It is something that usually requires more funding in terms of doing proactive actions. It is also designed so that the organisation can focus money rather than on legal battles, on doing something above and beyond statutory compliance and taking actions that are positive in terms of resolving it. In that case, there was an agreement if the local area health service does not actually carry out the enforceable undertaking or they neglect to fulfil their obligations under that, it is still open to us to prosecute them for that matter.

**The Hon. DANIEL MOOKHEY:** Let's just unpack that, Mr Dunphy—the fact pattern that you just described there. Firstly, you confirmed that the actual prosecution therefore has halted?

**Mr DUNPHY:** That is right. We have embarked on an enforceable undertaking. They need to follow that. The prosecution will commence again if the enforceable undertaking is not followed.

**The Hon. DANIEL MOOKHEY:** That is the way enforceable undertakings work. Presumably that enforceable undertaking was provided to the court?

**Mr DUNPHY:** It is registered, yes.

**The Hon. DANIEL MOOKHEY:** It therefore is public?

**Mr DUNPHY:** It is public and they do need to put out a media statement about their statement of regret and also what they are doing in terms of the enforceable undertaking. It is a very public document.

**The Hon. DANIEL MOOKHEY:** Okay. So let's just explore how the decision was made to pursue an enforceable undertaking. You say that they requested it?

**Mr DUNPHY:** We do not normally suggest to somebody an enforceable undertaking and we would follow the prosecution pathway. However, it is open to any duty holder to suggest an enforceable undertaking.

**The Hon. DANIEL MOOKHEY:** They suggested it?

**Mr DUNPHY:** They would have approached us about it, yes.

**The Hon. DANIEL MOOKHEY:** When did they do that?

**Mr DUNPHY:** I do not know the specific timing of that but it would have been as part of the process, once we had finalised our investigation.

**The Hon. DANIEL MOOKHEY:** Did they do it by way of letter? Do they do it by way of mediation? How was that request communicated?

**Mr DUNPHY:** It is usually documented so it would be a formal request.

**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?

**Mr DUNPHY:** Within SafeWork we have an enforceable undertakings team.

**The Hon. DANIEL MOOKHEY:** A whole team?

**Mr DUNPHY:** We have a team because they also monitor compliance as well. We do not just issue an enforceable undertaking and ignore it. There is a team that actually works with all of the duty holders.

**The Hon. DANIEL MOOKHEY:** Someone has to be the decision-maker to choose between the two pathways and I would you presume that is a senior person at SafeWork?

**Mr DUNPHY:** That is correct, yes.

**The Hon. DANIEL MOOKHEY:** Who is the person?

**Ms WEBB:** It goes to the compliance investigation panel, which includes the SafeWork directors. The ultimate decision-maker at the time would have been the Executive Director of SafeWork, Operations but we have now had a realignment.

**The Hon. DANIEL MOOKHEY:** So the decision to enter into an enforceable undertaking at the expense of further prosecution was made at your level of staff or the level up?

**Ms WEBB:** The formal decision was made at Mr Dunphy's level. It was certainly something that was discussed quite widely with the senior management but our process is that the formal decision is at the executive director level.

**The Hon. DANIEL MOOKHEY:** And you said earlier that the advice perhaps that was given to you was to engage upon this enforceable undertaking because it can result in saving the cost of effectively prosecuting, getting to an outcome quicker in time—is that a fair summary?

**Mr DUNPHY:** One of the purposes of an enforceable undertaking is to have more restorative justice in doing things above and beyond, which will help the community and help improve the work health and safety of the workers generally. There is a much broader context.

**Ms WEBB:** I might just add, in addition to all those factors that Mr Dunphy said, which were absolutely correct, we also take into account other potential defendants and the level of culpability of the various parties. As you know, we are prosecuting the people who actually did the work in this case as well.

**The Hon. DANIEL MOOKHEY:** Who was the other defendant?

**Ms WEBB:** The other defendants are BOC Ltd, Pro-Med Services Pty Ltd, Christopher Turner and Paul Brightwell.

**The Hon. DANIEL MOOKHEY:** Are BOC subject to enforceable undertaking as well?

**Ms WEBB:** No.

**The Hon. DANIEL MOOKHEY:** Who are the other ones?

**Ms WEBB:** Pro-Med Services Pty Ltd.

**The Hon. DANIEL MOOKHEY:** Are they subject to enforceable undertakings?

**Ms WEBB:** Their principal officer entered a plea of guilty, that was Mr Turner.

**The Hon. DANIEL MOOKHEY:** He pleaded guilty and what was his penalty?

**Ms WEBB:** The sentencing is still being considered.

**Mr DUNPHY:** It is still being considered so it is still before the courts.

**The Hon. DANIEL MOOKHEY:** Who was the third person that you made mention to?

**Ms WEBB:** It was Paul Brightwell.

**The Hon. DANIEL MOOKHEY:** Paul Brightwell. Did he enter into an enforceable undertaking?

**Ms WEBB:** No.

**The Hon. DANIEL MOOKHEY:** And is he still being prosecuted?

**Ms WEBB:** No, those proceedings have been discontinued

**The Hon. DANIEL MOOKHEY:** Why were they discontinued?

**Ms WEBB:** I presume on legal advice.

**The Hon. DANIEL MOOKHEY:** On legal advice, okay.

**Mr DUNPHY:** There is also proceedings against BOC Ltd.

**The Hon. DANIEL MOOKHEY:** And that is still continuing?

**Mr DUNPHY:** They are still continuing.

**Ms WEBB:** They are still continuing.



**The Hon. DANIEL MOOKHEY:** Have they requested an enforceable undertaking that you refused?

**Ms WEBB:** Not to my knowledge. But we could check that.

**The Hon. DANIEL MOOKHEY:** Of the four parties, one of them was the Government—South Western Sydney Local Health District. One of them has been discontinued on the basis of legal advice. Another one has pleaded guilty and another one is still going. But the only people who so far have entered into an enforceable undertaking is the Government. Is that correct?

**Ms WEBB:** That is correct.

**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.

**The Hon. DANIEL MOOKHEY:** But you can understand the sentiment, I am sure.

**Mr DUNPHY:** Absolutely. It is a really devastating and horrific circumstance.

**The Hon. DANIEL MOOKHEY:** And you understand that in addition to the value of prosecution—and I am just going off your policies—is to provide deterrent effect, amongst many other things?

**Mr DUNPHY:** Yes.

**The Hon. DANIEL MOOKHEY:** You make the point about justice but you also need to be satisfied of justice, particularly for people who have lost family members—

**Mr DUNPHY:** Yes.

**The Hon. DANIEL MOOKHEY:** So how is it possible that either of the deterrent effect is being effected by the enforceable undertaking? And how is that deterrent effect greater than a prosecution?

**Mr DUNPHY:** The actual enforceable undertaking, as I said, often is a much more expensive process than actually being fined under legislation.

**The Hon. DANIEL MOOKHEY:** Expensive for whom?

**Mr DUNPHY:** For the duty holder in terms of what they need to commit to and what they actually do. Typically, it would be a significant amount of money that they need to commit to and a significant amount of actions within the organisation in terms of what they need to do, including sometimes outreach to people within their industry, developing publications and awareness materials as well, and promoting what has actually happened and ensuring that there is broader awareness of the issues that relate to that particular matter.

**The Hon. DANIEL MOOKHEY:** Are you saying that the deterrent effect of the enforceable undertaking is greater than a prosecution?

**Mr DUNPHY:** It is a case-by-case basis.

**Ms WEBB:** It depends on the circumstance. That is why the law has both options for us.

**The Hon. DANIEL MOOKHEY:** I am asking you, in this circumstance, are you saying that the deterrent effect of the enforceable undertaking is greater than a prosecution?

**Mr DUNPHY:** I think the Parliament has determined that they both be in the legislation and the enforceable undertaking—

**The Hon. DANIEL MOOKHEY:** Yes, but you are the one making a decision to pursue this pathway. So I am asking you—

**Mr DUNPHY:** Because it is available to people and there is a—

**The Hon. DANIEL MOOKHEY:** No-one is disputing your power in this regard but it appears that the Government requested of the government regulator an enforceable undertaking in place of a prosecution. That is pretty serious from the perspective of the community and certainly for the family. It looks like the Government asked for a free pass here. What can you see to allay that concern that the Government's regulator went soft on the Government?

**Ms WEBB:** I think the amount of work that the defendant has to do to implement the enforceable undertaking is quite substantial. They have to do a lot of promotion in culturally and linguistic. They have to do a lot of positive things other than just being prosecuted. They have to spend, as Mr Dunphy says, quite a lot of money in putting this through. All of this is of benefit to the community.

**The Hon. DANIEL MOOKHEY:** But I can only presume that if you had proceeded to a prosecution, everything that you just said then, you would have asked for a court to impose it anyway. You would have presumably, if the court did not impose it, issued improvement notices to that effect. From that perspective, I do not understand why an enforceable undertaking was the only mechanism available to you to achieve that outcome. I suggest you that it was not and that if you had prosecuted—

**Ms WEBB:** It is my understanding that a court would not be able to impose orders as wide as doing a health and literacy program for culturally and linguistically diverse—

**The Hon. DANIEL MOOKHEY:** Presumably you could have imposed that through your other powers as well.

**Mr DUNPHY:** No, we can—

**The Hon. DANIEL MOOKHEY:** Did you negotiate the enforceable undertaking with the health department or did they suggest the draft of what they would like to be subject to or did you write for them?

**Mr DUNPHY:** They would be negotiating with, according to our guidelines—they need to meet the guidelines and they would be working. There is quite an involved process in terms of actually getting agreement on what those arrangements were.

**The Hon. DANIEL MOOKHEY:** So they were able to negotiate their own penalties. That is effectively what we are being told.

**Mr DUNPHY:** SafeWork negotiated the actual outcome with them.

**The Hon. DANIEL MOOKHEY:** Am I okay to keep going, Mr Chair?

**Mr DUNPHY:** Can I also say that I think it is wrong to say that we could have done this through another way. What they have done is above and beyond. We can only require them to meet compliance. We actually asked them to do above and beyond what is required under the legislation in terms of the actions that they have committed to under the enforceable undertaking.

**Ms WEBB:** I think the basic principle of an enforceable undertaking in this or any legislation is that it is a negotiation between the parties.

**The Hon. DANIEL MOOKHEY:** Yes, that is part of the reason why, for example, the banking royal commission has strongly recommended that they be limited in use when it comes to their form of regulation because it does seem to allow this cultural practice. I am accepting, of course, that banking regulation is very different to workplace regulation but the points I am making to you are not commonly made about using enforceable undertakings as an instrument here. What makes this case different is that it is the Government negotiating with the Government. I accept your point that enforceable undertakings have to be by the way in which they are always negotiated, but do you understand how that must look to the family? What have you actually taken to address the concerns that the Government's regulator has gone soft on the Government?

**Mr DUNPHY:** One, we do work with the family in terms of these and we do take on board their input to the consideration of it. There is a very tight policy. We do not take these matters lightly. We do more prosecutions than we do enforceable undertakings. We are very minded to ensure that whatever we do in this space, that is the best outcome for the community and for work health and safety. We are doing it from that perspective and that is purely what our team does. To suggest that we would be trying to negotiate something that was lesser than that would be quite offensive to the organisation. All of the people who are involved in these are really committed to getting the best outcomes for workers, the best outcomes in terms of work health and safety and, more importantly, ensuring that this never happens again.

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

**Mr DUNPHY:** Yes, absolutely.

**The Hon. JOHN GRAHAM:** Mr Dunphy, can I ask about some broader concerns about the number of inspectors and the number of inspections. I am referring now to public reports about the number of inspections that have taken place. These were raised in the Herald and I would like to give you the opportunity to correct the record about this if necessary, or to comment on these. I will read to you what has been publicly reported:

NSW government figures show SafeWork NSW completed 12,349 inspections and other compliance activities for the 10 months until November. This compares to 42,582 so-called workplace safety 'interactions' including inspections completed in the 2017/18 financial year.

Can you give us some background about why that appears to show a real drop in inspection activity?

**Mr DUNPHY:** I think they are probably just looking at some of the breakdown. For 2018-19 there was a total of 43,201 interactions. That includes our proactive workplace interventions, which will include where we go out and we target workplaces and intervene. For that year we did over 19,000—almost 20,000. We also do a lot of awareness in community engagement. So there were also 1,421 workshops and presentations that we did for workers and for employers. The reactive workplace interventions for that year was 12,669. I think that is probably what that figure is referring to, where we have typically responded to a complaint. We get about 10,000—I think 8,000 to 10,000 complaints a year, and also about the same number of incidents and notifications. I think the 12,000 that was being referred to there is referring just as those reactive—

**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.

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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. The Premier received correspondence in December, raising concerns about the fact that one in 10 jobs allegedly in SafeWork remained vacant at that point. Can you confirm where we are up to in December last year and now in terms of having jobs filled at SafeWork?

**Ms WEBB:** The inspector cohort is 330. We are running at 296 at the moment. We have about 30 people who have been selected for a position or are going through the final assessment process or are being offered the job. They are all in that category. There are about four or five where we still have the vacancy that we are having to follow up on.

**Mr DUNPHY:** To add to that, I think at the last budget estimates we used the figure of 331. Sometimes we do a bit of succession planning with the inspectors retiring but it is around that figure.

**Ms WEBB:** It might be 31, not 331.

**The Hon. DANIEL MOOKHEY:** On the enforceable undertaking [EU] issue, what other enforceable undertakings have you entered into in the past 12 months?

**Mr DUNPHY:** In 2018-19 there were five EUs accepted for a total value of \$3.2 million. In the 2019-20 financial year, so far this year we have accepted eight enforceable undertakings for a total of \$5.6 million worth of undertakings.

**The Hon. DANIEL MOOKHEY:** Sorry, 2019-20, is that the financial year you are talking about?

**Mr DUNPHY:** It is 2019-20. So far this year we have accepted eight enforceable undertakings worth the value of \$5.6 million. In total, since we commenced enforceable undertakings in 2012, we have agreed to 48 enforceable undertakings for a total value of \$21.4 million worth of activities or commitments that those organisations needed to carry out. Of those 48, a total of 15 have been completed.

**The Hon. DANIEL MOOKHEY:** When you say "completed", what do you mean?

**Mr DUNPHY:** I mean that we are satisfied that they have met all their obligations under the enforceable undertaking. They do take some time because that is quite a big commitment that they are committing to. In terms of the breakdown of those 48 enforceable undertakings since 2012, a total of 60 per cent of those have been for large organisations, 32 per cent for medium organisations and 6 per cent for small. In terms of the breakdown, the majority have been for the manufacturing sector and secondly for the construction sector. A total of 35 per cent of all of them have been in the manufacturing sector space and 25 per cent in the construction space. There have been very few for government.

**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.

**The Hon. DANIEL MOOKHEY:** Can I ask about SafeWork inspections for health and safety representatives [HSR] trainees? Is that something you do?

**Mr DUNPHY:** We do regulate HSR trainings. There is a group that actually oversees the registered training organisations [RTOs] and the curriculum.

**The Hon. DANIEL MOOKHEY:** How do you regulate them?

**Mr DUNPHY:** In terms of—they need to be the trainers. It is not my specific area of expertise but Ms McCool has worked in that space.

**Ms McCOOL:** Essentially there are two ways: either adopt the standardised course or develop their own. But each organisation that is delivering that training needs to be in agreement with SafeWork. They also need to pre-notify prior to the trainings so that we can conduct inspections.

**The Hon. DANIEL MOOKHEY:** Just unpack that again a little. You say that there are two categories. Is that right? Did I hear you right? Sorry, these members are talking and it is hard to properly understand.

**Ms McCOOL:** The only people who can provide the training, they need to be registered with SafeWork. So it is an approval. In terms of the course material, they either develop their own or use the standardised course. Part of their conditions of approval is that they must pre-notify at least seven days prior to every training course so that we can conduct audits or inspections on the delivery of that training.

**The Hon. DANIEL MOOKHEY:** Do you inspect every training?

**Ms McCOOL:** Every trainer? Anyone who is registered—

**The Hon. DANIEL MOOKHEY:** Any training. You said that people pre--notify you seven days ahead and therefore you can inspect.

**Ms McCOOL:** Yes.

**The Hon. DANIEL MOOKHEY:** Do you inspect every one of them afterwards or not?

**Ms McCOOL:** Afterwards?

**The Hon. DANIEL MOOKHEY:** Or during the training.

**Ms McCOOL:** Yes. Our inspectors would go into the classroom that is delivering the training and they would be reviewing that essentially the course material is being followed, that the learning outcomes are being met and also that essentially people have provided the right ID and have been registered correctly.

**The Hon. DANIEL MOOKHEY:** I do appreciate that, but are you doing it on a risk basis or are you doing that for all trainings?

**Ms McCOOL:** Anyone is subject to audits. Obviously those that have got higher volume would be audited on a more regular basis. Any ones that have, I guess, a compliance history would obviously be prioritised as well. But anyone is subject to an audit based on the notification and part of their requirements of holding their approval.

**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.

**The Hon. DANIEL MOOKHEY:** Thank you. Ms Webb, in the last estimates hearing we were talking about the restructure of the Better Regulation division of the cluster. Do you want to give us in your words an update as to where we are up to on that?

**Ms WEBB:** Sure. It is almost complete. We did some consultation and got quite a bit of feedback. We are taking all of that into account as we finalise the final structure. Just as we were starting to move into the new teams, a few inconsistencies or duplications arose. So we are tidying up the edges, but I would say for 90 per cent of the staff it is settled where they will go and where they will fit in the restructure. We just need to tidy up a few of the teams.

**The Hon. DANIEL MOOKHEY:** The teams are now being structured on a general inspectorate basis. Is that correct?

**Ms WEBB:** On a functional basis. It is a bit confusing because they use the word "inspectors" quite deliberately in the SafeWork context. In some of our legislation the notion of an inspector is not quite so clear. But people who are doing those sorts of compliance and dispute resolution activities are all in a team together.

**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 mugged 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.

**The Hon. DANIEL MOOKHEY:** That would be useful. How have you retained specialist expertise in this new structure?

**Ms WEBB:** In each of these streams the various areas are organised by specialist functions. For example, in Mr Tansey's policy team he has a building policy team, he has property and a real estate-related policy team, he has a liquor, gaming policy team, and he has the Office of Racing. So the teams underneath the executive director of the structure tend to be specialists.

**The Hon. DANIEL MOOKHEY:** Does that mean that only specialist workplace inspectors are inspecting workplaces or are there other people who are not specialists doing that too?

**Ms WEBB:** Under the Work Health and Safety Act people to be appointed inspectors have to have the right sort of training. Then we put them through the course. Then they get appointed as a work health and safety inspector and that is the only task they do.

**The Hon. DANIEL MOOKHEY:** Are you, as a result of the restructure, directing other members of staff to do that training and become certified?

**Ms WEBB:** Not so far. I do not know if we might think about it, but we have got plenty of other things for them to do, so we have not done anything like that, no.

**The Hon. DANIEL MOOKHEY:** But is not the benefit of this model meant to be that you can allocate people—what are the benefits of this model?

**Ms WEBB:** I think the benefit of the model is that, notwithstanding that people are doing inspection and compliance and enforcement activities under different legislation, many of the skills that they use are very similar, like the skill of going out and inspecting, the skills relating to issuing notices on people, the skills relating to investigating. So there are some opportunities there to integrate the training and the capability building. There are also quite a few areas, like Mr Dunphy was talking about, where both Fair Trading and SafeWork have an involvement. For example, the infrastructure inspections and the ability of the teams to work closer together notwithstanding that they have got specialist skills they have enhanced. Similarly, there is just the opportunity to make sure that we are more aware of what each other is doing rather than being in silos in the particular regulatory teams.

**The Hon. DANIEL MOOKHEY:** I will accept that that is what the benefits of the model is meant to produce. Do we have a scenario where, for example, under liquor and gaming regulations you have workplace inspectors inspecting those?

**Ms WEBB:** No. It has not happened and I do not think it would be our intention that that would happen.

**The Hon. DANIEL MOOKHEY:** Because presumably you have to have the specialised skills that are required under those laws too in order to undertake those inspections.

**Ms WEBB:** I might just step back and say it might be the case that both the liquor and gaming inspector and the work health and safety inspector attended the same premises at the same time, each with their own specialty but they would be doing their own specialty.

**Mr DUNPHY:** We have already discovered, I think, in the teams having the two groups together there are some synergies, whether it is LP gas, which both Fair Trading and SafeWork regulate, or whether it is music festivals, which liquor and gaming regulate, and SafeWork also has a role. But it is really quite useful to start to try to work out how we have a much more coordinated, joined-up process with the co-regulators.

**The Hon. DANIEL MOOKHEY:** Yes, and I accept that, but what I am getting at is how are you satisfying the requirements under each of the Acts for there to be people specified under those Acts? How do they actually make the transition and the ability to either realise these benefits or comply with the law?

**Ms WEBB:** As I mentioned, each of, say, the work health and safety teams—I will use them as an example; I will not use Mr Dunphy's area of compliance and dispute resolution. There is a very specific SafeWork construction team and there is a very specific Fair Trading building team. They both work to different directors but they do work with each other as well. So the person people are working for, their manager and their director, would be of the same specialty as them. Those directors across all the SafeWork functions wherever they sit also have a lot of interactions and we are making sure that the governance arrangements keep people informed about what is happening.

**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.

**The Hon. JOHN GRAHAM:** Is there any funding provided for that, any resourcing?

**Ms WEBB:** There is definitely a work program of outreach and the people that will be doing that will be the people in the community engagement team, and they will be working very closely with our real estate inspectors who are also interacting with the stakeholders a lot.

**The Hon. JOHN GRAHAM:** What about resourcing for those external bodies? Obviously you would expect it to lead to a growth in inquiries to the tenants advice and advocacy services. Are they getting any extra resourcing in order to deal with this?

**Ms WEBB:** It is a bit difficult to talk about matters that are under budget consideration at the moment, but we have certainly had some discussions.

**The Hon. JOHN GRAHAM:** So noting that—I am not asking you to comment on what might happen in the budget—these are coming in on 23 March; will there be anything in that—

**Ms WEBB:** On 23 March?

**The Hon. JOHN GRAHAM:** Yes.

**Ms WEBB:** No, nothing in this.

**The Hon. JOHN GRAHAM:** In this financial year?

**Ms WEBB:** We have already allocated our branch of the tenancy advocacy services.

**The Hon. JOHN GRAHAM:** It is possible it might be later—that will be a matter of speculation—but for this financial year there would not be?

**Mr DUNPHY:** No, and within our existing budget we are already doing a program of workshops, regional workshops and public information sessions, webinars, to ensure that industry understands both the real estate reforms and the residential tenancy reforms.

**The Hon. JOHN GRAHAM:** I want to ask about cladding. I only have a small number of questions, I want to assure the officials, on this. I did want to ask about that notification measure which is in place in Victoria, which is in relation to genuine purchasers and potential tenants. Essentially, there is a process in Victoria with the Victorian Building Authority where, if you are in either of those categories you can call in and you can actually check whether your property—it is obviously not done too broadly—provided you are in that category you can actually check if you have got cladding. I just want to confirm that is not the case in New South Wales, is it at the moment, for the potential tenant or owner?

**Mr TANSEY:** Not in that same way, but we have made changes through the real estate and residential tenancy laws so that cladding is now a material fact. That is the method we are using, seeking to ensure that people that are looking to either purchase a property or rent it need to be told about—

**The Hon. JOHN GRAHAM:** And that is also the case in Victoria. I just want to clarify, this is an additional step they are taking that we have not chosen to take at this time. Is that a fair representation?

**Mr TANSEY:** Correct.

**The Hon. JOHN GRAHAM:** The other measure in Victoria is that they say all government buildings identified as having combustible cladding, and they include not just the publicly owned buildings which we were talking about this morning, but they explicitly say including government-leased buildings, have had these two things satisfied. I want to ask are these two things true, not just for public buildings but for anywhere the government is in there leasing. Can we confidently say this: (a) they have had relevant fire safety measures put in place and (b) they have been assessed as safe to occupy?

**Mr TANSEY:** All buildings that we have identified as being cladding-affected, and that includes government-owned buildings and government-leased buildings, were subject to what has become the standard operating procedures for the whole cladding task force. They have all been operationally inspected by Fire and Rescue. Then have worked through the process—we have already gone through it a bit today—either through the respective cluster that owns the building, then pursuing a program of having all those buildings assessed, having them inspected, having a detailed assessment, if they are identified as being cladding-affected, having them assessed and remediation or rectification plans developed to the point where they are rectified and made safe. So we have done that for the government-owned buildings, mostly through Property NSW as the government head property agent. We have pursued that process then with the private owners of buildings that government leases and occupies.

**The Hon. JOHN GRAHAM:** Listening to your answer, we actually could not say that we are moving through the process but we will be yet to complete—some of these we might be waiting to hear from the council or from the private owner—we would be yet to be able to confidently say either for a government-owned building or a government-leased building that those two things we have satisfactorily reached; the fire safety measures are in place and they have been assessed as safe to occupy. We still might be moving through the process, might we, in New South Wales, getting that assessment done?

**Mr TANSEY:** We may still be moving through the process, but there are more than 3,000 buildings of the original 4,000 that have been moved to clearance.

**The Hon. JOHN GRAHAM:** I am asking about the 444 buildings on the register.

**Mr TANSEY:** For the 444 that we are still working through, yes, the objective is either to get them identified as yes they need to be rectified and that is done and they are then cleared, or else it is determined in fact that there was no cladding, that it was misidentified or there is such a small amount or in a low-risk or no-risk area that no rectification is required.



**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. I will just make the point that is separate to any of the questions I was asking the Minister today about does the public have a knowledge of where you are up to? That is a separate range of concerns, but thanks for your answers.

**The Hon. DANIEL MOOKHEY:** Ms Webb, returning to our discussion about your model. What are the cost savings that the model is going to deliver?

**Ms WEBB:** I think as I have mentioned, there would be some synergies with our training and capability building. Hopefully, there might be some cost savings in terms of, as I mentioned, people being able to go out on jobs together and maybe that will save some time and effort. And then I think it is not just a matter of cost saving; it is a matter of making sure we are doing our regulation better as well. We do not have a target number.

**The Hon. DANIEL MOOKHEY:** You do not have a target number?

**Ms WEBB:** No.

**The Hon. DANIEL MOOKHEY:** Were you required to construct a business case for this model?

**Ms WEBB:** Yes. I do not think it was called a business case. There was a submission that we made to the Minister.

**The Hon. DANIEL MOOKHEY:** And did you in that identify what would be the key performance indicators [KPIs] for this model? What are the KPIs for this model?

**Ms WEBB:** I think the KPIs would be around whether we are getting better regulatory outcomes, whether we are saving some money. But we will have to see how that pans out. I should mention that SafeWork funding is quite different to normal budget funding, so SafeWork funding will be totally quarantined.

**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.

**The Hon. DANIEL MOOKHEY:** Every year you put into the State Insurance Regulatory Authority [SIRA], do you, to get that money?

**Ms WEBB:** It is a bit of a complicated arrangement. As I understand it, it is technically not SIRA who pays us the money, although the SIRA board does allocate the money in some way. But it does not come through SIRA, it comes from the fund directly to us at SafeWork.

**The Hon. DANIEL MOOKHEY:** That is true and you are triggering an issue now about broad confusion as to who exactly does make these things. It is recoverable from the nominal insurer, is it not, or it is a levy?

**Ms WEBB:** When you say "recoverable", it is a levy. So, yes, it is recoverable from the nominal insurer; it goes into the fund. The fund covers the cost of SIRA, SafeWork, the Workers Compensation Independent Review Office [WIRO] and the Workers Compensation Commission. So the fund is held—I think we answered a question on notice about this, so I just want to double-check because I do not want to mislead you.

**The Hon. DANIEL MOOKHEY:** I accept that.

**Ms WEBB:** But we get told a budget.

**The Hon. DANIEL MOOKHEY:** Who tells you the budget?

**Ms WEBB:** The chief financial officer, but it is the SIRA board that has approved that budget.

**The Hon. DANIEL MOOKHEY:** The chief financial officer of what?

**Ms WEBB:** Of the department.

**The Hon. DANIEL MOOKHEY:** Of Customer Service?

**Ms HOGAN:** Yes. He just left, unfortunately. Sorry, he has been here all day and he just left—before your questioning started, I should say.

**Ms WEBB:** The money comes from the fund for those four purposes and it is attributed to those four purposes.

**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.

**The Hon. DANIEL MOOKHEY:** You said that at the end of every budgeting cycle or the commencement of the next budgeting cycle you assess how much of the regulatory work is attributable to SafeWork and then you seek to recover that cost. Did I hear you correctly on that?

**Ms WEBB:** I might have misled you by saying it that way. What I said was we have a percentage that is based on our experience in the previous year.

**The Hon. DANIEL MOOKHEY:** It is a fixed percentage.

**Ms WEBB:** Yes, fixed in the sense of it is fixed for a particular area. For example, Mr Dunphy's policy proportion might be different to my office's proportion and it might be different to the licensing team's proportion.

**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.

**The Hon. DANIEL MOOKHEY:** How often is that percentage reviewed?

**Ms WEBB:** I think it is reviewed every year when we are making the budget for the next year.

**The Hon. DANIEL MOOKHEY:** And that is, what, now?

**Ms WEBB:** Yes.

**The Hon. DANIEL MOOKHEY:** And you do that as part of the budget submission?

**Ms WEBB:** I do not do budget submissions.

**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.

**The Hon. JOHN GRAHAM:** I refer to some issues arising from the bushfire season. SafeWork NSW maintains a code of practice called Managing Work Environment and Facilities. It was updated in August 2019 but it does not appear to contain any mention of outdoor air quality or advice for businesses and workers. Is that accurate? Do you plan to rectify it given the recent bushfire season?

**Ms WEBB:** We certainly had some advice about air quality. I do not know whether it was in that document or in another document.

**Mr DUNPHY:** Typically SafeWork would look at indoor air quality because it is usually to do with workplaces, and outdoor air quality is usually a matter for the Environment Protection Authority [EPA]. We work very closely with them on advice and also NSW Health who both issue safety alerts or health alerts if there are issues around air quality. We would rely on their advice in regard to that. We have been providing advice though to the communities about what as an employer or a person conducting a business you need to do to ensure the safety of your workers, and that includes monitoring the situation, listening to both the EPA and NSW Health around any particular airborne levels of any particulate including smog and bushfire-related pollution impacts. Those are issues that we would be advising an employer to follow. We do not get into—because that is not our area of expertise—environmental pollution but we certainly rely on the advice of both Health and the EPA and we provide that advice where we can to employers.

**The Hon. JOHN GRAHAM:** It sounds appropriate to provide that advice because it is a workplace issue when we had a summer like we have had where you really have not had to deal with it. So those old

provisions that you are relying on we might need to revisit. Can you confirm, is it in the code of practice? I think the answer is no.

**Mr DUNPHY:** No.

**The Hon. JOHN GRAHAM:** Would you consider rectifying it?

**Mr DUNPHY:** I think all of our codes, we monitor to see whether they need updating. Certainly when this one is due for the next update we would look at that issue and see whether that is something that we need to enhance.

**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.

**The Hon. DANIEL MOOKHEY:** Turning to a slightly different issue, do workplace health and safety laws apply to businesses or trades that are conducted in the gig economy?

**Mr DUNPHY:** Yes. It includes any worker undertaking.

**The Hon. DANIEL MOOKHEY:** Have you communicated that view to participants in that economy?

**Mr DUNPHY:** Yes. I think that is one of the things we called out in the SafeWork road map—the changing world of work. The legislation we have got is very performance based and it is designed for that very particular purpose that you cannot anticipate every sort of innovational change in the way that work is carried out. Our general duties allows us to cover all sorts of unusual and novel ways of working and changes in the work. Certainly we have done a lot in labour hiring of the gig economy. All of those areas we are very conscious of. At the moment we have just launched an at risk workers' strategy which we recognise, particularly migrant and culturally and linguistically diverse workers but certainly workers in more vulnerable areas where the workplaces are not as secure, that we need to provide advice for them in terms of their work health and safety and how they might manage those in those circumstances.

**The Hon. DANIEL MOOKHEY:** Your view is clear and beyond doubt that the general duty that applies to all people who are in control of a business or undertaking applies and therefore that would automatically apply to the gig economy participants. Have I heard you correctly in saying that?

**Mr DUNPHY:** That is right, yes. We cover all workplaces, all hazards.

**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.

**The Hon. DANIEL MOOKHEY:** I turn to the issue of SafeWork NSW and the coronavirus. Have you issued guidance to employers as to what steps they should be taking? I saw what is on the website. Other than that has any other form of advice been provided?

**Ms WEBB:** I assume we have probably had some people calling, and the people in our engagement lines would have been providing some advice. I am not aware of any specific outreach occasions we have had but we would be giving the advice similar to what is on your website.

**The Hon. DANIEL MOOKHEY:** Have you given any advice as to the appropriate use of which masks should be used?

**Mr DUNPHY:** In terms of technical advice, so on our site we do point people to the NSW Health site. On its site there are links to advice for employers. They do actually break it down to a number of industry sectors and there is general advice there as well. So our advice would always be—and we are very conscious that this is changing by the day and by the hour in terms of the advice—so we are very careful not to provide additional advice that may then contradict the most recent and the most authoritative advice from NSW Health. We do rely on the NSW Health advice on what needs to be done in terms of both infection control and also personal protective equipment in terms of managing issues around infectious diseases. There is information on the website.

**The Hon. DANIEL MOOKHEY:** I accept that and I accept that you are taking advice from NSW Health but there are incidences of employers providing effectively dust masks and maintaining a view that that is adequate for the purpose of safety at work. Have you reached a conclusion as to whether or not dust masks do that job?

**Mr DUNPHY:** I think the advice from Health is that handwashing is the most effective control and that masks are not necessarily, except in certain circumstances where obviously there are exposure to biological hazards—but in the majority of circumstances that masks are not an effective control. Certainly the messaging that we have been giving has been totally consistent with Health and it is around good handwashing procedures, about controlling both coughs and sneezes and about issuing the information that if people are showing they are sick that they withdraw from the work environment as well.

**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.

**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 regulators.

**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.

**The Hon. DANIEL MOOKHEY:** Were any reasons articulated by them?

**Ms WEBB:** I think they had some concerns about the pace of reform.

**The Hon. DANIEL MOOKHEY:** In what respect, do you know?

**Ms WEBB:** Well the real estate reforms that are coming in on Sunday were legislated sometime ago and I think their view was that it should have moved closer to implementation, or quicker to implementation.

**The Hon. DANIEL MOOKHEY:** Are you of the view that I think they, amongst others, are calling for there to be a dedicated commissioner for property services?

**Ms WEBB:** I am aware that they have made some statements along those lines, yes.

**The Hon. DANIEL MOOKHEY:** Have you prepared any policy advice in relation to that proposal?

**Ms WEBB:** Not directly in relation to the proposal from the Real Estate Institute of New South Wales but you would be aware there is a bill before the House and we have probably prepared some advice in relation to that bill for Cabinet.

**The Hon. DANIEL MOOKHEY:** You have prepared advice on that bill for Cabinet?

**Ms WEBB:** Yes.

**The Hon. DANIEL MOOKHEY:** Does that cover the issue of whether we should have established a commissioner of property services?

**Ms WEBB:** That was one of the propositions in the bill, I understand.

**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?

**Mr DUNPHY:** They do it based on units, 12 units, which typically takes about four hours to complete.

**The Hon. DANIEL MOOKHEY:** Who provides CPD training?

**Mr DUNPHY:** At present, anybody.

**Ms WEBB:** Yes, I think it is pretty wideranging.

**The Hon. DANIEL MOOKHEY:** Is that an issue that is being corrected?

**Ms WEBB:** Yes, under the new law there will be some mandatory subjects and there will be a limit as to who can provide those.

**The Hon. DANIEL MOOKHEY:** Will they be effective from Sunday?

**Ms WEBB:** That is correct, although the CPD obligation—

**Mr DUNPHY:** They have got 12 months to comply.

**Ms WEBB:** —will have a 12-month transition phase.

**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.

**Mr DUNPHY:** There are RTOs that will be applying as well.

**Ms WEBB:** Yes, I think there are some RTOs that might have.

**The Hon. DANIEL MOOKHEY:** You say 12 months is the period of time?

**Mr DUNPHY:** The new CPD requirements are that you have got to do CPD every 12 months. The new period starts from 23 March and you have got the 12 months to do your CPD. So over that 12 months they need to be able to demonstrate that they have done their CPD training.

**The Hon. DANIEL MOOKHEY:** What is envisaged in the quality control of the training?

**Ms WEBB:** There are some guidelines as to who can be approved to do the training. Then we would in the normal course, as we do currently, be making sure that people are complying with the CPD course curricula and requirement.

**The Hon. DANIEL MOOKHEY:** Are you going to adopt a similar inspection regime of the training as you do now for health and safety representatives? Is that the same style of enforcement you are looking at?

**Ms WEBB:** Part of our realignment is now that we have put together the people who have that function in Fair Trading and the people who have had that function in SafeWork so I think there might be some opportunity there to align how we do it.

**The Hon. DANIEL MOOKHEY:** Yes, I was giving you an open platform—

**Ms WEBB:** Yes. It will not be exactly the same because of course it is different legislation.

**The Hon. DANIEL MOOKHEY:** If we were to ask you these questions in 12 months time you will be in a position to tell us how many audits and checks have been done?

**Ms WEBB:** Yes, exactly.

**The Hon. DANIEL MOOKHEY:** You seem very excited by this?

**Ms WEBB:** I think it is a great opportunity to improve the professional training development with this new legislation.

**The Hon. DANIEL MOOKHEY:** I will muster up enough enthusiasm in 12 months' time to ask you.

**Ms WEBB:** There was one question that Mr Mookhey asked me to follow up during the course of the afternoon in relation to cash. This is information that is from the Reserve Bank of Australia website. It says that transactions are to be in currency and currency has legal tender status but they do not have to be used and refusal to accept payment in legal tender banknotes and coins is not unlawful.

**Mr DUNPHY:** If I could confirm two things. The fatalities for IMAX and also the nursing fatality are both being fully investigated. I can confirm that. Also in relation to the work that we are doing on home visits, we are working with NSW Ministry for Health and we have issued notices in relation to further controls on home visits and we have certainly called that out in terms of further work we are doing.

**The Hon. DANIEL MOOKHEY:** When you say you issued notices, is that notices of improvement?

**Mr DUNPHY:** Improvement, I understand that is the case, yes, but we will give you those details.

**The Hon. DANIEL MOOKHEY:** Do you know when you issued them?

**Mr DUNPHY:** I do not have that detail in front of me, no.

**The Hon. DANIEL MOOKHEY:** Do you know whether they have been checked for compliance?

**Mr DUNPHY:** With all notices inspectors are required to follow up and to confirm that.

**The Hon. DANIEL MOOKHEY:** That is usually within what?

**Mr DUNPHY:** An improvement notice depends on what they are being asked to do. Typically the inspector will negotiate that with the employer, depending on what they need to do and the practicality of actually achieving that.

**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.

**The CHAIR:** That concludes our proceedings. Thank you for attending. The Committee secretariat will be in touch in relation to questions that were taken on notice and any supplementary questions.

**(The witnesses withdrew.)**

**The Committee proceeded to deliberate.**