

REPORT ON PROCEEDINGS BEFORE

PUBLIC ACCOUNTABILITY COMMITTEE

**FURTHER INQUIRY INTO THE REGULATION OF BUILDING
STANDARDS**

CORRECTED

At Macquarie Room, Sydney, on Monday 22 November 2021

The Committee met at 9:45.

PRESENT

Mr David Shoebridge (Chair)

The Hon. Anthony D'Adam

The Hon. Scott Farlow

The Hon. Courtney Houssos

The Hon. Trevor Khan

PRESENT VIA VIDEOCONFERENCE

The Hon. Catherine Cusack

* Please note:

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

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

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

The CHAIR: Welcome to the second public hearing for the further inquiry into the regulation of building standards. Before I commence I would like to acknowledge the Gadigal people, who are the traditional owners and custodians of the land upon which the Parliament sits, and pay our collective respects to Elders past, present and emerging, and extend that respect to other Aboriginal peoples present or on the webcast. Today we will be hearing from a number of panels of important stakeholders to this inquiry: first, the Strata Community Association NSW and Owners Corporation Network; second, the Australian Institute of Architects, the National Fire Industry Association, the Design Institute of Australia and Network Architectural; third, the Urban Development Institute of Australia, NSW Division, and the Property Council of Australia; fourth, key unions—the Plumbing Trades Employees Union and the Fire Brigade Employees Union; and, finally, we will be hearing from the very busy NSW Building Commissioner and the Better Regulation Division of the Department of Customer Service as well as Fire and Rescue.

I thank everyone for taking the time to give their evidence to this important inquiry today. Before we commence, I would like to make some brief comments about the procedures for today's hearing. Today's hearing is being broadcast live via the Parliament's website. A transcript of the hearing will be placed on the Committee's website when it becomes available. In accordance with broadcasting guidelines, media representatives are reminded they must take responsibility for what they publish about today's proceedings. While parliamentary privilege applies to what witnesses say in evidence today, it does not apply to what witnesses say outside of their evidence at the hearing. I, therefore, urge witnesses to be careful about comments they may make to the media or to others after they complete their evidence. Committee hearings are not intended to provide a forum for people to make adverse reflections on individuals so if we could, wherever possible, stick to the issues and the terms of reference.

All witnesses have a right to procedural fairness, according to the procedural fairness resolution adopted by the House in 2018. There may be some questions that a witness could answer only if they had more time or with certain documents to hand, in which case witnesses can indicate they would like to take the question on notice and they will have 21 days to provide a written answer. If witnesses wish to hand up documents, they should do so through the Committee staff, who are here to help and assist throughout the day. In terms of the audibility of today's hearing, I remind Committee members and witnesses to speak into the long microphone, and if we have witnesses appearing via videoconference, they should be careful about toggling on and off the mute. Finally, everybody should turn their mobile phones to silent for the duration of the hearing.

KAREN STILES, Executive Director, Owners Corporation Network of Australia, affirmed and examined

CHRIS DUGGAN, President, Strata Community Association NSW, sworn and examined

STEPHEN BRELL, Vice President, Strata Community Association NSW, sworn and examined

BANJO STANTON, Solicitor, Stanton Legal, assisting Owners Corporation Network of Australia, affirmed and examined

The CHAIR: I thank you all for your time today and for your submissions that you provided. We have digested the submissions, but now is an opportunity, if you would like, to provide a brief opening statement. I might look to you first, Ms Stiles.

Ms STILES: I think it is important to note that building defects do not just cause damage to the building and its fabric; they can destroy people's lives. The damage does not just stop the day people are evacuated; it is merely the beginning of years and years and years of enormous suffering. It is incredibly important that we address these building defects. Thank you.

The CHAIR: Thanks very much, Ms Stiles.

Mr DUGGAN: Just referencing our application on behalf of Strata Community Association [SCA] NSW, the continual liaison with the better regulation Minister, the Office of the NSW Building Commissioner and Fair Trading on matters concerning the construction and strata sector has proven, to date, productive, resulting in a program of reforms from both the Minister and industry to improve building regulation. The establishment of Project Remediate, with the aim of effectively rectifying flammable cladding where it is discovered on strata title buildings, is one such example of this reform undertaken by the Government towards the benefit of owners and occupiers in strata communities. SCA NSW, represented by Mr Brell and myself today, have been heavily involved and engaged with many constructive meetings and discussions with the program's development and we are happy to talk to our experiences with the panel today.

The CHAIR: Thanks, Mr Duggan. I am assuming that is the opening for you too, Mr Brell.

Mr BRELL: That is my position as well.

The CHAIR: Mr Stanton, did you have anything to add on behalf of the Owners Corporation Network?

Mr STANTON: Thank you. The Owners Corporation Network's submission essentially says that there has been a lot of good work done in the last two years, and we acknowledge that there is a lot of good reform that is still underway and heading in the right direction. Our submission highlights some aspects of the reforms already implemented or being implemented that need improvement and also some aspects that are significant that have not been addressed yet in relation to the Design and Building Practitioners Act, which essentially cover transparency issues, the aspects of the building services and other building elements not covered by the Act currently, and a particular problem for the design of waterproofing repair works, which has emerged more recently and is causing a lot of angst as we speak.

There is also, in relation to the residential apartment buildings Act, some problems with the provisions for building works repair orders. There is a real-life example that has recently emerged of the exact issues that are referred to in our submission in relation to the Home Building Act. There are a number of issues pointed out; probably the most important current one is the lack of a fit-for-purpose licence for builders building over three storeys.

The CHAIR: I think all of this we will explore in the next hour, but I might just hand over to the Opposition to kick questioning off.

The Hon. COURTNEY HOUSSOS: Thanks very much, Mr Chair, and I thank all of you for your time this morning and particularly for your submissions as well, which have been really informative for us. I wanted to start where Ms Stiles began, which is the question of defects. This is our second inquiry and we are more focused on cladding, but the broader question of defects is one that is really something that is confronting our apartment owners. Can you just explain a little bit, Ms Stiles, and then also Mr Duggan, about the scale of the defects issues that are being faced by apartment owners?

Ms STILES: It is a tsunami of building defects that people have been suffering for the past two decades, a variety of those, but with waterproofing and fire safety being the most prevalent and also the most expensive and difficult to fix and clearly life-threatening when you add that to flammable cladding.

The Hon. COURTNEY HOUSSOS: What are some of the issues with waterproofing? Mr Stanton referenced the real-life example that illustrated your submission. Can you speak about some of those issues that are being faced by waterproofing issues first?

Ms STILES: I can think of an elderly couple who had to build a moat in their living room to keep the water in so that they could Hoover it up when it rained so that it did not flood the building. People are living with black mould. There are enormous problems: there are bathrooms, there are building fabrics, it is balcony falls—you name it, it is a problem.

The Hon. COURTNEY HOUSSOS: In terms of the fire safety, what are the most common challenges that you hear from your members?

Ms STILES: That is more tricky because it is not as obvious. A lot of the issues are actually covered up and may not be found until the developer-appointed fire inspectors have been replaced by new people who are perhaps more diligent. But fire separation is a big one. I have got evidence of the water not being hooked up to the fire hydrants. Again, it is a gamut of things. I have to say, in the last few years the Government has worked hard on an accreditation system for fire safety practitioners, and that is to be welcomed. Waterproofing is something that is in the Building Commissioner's sights, and that is also to be applauded; it is an incredible problem for people and it just goes on for decades. In fact, I have got a building now where they are still negotiating with the builder 10 years after occupation to repair waterproofing issues into their building.

The Hon. COURTNEY HOUSSOS: Obviously, like you say, these are the issues that are often behind the walls—they are more difficult to see and then, obviously, once they do become apparent they are much more serious to address.

Ms STILES: Bathroom waterproofing can become apparent when the ceiling below collapses with the weight of the water.

The Hon. COURTNEY HOUSSOS: Thanks very much, Ms Stiles. Mr Duggan, I will just take you back to the beginning, which is what is the sort of scale of defects and what are the most common defects that you—

Mr DUGGAN: It is an interesting question on the scale. SCA, in conjunction with the Office of the Building Commissioner, interviewed and surveyed the majority of our members to determine their experience and also the experience on behalf of their clients. As a result of that, they identified that 39 per cent of buildings had identified a serious defect. The survey then went into much more detail around the experience of consumers through the lens of a strata manager who is managing that process and the success or otherwise of the legal process, and that has been used as a benchmark by the Building Commissioner and certainly by SCA to hopefully see an improvement in the process of defects, particularly as they are experienced by owners. We also conducted a similar research project with the University of New South Wales City Futures and a similar number came back. So what we all understand to be the case is now proven with data and we are hoping that that data, particularly as the reform agenda of the Building Commissioner continues, gets played out with obviously a reduction in that amount of defects.

The Hon. COURTNEY HOUSSOS: How did you classify the serious defects?

Mr DUGGAN: That is an excellent question. I have just got a copy of it here because it was quite a detailed survey. Serious defects went into it, and further to what Ms Stiles has said, waterproofing was the most prevalent of those, occurring in 23 per cent of the instances reported, followed by fire safety—two themes of this commission—and then external enclosures, the building fabric and structure. They are major elements of the building that, if unrectified, impact the habitability and the liveability of those apartments.

The Hon. COURTNEY HOUSSOS: Absolutely. Obviously, this question of historic defects is going to be a key one going forward. Have you had any discussions or do you have any solutions for how we could rectify those historical defects?

Mr DUGGAN: Historical defects are more challenging. I note the last time we were before this Committee we had a wish list of items that we wanted the Government to implement. Pleasingly, and I think as echoed by what Ms Stiles said, the appointment of the Building Commissioner kicked off the vast majority of those reforms. Reflecting back on SCA's checklist, we have seen most, if not all, of those commence. Regrettably, not a lot of those are applicable for existing buildings and, besides being able to clean up the legal process by education and also by facilitating some sort of a streamlined approach, most of those reforms are going to impact buildings yet to be completed.

The Hon. COURTNEY HOUSSOS: Yes, and that is a question, I guess, that we come to, which is these solutions about requirements around cladding, requirements around certification going forward, decennial

insurance, rating systems. These are all great initiatives, but they are for buildings that are either being built or are yet to be built. What are we doing about all of those buildings that have been built over the last 10 years, 20 years, and the defects that are, as Ms Stiles said, very serious that are bubbling to the surface?

Mr DUGGAN: Cladding is a classic example of retrospective activity. Obviously, all of those buildings that are impacted are part of the Project Remediate plan, and we can talk about that one in detail. The Design and Building Practitioners Act opens up further recourse for litigation against different parties—probably more a legal technical aspect, and I will let Mr Stanton refer to exactly how that opens it up—but it expands effectively the ability to pursue a party outside of the Home Building Act statutory warranties on occasion, depending on applicability. I am just trying to think of what else. A beefed-up Fair Trading review process and also their staffing to enable buildings to be able to get quick, easy, low-cost access to whether they be building certifiers or Fair Trading is another avenue available for existing buildings.

The CHAIR: Mr Duggan, you talk about Project Remediate dealing with the historical issues about cladding and your submission refers that, on this point, it is supportive of Project Remediate. The position adopted by Ms Stiles and Mr Stanton, though—and it is consistent with a lot of submissions we have had—is that Project Remediate deals with only a tiny fraction of the historical cladding problems. Do you agree with that?

Mr DUGGAN: It deals with the high-risk buildings. I will have to trust that the experts who identified those buildings as requiring it to come off have captured those, but it is 220-odd buildings that are so far applicable for the scheme.

The CHAIR: Yes, but there are thousands of buildings with flammable cladding on them. Many home owners and commercial owners are still dealing and grappling with getting their flammable cladding removed but they are not in Project Remediate. Do you talk to any of them?

Mr DUGGAN: I cannot talk to buildings that are not deemed high risk because I think the majority of the buildings that we have seen through our membership so far that are on that register have applicability for Project Remediate. Whether they have proceeded with it is a matter of timing in some cases or they are in the process of having Project Remediate apply to them.

The CHAIR: Have any of them actually been remediated under Project Remediate that you are aware of, Mr Duggan?

Mr DUGGAN: Not complete, no.

The CHAIR: You say "not complete". Have any of them had the flammable cladding removed?

Mr DUGGAN: Apart from the first project, which more recently had its first panels removed, I do not believe so.

The CHAIR: That happened during a press conference.

Mr DUGGAN: It was a couple of weeks ago; so if that was during a press conference, yes.

The CHAIR: So apart from the two panels that were removed during a press conference, you are not aware of any actual flammable cladding being removed?

Mr DUGGAN: Not via Project Remediate. There are instances of buildings that have removed their own cladding because they commenced prior to the project's commencement, but not through Remediate.

The CHAIR: Are you aware of a program of further press conferences to get this sorted out throughout New South Wales?

Mr DUGGAN: Not that I could answer.

The Hon. COURTNEY HOUSSOS: Can I just ask one follow-up question to that? You said that there are a number of buildings that have already started.

Mr DUGGAN: Yes.

The Hon. COURTNEY HOUSSOS: Do you have any sense of how many of those buildings have started? We received a submission from a strata committee that had already signed contracts and started the process before Project Remediate began, and in order to access Project Remediate they would have to lose that \$100,000 that they have already spent to opt into the system. Are you aware of how many of those buildings are out there?

Mr DUGGAN: I could not tell you the exact number. We are aware, through our membership, of a number of them, but I do not know the exact number. We can come back, if you would like, with further information.

The Hon. COURTNEY HOUSSOS: Yes, that would be really helpful: the number of buildings who have started.

Mr DUGGAN: Who have commenced prior to Project Remediate?

The Hon. COURTNEY HOUSSOS: Yes.

Mr DUGGAN: Absolutely.

The Hon. COURTNEY HOUSSOS: Thanks very much.

The CHAIR: Either Ms Stiles or Mr Stanton, do you have any observations on those buildings that are not captured by Project Remediate and are having to remediate flammable cladding?

Ms STILES: I know in one particular building, which is a very small building and all of the people are retirees on fixed incomes. It is four storeys. They are very, very stressed. These are elderly people who do not understand the process, who are frightened for their lives because they are reading in the paper all the time about the building could burn down in the middle of the night.

The Hon. CATHERINE CUSACK: I just wanted to ask a question about strata committees and how well equipped they are to deal with problems of this scale. I note the building collapse in Florida features the strata committee deeply divided over many years about what to do and I just wondered if the witnesses would not mind commenting on that government's issue.

The CHAIR: Who wants to kick that off?

Ms STILES: I would say that the expertise and capacity of strata committees varies wildly from very competent in some buildings to completely dysfunctional. And these are issues that people do not buy a home to be dealing with, so they should not have to be experts in building quality and building remediation.

The CHAIR: Mr Duggan, do you have any views about that?

Mr DUGGAN: No, I agree and I concur. I think the challenge with collective decision-making is that it allows the full democracy to prevail. Therefore, you get people making decisions they may not be best equipped to do so, but what we need to ensure is that they have access to professionals, that they have access to education and, obviously, limiting their exposure to defects would be ideal but, when they do occur, having a robust process that is easily accessible.

The CHAIR: We can also—and we have heard examples of it—have basically the oppression of the minority. If the defects are only being really felt by a minority of strata holders, they can find it extremely difficult to persuade the strata scheme to collectively contribute tens of thousands of dollars to fix defects. I might go to you, Mr Stanton. In your practice have you come across that at all?

Mr STANTON: Yes, there are buildings that there are large groups of owners that simply do not want to spend any money and they do not understand that if they do not spend the money it will cost more money. Sometimes, particularly in some buildings, there are builders and developers who still own units and their agendas get in the way of the decision-making, or at least try to, and that causes a lot more angst. It is really a case, as Ms Stiles said, that the range of expertise and understanding within the strata committees, and by extension the owners, varies widely.

The Hon. TREVOR KHAN: Mr Stanton and Ms Stiles, being both a free-standing home owner and also a unit owner, my unit relatively recently having gone through an exercise of considerable expenditure on the replacement of the lifts on a 15-storey building, I am left with the view that whilst Mr Shoebridge paints one picture, you can get in a body corporate circumstance where there is just an honest difference of opinion, do you not, as to whether the gold-plated option is the best option or a lesser one? It does not mean necessarily one is right and one is wrong. Expending lots of money may not necessarily be an appropriate way forward, would you not agree?

Mr DUGGAN: It depends what you are talking about. The example that you raised, replacing a lift, is an example where there are gold-plated options and there are more economical options and definitely room for disagreement on options that both of which would be appropriate. When you are dealing with defects, there can be disagreements on whether you go with the gold-plated approach or just an approach that will rectify the defect and not go further than that, but that is generally not what is occurring, and generally it is unusual that an owners corporation is looking at a gold-plated approach for rectifying defects; they just want to get to what they have to

do to meet their obligations and what it should have been in the first place. Usually the angst within a scheme about raising funds to repair defects or to chase culprits who might be liable for them, if they are still around, is not about the gold-plated option; it is just about being able to fix the defects.

The Hon. TREVOR KHAN: Can I just ask something else? I heard reference to thousands of buildings in the context of cladding. I was just having a look at the NSW Cladding Taskforce website. Do you agree with this: that there were some 185,000 building records audited and 4,182 buildings inspected, but in terms of those that are, in a sense, in the gun, there are some 380? Is that your understanding, Mr Duggan?

Mr DUGGAN: There are 220-odd buildings that are participating or are eligible to participate in Project Remediate. I am not sure of that other number you reference there.

The Hon. TREVOR KHAN: What I have got here is there are 380 buildings in progress to be cleared. I am not quite certain what the term "to be cleared" means. The buildings are at four different stages in the process: four are awaiting update or assessment by the consent authority; 168, an expert assessment is in progress; 42, detailed remediation action plans requested from the building owner; 166, remediation is underway or has been ordered or approved by the consent authority. Do those numbers seem right?

Mr DUGGAN: They do, and I believe buildings which are not deemed high risk are still able to register and have their building assessed for Project Remediate. So perhaps that larger number is a combination of the high-risk buildings identified by the Government and other buildings which have voluntarily opted in to be assessed by the program.

The Hon. SCOTT FARLOW: I just have one question on this. What is the classification of the other buildings that have been assessed then? You have got the high-risk buildings. Are there further classifications of risk that are attached?

Mr BRELL: Yes, I believe the numbers you are referring to there may relate to the original cladding register. When the cladding register was first formed these buildings were put into three categories, which is high risk, medium and low. The buildings that are deemed high risk, which Mr Duggan referenced, which are the 220, they relate to the buildings that are eligible for Remediate. Through the Remediate registration process, the Office of the Building Commissioner has encouraged any building that might believe they have cladding to register and then be assessed as part of the process.

The Hon. SCOTT FARLOW: So that gets you to the 380.

Mr BRELL: Yes.

The CHAIR: My understanding is the 380 the Government determined only would be class 2 residential buildings, so we note it down straightaway. Then there is an inspection process for those class 2 buildings that is to be undertaken and the data that I think Mr Khan is referring to is the data that says there were some 4,180 of those class 2 buildings to be assessed, and as of 31 August—

The Hon. TREVOR KHAN: Four thousand one-hundred and eighty-two.

The CHAIR: Yes, 4,182, thank you, Trevor, for tidying that up. As of 31 August 2021, only 3,802 had been assessed, so there are another 380 that are still to even be assessed for whether or not they fit the high risk, and I think that is that data. We might be able to clear that up with Mr Tansey this afternoon.

The Hon. ANTHONY D'ADAM: Coming back to the question around the governance of owners corporations, is it correct that there is some legal ambiguity about expending owners corporation funds on that kind of governance training or even advocacy? Am I correct in understanding that there may be some ambiguity about that? Perhaps Mr Stanton might be able to—

Mr STANTON: I do not think I have been privy to discussions around that, but there are certainly restrictions upon payments to committee members. If a committee member is wanting to do courses that are not free but to invest cost to educate themselves, then that is at their own risk. The legislation allows the opportunity for the general meeting to approve an ex gratia payment to a committee member at the next annual general meeting. So if a committee member wants to spend \$2,000 to do something so they can do their job better, they will be taking the risk that they cannot get that money back.

The Hon. ANTHONY D'ADAM: Clearly, there is a collective benefit if the committee members are fully cognisant of their responsibilities and are able to better discharge them. Obviously with training of committee members, there is a collective benefit that accrues to the management of a building. Is there sufficient flexibility in the legislative arrangements to enable that kind of expenditure to be made, to try and improve the governance arrangements in the owners corporation or to better improve the capacity of the committee to operate?

Mr STANTON: I would have to take that question on notice, but, off the bat, what I can say is that there are courses that have been put together by various organisations, including Fair Trading and I think the Owners Corporation Network and possibly the Strata Community Association, which aim to provide free education for committee members and some online courses which assist committee members. A problem is that most committee members do not have the time to invest a lot of time to upskill themselves; they are volunteering their time on the committee and they are doing what they can, but they do not have the capacity to do much more. Whether the provision is in the legislation for the owners corporation or the committee to decide to spend money for a particular person or the committee members to do a course, I would have to get back to you on that. I mentioned the problem if a committee member spends their own money to educate themselves.

The Hon. ANTHONY D'ADAM: Mr Brell?

Mr BRELL: I think perhaps a better way to answer the question is at the moment there is no formal requirement for strata committee members to be trained. And to your point about education, I think it would be very beneficial for the collective that they are trained and understand the responsibilities that they are signing up for because, as Mr Stanton said, this is a voluntary position, and often at a strata meeting owners will stick their hand up because they think it is a good idea to get on a committee because they want to get involved, but they do not necessarily understand the legal requirements or the liabilities that go to being a strata committee member.

The CHAIR: Ms Stiles, you look like you wanted to add something to this. No?

The Hon. ANTHONY D'ADAM: I just wanted to go a bit further around the advocacy question because I understand that obviously there is an overarching sector benefit from having advocacy on owners corporations. My understanding was that there was some grey area around whether they can even use owners corporation funds to affiliate to an organisation like the Owners Corporation Network. Is that correct?

Ms STILES: I think there is a question around owners corporations making donations, but we have not been apprised of any concerns about joining an organisation that can assist them investing money in that.

The Hon. ANTHONY D'ADAM: So accessing professional expertise and advocacy, you do not believe that there are any impediments to that.

The CHAIR: Ms Cusack had a question.

The Hon. CATHERINE CUSACK: Yes. I wanted to follow-up my earlier question—

The Hon. TREVOR KHAN: Have we lost her?

The CHAIR: Ms Cusack, you have just dropped out. Can you hear us? I think we have lost Ms Cusack.

The Hon. TREVOR KHAN: This is the problem with virtual Parliament stuff.

The CHAIR: We can cross that bridge when we get to it. This is the problem with the NBN, I would suggest. I am a fibre-to-the-home person, not a fibre-to-the-node person.

The Hon. SCOTT FARLOW: This is the Senate campaign writ large.

The CHAIR: I think what we have just got there is fibre to the node.

The Hon. CATHERINE CUSACK: Can I try it again, David?

The CHAIR: Ms Cusack, you are back.

The Hon. CATHERINE CUSACK: I am. I am wondering what percentage of the strata committees could be described as dysfunctional—the issue of committees not able to reach any decision at all or reaching a decision, spending money going down that track, having an election, the investors group or the residents group win the election, and then that strategy gets reversed the next week and more money gets spent on a different option and nothing gets done.

Ms STILES: I will answer that question. Without a strata register and data collection by government it is impossible to know what is happening in a strata sector generally. I can only speak to concerns that have been raised with me or that I have seen, but I do not believe that most owners understand that, firstly, they are running a small to large business and this is a very responsible position and I do not think they understand that they are individually jointly and severally liable for any expenses.

The CHAIR: So if there is no accountability over time, is the answer to actually ensure that the best decisions are made upfront? Surely that starts with some kind of compulsory training so that there is at least an understanding of your duties and an understanding of the nature of the role. Do your organisations have a view about mandatory training?

Mr DUGGAN: May I address the question from Ms Cusack just in relation to governance as well and dysfunction? I think, as Ms Stiles has stated, there are a number of buildings which could be slated as dysfunctional. It is very difficult and subjective to determine how many. Ultimately, if they are significantly dysfunctional, there is a process where a compulsory manager can be appointed through the NSW Civil and Administrative Tribunal [NCAT] and that is where you would be able to define, obviously, the dysfunction to such an extent that they cannot make decisions. Outside of that, it is very grey as to whether the dysfunction is apathy, whether it is poor decision-making, whether it is good governance, because decisions are made every day in strata by volunteer bodies. So it is very difficult to give a data point on that. Education is critical and the key.

Whether compulsory education is the solution may be problematic because we already struggle significantly to get volunteers on strata committees. To further restrict their suitability through compulsory training may be challenging, but voluntary modules, funding from the Government to support that education—I think the defects case in point is that people have a significant awareness now of defects, unfortunately, as a result of high-profile defect cases. But certainly in a new building, when Mr Brell or I speak to owners and raise defects and the process that needs to be undertaken, it is no longer an education piece around why defects are bad for your building and why you need to pursue them. So I think that bringing out those defects into the light has enabled owners to come on that journey. I think more can be done with broader governance in the same regard.

The Hon. CATHERINE CUSACK: Can I just follow that up then? Some of these decisions are really hard—for example, the water damage problems that you talk about—and it is not just about the committee making the recommendation; you then have the case that every resident goes to a meeting and there has to be a vote on whether that recommendation is accepted or not. I suppose in Florida what the government there is looking at is: Was a problem of this nature and complexity and expense beyond the strata committee and maybe we need a different decision-making process for those sorts of issues that involve fundamental safety of the building? Is there some cut-off point where it does not matter how much training you give people, they do not understand the issues—is the window falling out? How do you get that assessed? How much money do we spend investigating problems versus solving problems? These are not three-hour training modules. And then you have got to get the whole committee—old ladies, everybody has to vote whether they like that solution or not. Is that appropriate?

Mr DUGGAN: I believe that there are a number of mechanisms that owners can rely on without having to be trained themselves, and that is, obviously, access to professionals, whether they be legal advisers, engineers, managers and other advisers, depending on what the issue is. There are a couple of stop-gaps which would potentially bring those issues to a head so that they do not continue beyond, in this instance, a year—for example, the ongoing obligation to achieve an annual fire safety statement may well pick up any of those issues of a fire nature, certainly at least to sort of have a conversation. We have also found in New South Wales that the insurance companies have been hypersensitive to ensuring that these issues are resolved and they will often dictate terms of resolution prior to offering terms or penalise an owners corporation. So some of these things cannot be allowed to extend beyond multiple years so long as there is an awareness of those issues.

The CHAIR: The Florida case is a case in point, although not under New South Wales strata laws, obviously. But a major structural defect was identified and then it appears that the strata equivalent dithered and it just was not addressed and then the tragedy ensued. Are there adequate mechanisms in the law in New South Wales if you are living in a strata building and the strata committee is dithering on a structural defect issue, for you to bounce it up to some kind of independent third party who can just take action? Are you satisfied, Mr Duggan, that there are sufficient checks and balances in the New South Wales system?

Mr DUGGAN: Yes, and from experience as well. We have a couple of current cases of buildings which neglected their maintenance and could not come to consensus amongst the owners, and any individual owner was able to take an application for a compulsory management under 267 of the Strata Schemes Management Act for effectively an administrator to be appointed with full authority.

The CHAIR: But then that owner has to go down and take on the entire strata corporation in NCAT proceedings, which is a zero-cost jurisdiction, and they can be facing \$10,000, \$20,000, \$30,000 of legals in order just to get the strata committee to start taking a step. Are you saying that is an adequate remedy, Mr Duggan? It does not strike me as an adequate remedy.

Mr DUGGAN: It is a remedy for those buildings and it is used in what I consider extreme circumstances. I think potentially there is room for more application on other areas, lower impact areas, which do not require the appointment of a compulsory manager.

The CHAIR: Mr Stanton, in your experience, do you reckon that is an adequate remedy? You have got some poor home owner who is anxious about perhaps the water damage continuing and the strata is doing nothing, or there is a structural defect that they are not properly addressing in the basement substratum. Do you think it is

an adequate remedy to say they should drop 10 or 20 grand of their expenses on legals in NCAT to try and get that result?

Mr STANTON: Where it is a problem affecting just one or two units that you have that particular situation and unfairness arise, it is hard to say that that is an adequate remedy. But it is also hard to identify another alternative other than perhaps an avenue for an owner to be able to approach the regulator to say, "Can you review this without me having to go to NCAT", and perhaps the regulator can get involved and have powers—I do not think they would be new powers—to deal with that situation. Often if it is like a structural defect that is affecting a number of units in the building, what often happens is a group of owners would approach a lawyer collectively and they will collectively fund the NCAT application so that they share the \$20,000, \$30,000 to make it more feasible. It is a difficult issue because it is a very serious matter to take away the ability of owners to be able to decide for themselves.

Ms STILES: And that is why the Owners Corporation Network has called consistently for a strata commissioner whose role it would be to educate and adjudicate on behalf of these issues. It is one thing to take something to NCAT, it is another thing to spend—and I am thinking of one of our members—\$500,000 to prosecute their case because of water ingress that has been, I think, going on now for seven years, and others who, Mr Shoebridge, you have met, from Charlestown and other areas. I am thinking of another one where it is a four-lot building. One has been flooded three times, the last time with raw sewage. However, the developer owns a lot and is in control of that strata to the point of briefing legal counsel, despite that being illegal, because the mechanisms that are in place at the moment look good on paper but do not function for individuals who are being victimised.

The Hon. ANTHONY D'ADAM: Is it possible the developer controls the strata? Can you explain that?

Ms STILES: The developer has managed to get proxies off two of the three other lot owners and is leading the conversation to the point of briefing, as I said, legal counsel, which is illegal under the 2015 Act—the developer must not vote on building defects—and yet.

The CHAIR: But in a number of buildings, developers will try and hold onto a majority vote on the strata committee until the initial defect period has concluded as well.

Ms STILES: If they do not do that they are usually in a relationship with the real estate agent who is acting on behalf of the investors and will often use their proxies.

The CHAIR: And has that rule that the Parliament legislated for a couple of years ago, whereby the initial strata manager can be appointed only for a maximum of 12 months, made a difference in practice, Ms Stiles?

Ms STILES: Again, without a strata register and data collection, it is impossible to know unequivocally. A year is a very short time in a new building for owners to get together, understand what they are dealing with and uncover perhaps the related entities that might be obstructing them in looking towards building defects and other things.

The Hon. ANTHONY D'ADAM: Ms Stiles, you referred to a strata register. Can you just explain for the record what exactly you mean by that?

Ms STILES: There is one being developed at the moment and it will be a register of every strata scheme in New South Wales, which will be pre-populated by Land Registry Services and it will collect core data—things like a strata manager, if there is one; a building management company, if there is one; the last annual general meeting; two committee contacts, so the Government can communicate and educate direct with strata communities.

The Hon. COURTNEY HOUSSOS: When is that due to be developed by?

Ms STILES: We were hoping that that would be in play this year. However, it has expanded its remit to include a lot of extra information with regard to building defects and the lodgement of as-built documents. So I am not entirely sure when that is likely to be delivered.

The Hon. CATHERINE CUSACK: I just wanted to continue on that issue of developers versus owners. Is it not also true that there is a big issue with investors? The building that I was involved in was a majority of investors and many of the strata committee members did not even live in the building or own any property, they were just family members of one powerful investor, and because the investors did not live there they did not have the familiarity with the problems. So do you think that strata members should have a financial interest in the property if they are on the board and, secondly, should this sort of information be captured on a register?

The CHAIR: I think we might go to you on the register point first, Ms Stiles. Is that part of your understanding of what the register would include?

Ms STILES: Not at this point. We are looking at a minimum viable product, but that is certainly a very interesting set of data points to know, owner-occupiers versus investors—and certainly overseas investors.

The CHAIR: And you would have thought that an owner-occupier, understanding the number of unit holders who are actually living there as opposed to who are investors, might be a good and useful indication—if, for example, a defect is not being addressed and there are concerns—for a regulator as to whether or not they need to intervene. Mr Duggan, do you have a view about that?

Mr DUGGAN: Undoubtedly, an owner-occupier would have a different perspective of the common property.

The CHAIR: Well, they live there.

Mr DUGGAN: And they live there, correct. Whether it warrants legislating different entitlements for an owner-occupier to an investor is obviously a broader discussion, but undoubtedly we benefit, certainly as managers, from onsite owner-occupiers because of the intimacy they have with the building and their awareness of things as and when they occur.

The Hon. CATHERINE CUSACK: Can I just clarify, I am talking about people with no financial interest in the building—the investor's son-in-law, daughter, cousin—being elected to the strata committee. That is what I am saying: They do not personally have any ownership of the building.

Mr BRELL: That can occur, and it can occur where if an owner with a particular interest is able to rally proxies of people who are not owners in the building—whether they are an owner-occupier or owner-investor, yes, they can be appointed to the strata committee. I would have to say it is a reasonably rare event, in my experience, that that actually occurs. It does occur, yes, I agree. However, it is rare.

The Hon. TREVOR KHAN: But, Mr Brell, it would actually occur quite often because the actual owner of the building may actually be a corporate entity. So if you were to, for instance, exclude not owners then you might well be excluding essentially a nominee of a corporate entity that owns one or more units. You could not really exclude those people surely.

Mr BRELL: Well, the corporate entity normally has a nominee that they put forward themselves. I think what Ms Cusack is talking about is where an entity, whether it be a company or an owner, rallies a number of different proxies and they appoint different proxy holders to then be nominated to the committee.

The Hon. ANTHONY D'ADAM: Are they often real estate agents?

Mr BRELL: In my experience it can be real estate agents, it can be family members, it can be a variety of different people.

The Hon. ANTHONY D'ADAM: Coming back to the question about the strata register, does that have statutory basis? Is it a legislative requirement that the Government establish this register?

Ms STILES: It is not a legislative requirement, but I believe there is a heads of power being drawn up such that the data collection will be mandatory. There will be an annual return required of strata schemes in New South Wales.

The Hon. COURTNEY HOUSSOS: I wanted to come back to this question of fire protection. We do have a recommendation from the Plumbing Trades Employees Union which talks about the different standards in different States. I do appreciate that you would not be familiar with the different standards, but I am interested to know whether you think that the fire maintenance should be a licensed position as well. That is one of the things that they have talked about specifically. The initial installation of the fire systems does require licensed tradespeople, but the ongoing maintenance, which we all know is so important, actually does not require licensing. Ms Stiles or Mr Duggan, do you have a view in your experience about whether that would be a useful step forward? Or Mr Brell? I am happy to pose it to the two different organisations.

Mr BRELL: Yes. I was actually going to say that in July last year the competent fire safety practitioners regime came into effect in New South Wales. That has actually put a requirement on all fire safety practitioners to be licensed in the particular category of fire safety measure that they are signing off. That regime has been in place just over 12 months. What we have found is the compliance in fire has—what is the word that I am looking for? It is very rare that a fire practitioner will sign off a measure unless it is 100 per cent absolutely safe. So little things like prior to 1 July last year—

The Hon. TREVOR KHAN: That's pretty reasonable.

Mr BRELL: Yes. Prior to 1 July last year, the requirement to inspect all properties was not in vogue. Many contractors would go through and only inspect a small percentage of the property and then sign it off,

whereas now—although this is not legislated, what we are finding is that practitioners are requiring 100 per cent access to all properties before they sign off a building. The compliance there has increased significantly since 1 July last year.

The Hon. TREVOR KHAN: This is the annual fire inspection?

Mr BRELL: This is the annual fire inspection.

The Hon. TREVOR KHAN: I just thought I was being picked on.

Mr BRELL: No, not at all. That licensing requirement came in on 1 July last year.

The Hon. COURTNEY HOUSSOS: Is it a licensing or is it an accreditation?

Mr BRELL: It is an accreditation. Yes.

The Hon. COURTNEY HOUSSOS: Okay. What is the actual accreditation that is required? Apologies for my—

Mr BRELL: No, that is okay. There are 30-odd fire measures that may be in a building and the fire safety practitioner must be accredited per measure and that is signed off by the FPA, which is Fire Protection Association Australia.

The CHAIR: The last of which is knocking on Mr Khan's door and checking his fire alarm is actually functioning and working.

Mr BRELL: That is right.

The Hon. TREVOR KHAN: Over and over again.

Mr BRELL: Yes.

The CHAIR: But before that there is all the other structural matters.

Mr BRELL: That is right.

The Hon. COURTNEY HOUSSOS: That is very helpful because obviously, when we are talking about cladding, the measures that are in place to—if one of these fires does occur, like we saw in Lacrosse, where we did not see the same kind of tragic consequences as we did in Grenfell because the fire protection systems actually kicked in and did what they were supposed to do, which was excellent. They specifically—actually, it is alright. That is quite a technical question which I can pose to them. I am then interested to know—

The CHAIR: Sorry. Before we go off on this point, we have got the 30 elements being ticked off. But are you satisfied that the people doing that maintenance and inspection have the appropriate accreditation and skills and knowledge to be the right people to sign off on that without a formal accreditation system?

Mr BRELL: What we have found on the ground is often—it is an extraordinarily costly regime to get into because each fire safety measure costs the practitioner around \$1,000 to become accredited for that particular measure. So for one individual to be signed off as accredited for 30 different measures, they need to spend \$30,000 to become accredited for each particular measure. What we have found in some fire companies is that there is one person who is accredited but then the inspectors beneath may not necessarily be. So that is an issue. I know FPA have actually struck off a number of their members because they are not compliant in that regard but this is also followed up—the local councils have become very involved in this as well. They are checking to make sure that the accreditation process is robust and is signed off. However, it is getting there. It is not 100 per cent compliant at the moment; however, it is far superior than what it was prior to 1 July last year.

The CHAIR: It does not seem to me to be unreasonable to say that the person doing the inspection—going from unit to unit, going down into the basement, checking the sprinkler system—should have to have accreditation on what they are checking and each element of it.

Mr BRELL: That is right.

The CHAIR: That is not the system at the moment, is it?

Mr BRELL: That is how the system is designed—

The CHAIR: But it is not how it is working.

Mr BRELL: How it is working in practice is a different question, which I am not going to go into because I do not really know enough about it. What we are hearing on the ground from practitioners is often that there is only one person in the fire company who may be accredited.

The CHAIR: And they are not necessarily person on the ground knocking on Mr Khan's door.

Mr BRELL: That is correct.

The Hon. TREVOR KHAN: I did not ask for their accreditation.

The CHAIR: Next time you should.

The Hon. COURTNEY HOUSSOS: But, just to be clear, we are actually talking about two separate things, which is the fire inspection regime and then the people who are actually doing the maintenance work to ensure that it is ready for the inspection process. In terms of the maintenance work itself, those people are not required to be licensed.

Mr BRELL: That is right. Not at present.

The Hon. COURTNEY HOUSSOS: Yes, that is right. So while we have seen some improvement in the compliance, we also want to see an improvement in the actual quality of the work that is being undertaken. That is really important, isn't it?

Mr BRELL: Yes.

The CHAIR: The long and short of it is, if a defect is found, anybody can rock up and do the maintenance on it.

The Hon. COURTNEY HOUSSOS: Yes, exactly.

Mr BRELL: Yes.

The CHAIR: And this is a life-and-death measure—the sprinkler system, the fire safety. Mr Stanton or Ms Stiles, do you have a view about the need to license the people doing the maintenance work on fire safety?

Mr STANTON: If I could just address that—undoubtedly there needs to be licensed categories for anyone who is able to do repair or maintenance work on a fire safety measure in a building. I do not think anyone could reasonably dispute that. While I am not across that detail, I am aware from my involvement in the Pillar 1 working group that Mr Chandler has put in place that there is a subcommittee—which the Fire Protection Association is leading—that is working out a good regime to make sure that every different category of fire safety work to be done on a building has a particular licensed subcategory and what the criteria for being eligible for that licence should be. My understanding is there is recognition that that needs to be put in place and there is a lot of work being done to create a regime that is fit for purpose.

The Hon. TREVOR KHAN: Has any time frame been given to the completion of this body of work?

Mr STANTON: I could find out but I cannot tell you.

The Hon. TREVOR KHAN: You could take it on notice.

Mr STANTON: Yes.

The Hon. TREVOR KHAN: That would be great.

The CHAIR: Would you mind, both of you, taking on notice as well the issue—some people have raised concerns about the fact that there is a kind of grandfathering in fire safety and that, if you actually touch your fire safety systems under the new regime, you are suddenly brought into the new compliance regime and that can be extremely costly. Can you take on notice whether or not those concerns have been raised with you and whether you have a response to it?

The Hon. COURTNEY HOUSSOS: If you want, can you take on notice any reflections, again, on the interstate comparisons if you have an experience in that? If that is beyond your remit then that is fine. But the way that it has been put to us is that Victoria seems to have the higher standard. We have slightly less, so there are things that we can be doing to improve our standards to get up to the Victorian standard. That would be helpful.

The Hon. TREVOR KHAN: I remember we had this comparison with Victoria on various committees. I think one of them was COVID and then everyone was talking down Victoria.

The Hon. COURTNEY HOUSSOS: I want to come back to the question of Project Remediate just to hear whether you had had any anecdotal feedback as to why—we have seen quite a low take-up rate. There are clearly a number of buildings that are out there that are eligible for Project Remediate but for some reason or another are choosing not to opt in. Have you heard any feedback as to why this is the case?

Mr DUGGAN: We have engaged pretty extensively with a number of buildings both that have signed up for Remediate and some that have not, particularly via our membership. Some of the feedback is that the timing

of the scheme did not suit those buildings. So for whatever reason, whether it be a pressing need for a certification, compliance or insurance renewal, they have proceeded with the works prior to being applicable for the scheme.

The CHAIR: Sorry, I will stop you there, Mr Duggan. In other words, Project Remediate was too slow for them? Is that how I am to interpret that? Project Remediate was too slow and they needed to get things sorted?

Mr DUGGAN: They had other pressing matters, yes, whether it be insurance or like, so they did proceed.

The Hon. TREVOR KHAN: Is it the case that some are choosing not to opt in because, either through legal advice or other consultants' advice, they have chosen a different route to recovery—that is, they have gone in a sense the litigation route?

Mr DUGGAN: That is true. Some have also had the finances available to proceed without the low cost loan or the no interest loan facility. Some had missed the boat in terms of timing. Others chose, because they had the funds available and the cost obviously—they could fund off their own balance sheet and went ahead with those works. Some were pursuing developers or different litigation parties, so it is a complicated scenario for those that have not proceeded. We are confident that, through our network of strata managers, all the buildings that are applicable have at least had the opportunity to sign up. We do not have a direct insight into whether they have or have not, but we are hoping that all the buildings that are significantly high risk are currently being remediated either through Project Remediate or independently.

The CHAIR: Mr Duggan, had you completed your answer to Ms Houssos? You were talking about two elements in your answer and I rudely interrupted you halfway through. I might ask her to remind you of the question.

The Hon. COURTNEY HOUSSOS: It was just about any anecdotal evidence as to why strata schemes or why buildings are not opting in to Project Remediate.

Mr DUGGAN: Thank you, Chair. I think Mr Khan's question elicited the second response, which was that some have already got the funds available and therefore went ahead with it because they did not require the funding.

The Hon. COURTNEY HOUSSOS: Ms Stiles, did you have anything on that?

Ms STILES: And some were pressured by fire orders as to timing or insurance refusing to insure them if the works were not done. I think it is fair to say that Project Remediate has had an enormous amount of thought go into it. I believe that will deliver a very good result. I am not sure about the Victorian process that was perhaps much faster off the blocks, but they might find that there are overruns with regard to the defects that are found under—obviously when the cladding is removed.

The Hon. COURTNEY HOUSSOS: That is an excellent point. In Victoria they have completed 40 buildings and they have 117 underway and we are aware of one building having some cladding removed under the New South Wales system.

The CHAIR: During the press conference.

The Hon. COURTNEY HOUSSOS: During the press conference.

The Hon. SCOTT FARLOW: Good time to do it.

The Hon. TREVOR KHAN: It is interesting. The witnesses are saying one thing and you are saying another. It is a question of who is giving the evidence.

The CHAIR: Well, Mr Duggan and Ms Stiles, my understanding was that a number of buildings, because Project Remediate was so slow, had insurance pressures and other pressures. They just had to get on outside of Project Remediate. Am I misunderstanding the evidence? Or is that the nature of your evidence?

Mr DUGGAN: No, that is correct.

The CHAIR: And there are some that are in Project Remediate and have commenced it, but you are aware of only one building that has had some cladding removed. Is that your evidence?

Mr DUGGAN: Correct.

The CHAIR: That seems fairly straightforward, Mr Khan. Can I ask about a different issue? It comes from your submission, Mr Stanton and Ms Stiles. One of the most meaningful ways to try and stop building defects in multistorey residential buildings is ensuring that the builder is appropriately qualified to do multistorey residential buildings. The Government's reforms so far have required that the builder have a minimum five years'

experience before they can undertake multistorey buildings. Your submission takes issue with that. Did you want to speak to that issue at all?

Mr STANTON: Yes, thank you. The recent amendment intended to address our concern simply says five years' relevant experience. Our starting point is: What does that mean? Is it five years' experience on a site, which you might gain while you are doing your plumbing apprenticeship before you then get a building licence? Obviously, it could mean something else but it is very ambiguous. Building over three storeys—it is the most complex. The higher you go, the more complex it is and the more risky it is. Five years' relevant experience is nowhere close. There is no assessment there that they actually know what they are doing or that they have got the financial capacity to do it.

The CHAIR: I had perhaps generously interpreted it as five years' practical experience as a licensed builder on multistorey apartment blocks. That is not your understanding, Mr Stanton?

Mr STANTON: It would be helpful if it is five years' experience as a head contractor building multistorey buildings, but it does not say that in relevant experience. It is much broader than that. Even if it was five years' experience as a licensed builder, from my discussions with licensed builders and people in the industry, that is not enough for someone to have the knowledge, expertise, project management skills and supervision skills for all the different trades to really be able to properly run a multistorey build.

The Hon. TREVOR KHAN: Sorry, can we just unpack what those relevant criteria would be? I can become a partner in a legal firm if I have had five years' experience as a lawyer but you would not necessarily mean that that—

The CHAIR: But five years' experience taking tea into the meeting room and being an articulated clerk would not be sufficient.

The Hon. TREVOR KHAN: And I often did. I have always been pleased to be the tea boy. Have you got a list of criteria that you would say would be appropriate?

Mr STANTON: Yes and no.

The Hon. TREVOR KHAN: You do not have to answer now. You could take it away and think about it.

Mr STANTON: We have suggested some approaches to it previously in submissions—not wholly in the submission that we have submitted for this inquiry. One approach is that—the Government agency since 2010 has been the underwriter behind the home warranty insurance scheme. There is underwriting experience for 11 years now in assessing what is needed to trust the builder enough to issue insurance to build a three-storey building, which is the ambit of how high you can go while still having to require insurance. So we have suggested that, whatever those underwriting criteria are, that would be a good starting point to transplant to the licensing regime that says, "Okay, if you tick those boxes, that is a starting point to be allowed to build above four storeys." Because if you cannot trust them to build three storeys, you certainly cannot trust them to build higher. Another approach—

The Hon. TREVOR KHAN: Sorry, just with regard to the three storeys, to build a four-storey or a five-storey building is one thing. To build 10 or 20 storeys, I would have thought, is an entirely different exercise. Is it simply enough to draw the line at three storeys because of the insurance issues or should one have subcategories above the three-storey level?

Mr STANTON: My personal view is there should be tiers of categories, as you have suggested. You need someone with better technical knowledge to say whether one tier would be four to six, and then six to 12 and 13-plus, but I could imagine that being the kind of answer that industry and Government might come up with as to assessing where the knowledge and expertise and financial stability categories can merge.

The CHAIR: Mr Stanton, who is signing off on the practical experience? Who makes a determination that a builder has satisfied the threshold of five years' practical experience? Is that Fair Trading? Who is doing that?

Mr STANTON: It is Fair Trading who is issuing the licence. It is doing the assessment of what the five-year experience is. It is a very recent introduction, the five-year requirement. I am not sure who in Fair Trading is making those assessments or what they are basing it upon, whether it is just a form that is filled out or a reference from someone.

The CHAIR: But as you understand it, you could have three years as an apprentice and two years as an employed builder and you would be permitted to fill out the form and assert you had five years' practical experience?

Mr STANTON: Yes. I do not see why not. Under the wording of what is there, certainly.

The CHAIR: And that is no check on quality, is it?

Mr STANTON: It is not. While it is an attempt to improve what is there, there needs to be a lot more done.

The CHAIR: Mr Duggan or Mr Brell, do you have any view about whether or not that is an adequate quality check before you let a builder take on a complex multistorey residential building?

Mr DUGGAN: I do not have the background on the issue, but I would reinforce that the competency of the builder and the qualification and experience is critical.

The CHAIR: Did you want to take it on notice and review that?

Mr BRELL: Absolutely.

The Hon. ANTHONY D'ADAM: There is the supposition about competence and then there is the alternative supposition about, I suppose, taking shortcuts. In terms of the 39 per cent of buildings with defects, can you give us a rough guess as to how many of those you think are as a result of builders deliberately taking shortcuts to minimise costs and how many are about the technical competence, like genuine mistakes that have been made because of the incompetence of builders? Would you hazard a guess in terms of the balance?

Mr DUGGAN: Mr Stanton can have that one.

Mr STANTON: Thank you. You cannot answer that objectively with objective data, because no-one can really say after the fact whether that leak over there where the waterproof membrane was not thick enough or did not go up the wall far enough or so on was due to someone cutting a corner and they just wanted to get off the job or if they did not know what they were doing. My impression from living and breathing building defect matters for many years is that they are in equal measures. The lack of competence within trades and also the lack of care—basically if they know that they are not going to be accountable down the line because they are trading through a company or warranty periods are going to be missed before this becomes a problem. My personal opinion is that it is a large part corner cutting and a large part not knowing what they are doing to the extent needed.

The CHAIR: And all in a system of basically self-certification or a private certifier paid for by the developer. That allows this to happen, doesn't it? There is no independent inspector on the beat checking the work.

Mr DUGGAN: There is no-one independent checking for this work like a clerk at works used to several decades ago. I am not suggesting that kind of approach can suddenly be brought back now. It could not happen overnight. But a private certifier—many consumers think that their role is to check that all the work has been done properly, and it is not. My personal view is the "certifier" word is not the word that describes their role under the legislation, but what they do check is a small proportion.

The Hon. TREVOR KHAN: Mr Stanton, I think I am looking at the regulation that deals with what the building practitioner must have. What I have got is: must have a supervisor certificate authorising the holder to do general building work; experience must be five years; must know and understand the relevant Acts and regulations—I am cutting it short. They must know the Building Code of Australia [BCA], volumes one and two, including documents and building design and construction. Under skills it says, "Must be able to interpret, apply and assess compliance with the relevant requirements." It seems that whilst the five years is one of the components, there seem to be a number of other categories of capacities that the builder has to tick off. Would you agree with that?

Mr STANTON: Yes, but that is being ticked off. It is a matter of filling in forms is my understanding.

The Hon. TREVOR KHAN: If the regulation is wrong, I am fine, but it just seems to me that to say it is simply five years is to sell short the number of criteria that the builder has to nominate to meet the criteria. That is fair, isn't it? You are a lawyer. I am only a traffic court one but you are a lawyer. You know you have got to—

Mr STANTON: Certainly. Five years is—

The Hon. TREVOR KHAN: One of the criteria.

Mr STANTON: Yes, of course. And the five years is what is being put forward as a criteria that elevates the building-above-four-storey licence as above the entrance level criteria for a building licence at all.

The CHAIR: We can explore—I think we might—how that is actually tested or accredited with Mr Tansey this afternoon.

The Hon. COURTNEY HOUSSOS: I have one final question on a slightly unrelated matter, which is around this question of building manuals. That is a manual to be presented to the owners at the completion of the building. I know this is being pursued through the National Construction Code [NCC]. I am just interested in your thoughts and I am happy for you to come back to us on notice if you prefer to provide us with some more detail. Do you support this particular proposal and why or why not?

Mr DUGGAN: We are definitely in support of it. It has been a consistent recommendation through many investigations into why owners are not giving information, why things are not documented properly and why proper decision-making around defects and preventative maintenance is not at the hands of the owners. So we are fully supportive of it. We have been working, as one of the pillars of reform with the Building Commissioner, to ensure that that is a document that is passed over in easy-to-read language for the owners.

The Hon. COURTNEY HOUSSOS: I like that. I am going to use that in the future.

Mr STANTON: It has to be easy to read.

The Hon. COURTNEY HOUSSOS: Easy to read, yes. That is right.

Mr STANTON: It cannot be technical.

The Hon. COURTNEY HOUSSOS: No.

The CHAIR: Ms Stiles or Mr Stanton, did you want to take that on notice?

Ms STILES: No. We absolutely support a building manual.

The CHAIR: We explored whether or not mandatory education would be appropriate and you indicated the impact that would have on volunteers putting their hands up to be on strata committees. Could you take on notice whether or not a combination of mandatory education together with a regulated, reasonable fee or remuneration for undertaking that might be a useful mix? So if you put your hand up, you are on the strata committee and you are required to do three or four hours of training, you are also paid a fair statutory remuneration for that time—whether or not that might be a policy mix. That would be of assistance. Thank you all for your evidence today. You have taken a number of questions on notice. The secretariat will help you identify those questions and I again remind you it is 21 days, if you can, to provide those answers. Thank you again for your assistance.

(The witnesses withdrew.)

(Short adjournment)

LISA KING, Policy and Advocacy Manager, Australian Institute of Architects, affirmed and examined

LAURA COCKBURN, NSW State President, Australian Institute of Architects, affirmed and examined

JOE SMITH, Acting Chief Executive Officer, National Fire Industry Association, affirmed and examined

DENISE RYAN, Senior Policy Advisor, Design Institute of Australia, before the Committee via videoconference, affirmed and examined

BRADLEY SCHOTT, Policy Committee Chair, Design Institute of Australia, affirmed and examined

CLINT GAVIN, National Sales Manager, Network Architectural, affirmed and examined

KIM REGLER, Managing Director, Network Architectural, sworn and examined

The CHAIR: Welcome back to the second panel of the building standards inquiry of the Public Accountability Committee. We have a series of witnesses from, amongst others, the Australian Institute of Architects, the National Fire Industry Association, the Design Institute of Australia and Network Architectural. I welcome all the witnesses. Ms Ryan, you are spotting in and out a bit there with the connection so we may just play that by ear and hope that clarifies. There is opportunity now for each organisation to give a brief opening. We might start with the Australian Institute of Architects.

Ms COCKBURN: Thank you for providing us the opportunity to speak with you today. We commend the Committee for continuing to dedicate its time to the reform agenda which aims to ensure that quality and safety are re-embedded into the value system of the design and construction process for consumers in New South Wales. The Australian Institute of Architects has been working constructively with the New South Wales Government to support the implementation of the Design and Building Practitioners Act and regulation and has been impressed with the high level of engagement of all members of the New South Wales Government, the Office of the NSW Building Commissioner and the Department of Customer Service in the development and rollout of this important suite of legislation and regulation.

We would like to take this opportunity to urge the Committee to support adequate funding to be provided to assist these teams, particularly in the area of technological requirements. It is critical that the digital systems so central to the success of the legislation are budgeted for and implemented in a timely manner. Our submission to this inquiry outlined three areas of the current legislation which we believe, if adjusted, would not undermine the reform as intended for the benefit of consumers. They included that architects must be supported to access adequate and affordable insurance products by ensuring joint accountability of building and design practitioners in the New South Wales legislation and regulation. Part 4, Duty of care, in the Design and Building Practitioners Act states that there should be "No contracting out of Part". However, the Act also states this part is subject to the New South Wales Civil Liability Act 2002. The Civil Liability Act does allow contracting out of proportionate liability. The Act needs to simply be amended to exclude the proportionate liability provisions of the Civil Liability Act. This will allow for a fair allocation of responsibility and liability.

Item two is that current legislation should require both building practitioners and design practitioners to take reasonable steps to ensure compliance with the Building Code of Australia. Currently, a registered design practitioner must ensure that design compliance declarations are issued by registered practitioners. This places a strict liability on the registered design practitioner and removes the common law test of reasonableness. The building practitioner is only required to take reasonable steps to ensure compliance with the declaration obligations. If the purpose of the legislation is to achieve better building outcomes, then all members of the building chain should be held to the same standard as the designer.

The Institute did not support the requirement for architects to have recent and relevant practical experience in the specific building classes of class 2, 3, 9a and 9c in order to be eligible to be registered. This requirement has caused adverse outcomes and we have worked constructively with a policy team in the Government to reach a position which both protects consumers but does not restrict the trade of registered architects. Architects already operate within a highly regulated profession that is nationally standardised and internationally benchmarked. Registration to be an architect involves five years' tertiary study along with documented and supervised professional experience and a robust and independent registration process. Our members have told us the current eligibility requirements have been excluding some very knowledgeable and experienced practitioners. In our recent member survey, 68 per cent of respondents indicated that the current requirement was prohibitive or limiting.

We do also understand and support the intent of the reforms in delivering consumer confidence and protection and have been able to work constructively with the Government policy team to enable members who may not meet current criteria an alternative pathway to a restricted registration for low-class low-rise buildings.

These practitioners must still be registered architects. However, they can have gained the required experience across a broader cross-section of building classes. We believe that this is a fair and equitable result for our members and also for consumers. We maintain our commitment to continuing to work with the New South Wales Government as the reform agenda progresses and would like to thank you once again for the opportunity to speak with you today.

The CHAIR: Thank you very much, Ms Cockburn. I now might go to Mr Gavin and Mr Regler to give us a brief opening.

Mr REGLER: Thank you. Network Architectural is an importer of high-quality architectural products. This includes Mitsubishi ALPOLIC NC cladding. Our product is an inert mineral core composite developed by Mitsubishi in Japan. It was developed to be the safest, most fire-resistant cladding product in the world. It consistently outperforms all other cladding in higher standard fire safety. We are rightly proud of our product. We refuse to import or sell inferior products like solid aluminium. We will not put profit before safety. Solid aluminium melts in common fire conditions, causing large molten lumps to shed. This is potentially catastrophic for both firefighters and occupants.

The Cladding Product Safety Panel was tasked to recommend the safest and most suitable cladding products. So far the panel has not revealed whether products recommended in phase one have been subject to Australian standard fire safety or combustion testing and it has delayed recommending safer composites that do meet that testing. At an industry briefing last Wednesday the panel took a step in the right direction by clarifying further testing for composites, but it remains unclear whether both composites and solid aluminium will be assessed and recommended based on the same fire safety standard and other criteria like durability, environmental performance and warranty. The proposed process still would not ensure all products are comprehensively assessed against the same criteria to give owners the safest result.

We urge the Committee to consider the following two recommendations: First, that the panel assess all products including solid aluminium to the same Australian standard, AS 5113. It is the only Australian standard test that simulates real fire conditions. The test has already been conducted by the CSIRO and independent fire testing lab Ignis. This standard test shows that ALPOLIC NC is the safest cladding product in the world. Second is that the panel publish the results of testing in a further report, perhaps by the end of January 2022, with guidance on how all products, both solid aluminium and safe composites, perform against both fire and non-fire criteria. We thank the Committee for its ongoing interest in Project Remediate. We look forward to continuing to work with you and all stakeholders.

The CHAIR: Thanks very much, Mr Regler. Mr Smith?

Mr SMITH: National Fire Industry Association [NFIA] is very supportive of the Committee's inquiry. We have a view around regulatory frameworks: that they should protect the safety of the community and property, that they should recognise industry standards and that the registration of practitioners should be linked to Australian Skills Quality Authority [ASQA] recognised appropriate qualifications. Over the years many lives have been lost in Australia to fire. There were the Bankstown apartments in New South Wales, Childers Palace Backpackers in Queensland and Kew Cottages in Victoria. More recently, there was the cladding fire at Lacrosse in Melbourne and, as everyone knows, the Grenfell Tower tragedy, where 72 lives were lost in the United Kingdom.

The view of the NFIA is that fire protection is more than the sum of its parts. We would advise that the inquiry does not just look at flammable cladding in isolation but considers the totality of the life-critical fire protection system of the building. To date in Australia we have not lost a single life in a sprinklered building. That is something we are very proud of and it is a fantastic statistic, but what we have to do is to build on that success and use that model and apply it to other areas of fire protection. What that shows us is that the underpinning apprenticeship certificate III in Fire Protection and the Government regulated licence model works, so our view is that this model should be used across the wider spectrum of fire protection in a nationally consistent way. The introduction of any certification, which we have talked about, should be linked to an improved ASQA qualification, which we would argue is a certificate IV. This builds on the *Building Confidence* report recommendation 19.

In New South Wales at the moment there is a privately run accreditation scheme, which came in on 1 July 2020 with the Building and Development Certifiers Act. At the moment on the ground that has had a fair few teething issues. I will be frank and say that it is not my association that runs it, so a lot of what I hear from my members is not positive. It has led, if you look at the transitional pathway they are offering, to the opportunity for some of the biggest, most important buildings in New South Wales to have somebody with a certificate II qualification signing off on the fire protection system or elements of the fire protection system. It is our view, as

I say, that the fire protection systems interact with each other, so the importance of having a more appropriate high bar for the certification for us is, we believe, critical.

We also advocate for a commissioning certificate that the certifier can do for any new installation and any major refits. This provides an opportunity to have one person doing the job instead of two, which obviously cuts a bit of red tape, but it also means that that gap between the design and the installation and then that first year where we have people going in and doing their annual fire safety checks and all the runs there—we find there is a huge issue there between what is being installed and what was planned. We would consider that a best practice framework for New South Wales will include design, install and maintain; inspect and test; and certification, and that it should cover all streams of fire protection, which would be the active wet—the sprinklers—passive, electrical, portables and special hazards. Thank you.

The CHAIR: Thank you, Mr Smith. Mr Schott or Ms Ryan, who is going to give the opening statement?

Ms RYAN: Yes, I was going to. Thank you, Chair, and thank you to the Committee for the opportunity to appear and to represent design professionals. The Design Institute of Australia is the peak professional association for designers and design businesses in Australia run and funded by designers for designers. We have been representing design professionals in all design disciplines for nearly 70 years. As advocates for good design, we support the aim of the building reforms to improve the quality of construction in New South Wales and on behalf of our interior design members we have been engaging with Customer Service New South Wales and other peak bodies. The role of interior designers in design and construction is not always well understood, so we welcome the opportunity to clarify the type of work we routinely perform.

Following the introduction of the new [audio malfunction], interior designers can continue to trade as previously. Their projects are restricted to, for example, moving non-structural partition walls or renovating existing kitchens and bathrooms within a single apartment. However, if the brief is to design all the kitchens and bathrooms in a new building or it is a heritage building, the exemption does not apply. It is not uncommon for interior design and architecture services to be contracted separately on a multi-residential development. On these projects, interior designers coordinate teams of consultants and may be designing changes to building elements, including by reconfiguring internal layouts and floorplans. However, as there is no means for them to register as design practitioners, they are now not able to lodge compliance declarations.

During the transition period, they may be able to pay a registered practitioner to declare the designs [audio malfunction]. But thereafter they will not be permitted to be the lead for the specific work they are qualified in. Interior designers are not seeking time to take work outside their area of expertise. They have completed advanced diplomas or bachelor degrees specialising in the interiors of buildings and in a typical year gain experience on dozens of projects. No systemic problem with the work of interior designers has been identified in any of the reviews undertaken at State or national level in recent years. Inability to register as design practitioners will unnecessarily restrict interior designers from performing work they are skilled, qualified and experienced to do once the transition period concludes unless they concurrently hold architecture, building or engineering qualifications.

We have already had reports of members losing work due to their inability to register. This is particularly acute with businesses that specialise in class 2 amendments. The impact of the building reforms on our members is that highly skilled and experienced practitioners are being removed from the industry, counter to the intent, simply because the designated qualifications do not include their profession. We believe that the new registration framework needs to be urgently updated to address the flawed assumptions about good practice in construction to ensure that all relevant practitioners are appropriately covered. Thank you.

The CHAIR: Thank you all for your evidence. We have a lot of ground to cover over the next hour so we will all try and be focused if we can. It might be useful to start where we ended there. Ms Ryan or Mr Schott, whoever wants to answer it, are you asking for effectively some legislative clarification to exclude interior designers from the registration aspects of the legislation? If so, how would that work in practice?

Mr SCHOTT: I think we are actually asking for legislative or regulatory clarification to include interior design within the scope of the disciplines that can be a registered building design practitioner. It appears that section 13, I think, of the regulations has been written in a way to try and exclude interior design but that may be based on a misapprehension of what interior designers can affect within the built environment. Probably the simplest way for me to put it would be that decorators move the curtains and designers move the walls, so we do have a fairly significant impact on the built environment within the envelope of a building and that does not seem to have been allowed for in either the legislation or the regulation.

The CHAIR: So what is the impediment to getting that certification?

Mr SCHOTT: There is no category for interior designers in the regulation so we effectively do not exist. We have explored with our members in quite a bit of detail what other categories we could become registered under. To become architects effectively requires doing a whole architecture degree, which for an interior designer in the hall of fame who has been practising for 50 years is not realistic. Looking at the building designer category, that will cover some work but many interior designers do a lot of work in high-rise buildings—renovating some fairly flash apartments in high-rise buildings—and the building design category will not cover high-rise. It appears to us that there needs to be a category that will cover high-rise buildings as well but only within the building scope.

The CHAIR: So if there was to be a regulatory change to include that as a category, what would be the qualifications upon which someone could rely to get certification as an interior designer? Would there be a different qualification for class 2 buildings? What would be the minimum standards?

Mr SCHOTT: The minimum standard we have for full membership of the Design Institute of Australia is an Australian Qualifications Framework level 7 qualification, which is I think an advanced diploma or a degree qualification. Most of those are degrees now.

The CHAIR: Ms Ryan?

Ms RYAN: Yes. That is correct.

The CHAIR: This seems a very soluble problem. Is it just a question of getting the institute and the Government and the Minister to sit down and work through a certification process? What is the barrier here?

Mr SCHOTT: I am not sure what the barrier is. It probably is a simple matter of just ensuring that the people who are responsible for drafting the regulations or the Acts actually know what it is that interior designers can do.

The CHAIR: One of the issues that comes to my mind is working out the boundaries, if you like, between interior design work and architecture work. I suppose, Ms Cockburn or Ms King, do you have any view about policing that boundary?

Ms COCKBURN: I think the difference with regard to an architectural education is the five years, two degrees and plus more than likely three years postgraduate before you are then registered. It is ostensibly somewhere between nine or 10 years before you actually call yourself a registered architect. It is an intensive process to become an architect. Then after that there is a continuous yearly requirement for ongoing education that covers all areas of practice and that is administered independently. There is quite a process involved to getting your registration and then maintaining your registration.

I think that is probably ostensibly maybe one of the differences that comes in there. As far as broad scoping of work, then there is a critical aspect to architectural work, which is effectively that we are the great generalists of the construction trade and that our role is ostensibly more often than not the principal consultant that is actually bringing everybody's specialty together. We have an overview of how things do go together. That is a very specific role. I think it would be fair to say that interior designers do not necessarily always have that level of involvement, particularly in high-rise buildings.

Mr SCHOTT: I think I would agree. Architects have a much deeper level of education than interior designers and also architects are responsible for the external environment as well. So architects can have a very large impact on the surrounding urban landscape whereas interior designers will really only affect the internal landscape, I guess, of a building. Quite often, interior designers do work in interior design teams in an architectural practice and I think that may be part of the reason that our work is not necessarily that visible. Interior designers—I am thinking particularly in commercial buildings, which is what my background is—can have very significant impacts on a building.

I have personally led projects that have included carving a staircase through five floors of a commercial building, stripping out a building to the shell and reinstalling all of the services in a way that they were exposed, and coordinating across all of the different engineering disciplines for that. So it can be a large impact, but it is entirely inside the building and given a building envelope. So I guess the limitation would be that it is inside the building only. There is probably a requirement for continuing professional development, which the Design Institute of Australia does have, but it probably needs more development.

The CHAIR: It strikes me that there is an urgency if interior designers are unable to do their work and there is a solution and it should just be urgently actioned. Perhaps both architects and interior designers should be part of that design in the certification so as it is kept within the scope of interior design and does not bleed into architectural work.

Mr SCHOTT: Yes. I think of it as a symbiotic relationship that interior designers and architects work better together.

The Hon. COURTNEY HOUSSOS: I had different questions on a different matter because I think that we have come to a very practical solution there, which is very helpful, thank you to you both. I just wanted to ask a specific question first of the Institute of Architects. You talked about your increases in insurance and obviously the importance particularly in personal indemnity [PI] insurance. How much, on average, are you finding that your members' insurance is increasing by?

Ms KING: We did a recent member survey which showed that a number of members felt that they believed the insurance premiums would rise. We have had a couple of cases where I have been contacted and insurance has risen to a certain extent. We have not at the moment got evidence that it has risen as much as it has for certifiers, but we do know that the advice we have from insurers is that there are some concerns at the moment that it could rise.

The Hon. COURTNEY HOUSSOS: I wanted to ask you about the point you made about the majority of architectural practices, specifically medium and large ones, not practising just in one sector or one building type and that this is a challenge. Obviously we have seen a lot of regulation going into class 2 buildings because they are the ones that have had the focus, but your view is that it should not just stop there, that it needs to extend to the whole industry. Is that correct?

Ms KING: I guess the point that we were making specifically was—and I guess it touches on the previous point—that at the moment registered architects who have experience outside of the particular classes noted are prevented from working in this area. So in a similar sense to interior designers, at the moment architects who have class 1 experience, for example, cannot work in class 2. We have seen that has been an issue for a number of our members and we have been working very closely with the Government and the policy team to come to a position that both protects consumers and allows architects to work in the areas that they have traditionally done. In terms of rolling it out to other classes, we fully support the intent of the reforms and we want to see consumers protected, and certainly that is the case in other building classes as well. I would say more urgently boarding houses, aged care, health would be the priorities, but certainly I think there are cases to answer in any of the building classes.

Ms COCKBURN: We would certainly applaud any reform within construction that talks about bringing the quality question back into play, and that is what this evokes and we would certainly applaud it across all classifications to enable quality to be part of the equation.

The CHAIR: But if you had to say where the immediate extension of the design reforms should be focusing on, boarding houses, aged-care facilities and—

Ms COCKBURN: There is an awful lot of government expenditure currently in health care and education and these are buildings, particularly in education, that previously have not been touched for 30 years prior. There is a massive spend there. If you want to have good-quality spend then I would suggest that also looking at where the Government is expending money to get good-quality outcomes would be a reasonable suggestion. I appreciate that the focus has particularly been on where people are sleeping, because I am conscious inhabitants obviously are at greater risk than those that are able-bodied, but we are talking about people who are in aged care and health, so there are usually infirm people there, and similarly in education there are younger children who, en masse, need to egress the building.

The CHAIR: There is some anecdotal evidence that developers are using boarding house classification to avoid some of the class 2 regulations as well.

Ms COCKBURN: Anecdotally I believe there is possibly, yes—some of that.

The CHAIR: So aged care, boarding houses, education and health—if we are going to digest the next series of classes that is where you would say the urgency is?

Ms COCKBURN: Yes, I would focus your attention in that direction.

The Hon. COURTNEY HOUSSOS: Thanks very much. Just because we have got limited time—

The CHAIR: I have one more question of the architects. I think the proportionate liability issue and the legislative test are probably on the remit for us to deal with today because they were dealt with in detail in the debate about the legislation, but I think we all understand your position on those. One of the issues that is within scope is the practical experience, the five years' experience that is limiting the ability of architects to move from one class of building to another. What is set against your position is it is a very different thing to do a class

1 building to a class 2 building; class 2 buildings are much more complex, and we had some discussion earlier today.

Ms COCKBURN: Agreed.

The CHAIR: So persuade us about that point.

Ms KING: The position that we have been working constructively with the policy team is to then provide a restricted class so that class 1 architects—because we are talking about potentially one apartment in a high-rise building or a couple of town houses. So an architect who is working in some large homes probably has the experience to be able to work in that area. By restricting their ability to work in a low-rise setting—up to three storeys—then we are protecting consumers, but we are also maintaining that a registered architect who has got experience in class 1 is certainly capable of performing in a professional manner in that area.

The CHAIR: So you would have an architect who could do class 1 buildings and then a subset of work within class 2 buildings.

Ms COCKBURN: Correct, low-rise, equivalent to a building—

Ms KING: I think at the moment the legislation allows for low- and medium-rise restricted classes for building designers. We would maintain that an architect's registration process is certainly very robust in comparison with any other design practitioner group and that, as a registered architect, having a master's degree in addition to supervised professional experience and then a registration process as well, is certainly more than enough. But we do understand the Government's intent to ensure that consumers are protected, so we are trying to sort of work within the legislation to find a solution that does not restrict the trade of registered architects.

The CHAIR: Your case, in short, is architects have layers and layers of quality control and professional controls.

Ms COCKBURN: Correct.

Ms KING: Absolutely.

The CHAIR: Which should be sufficient for your role in low- to medium-rise.

Ms COCKBURN: It should be able to enable us to actually practise unrestricted. However, we appreciate that currently the issue we are facing with members is that because of the specificity around classifications, it is actually restricting practice of some incredibly experienced people in doing the odd apartment or the refurb here or there. They practise in multimillion-dollar individual residential buildings. They occasionally get asked by their same clients to go and do an apartment here or an investment here and at the moment they cannot do that, and they have been practising for 50 years or 40 years. So what we have been doing is working with the Office of the Building Commissioner to try and find an amenable middle ground, which is to enable that restricted up to medium-rise practice for them at this moment, at this juncture.

The CHAIR: Do you think you are near a resolution on that?

Ms KING: We believe we are.

Ms COCKBURN: We believe we are, yes.

The CHAIR: We might clarify that this afternoon, but I think we all understand the issue.

The Hon. COURTNEY HOUSSOS: Mr Smith, I totally agree with your comments about needing to look at the totality of the building, but can you just take me through slowly what you said quite quickly at the end of your statement, which was there should be a cert for training—actually, why do I not just hand over to you to take us slowly through that?

Mr SMITH: I suppose it comes back mostly to the Building Confidence Report where recommendation 19 said, and I will read it for you, "registered fire safety practitioners to design, install and certify". We have a view that that is correct, but you need to look at maintenance at the same time as installation because that is just as important, and that then there is as well an inspection test. The other thing that people often forget about with fire protection, we have got a lot of people that work with sprinklers, so people come and talk to me about sprinklers and that is very valuable, but there is also a lot of other elements to the fire protection system. So that is what we would call the active wet system.

There is also the passive system, which I think most people would be aware of—that is, your fire doors and that sort of thing. There is the electrical system, which is a whole range of things around alarms and that element; as well as portables, which would be hoses, hydrants, that sort of thing. And then there are special hazards, which are for different sorts of buildings that cannot have that simple active wet system. So our view

would be that there should be a classification and a framework around design, install and maintain, inspect and test certification against each of those different streams as well. Each of those should be marked in an appropriate ASQA qualification, and I think that just builds on the success that we have seen over so many years of the sprinkler fitting apprenticeship and the fact that we have had no deaths in a sprinkler building in Australia. The apprenticeship teaches more than just the individual units.

What we are finding with some of the accreditation schemes and that sort of thing is that they cherry-pick units and that if you just do those units, that does not mean you understand the system; it means you understand a very finite part of it. So the value of that broader approach has really paid off. It was interesting, I was chatting with one of our trainers at one of the training colleges and at one point they tried putting all the inspecting test units and teaching them all in one go in the first year. But what they found was that the success was very low compared to when they spread them across the three years, because the people doing the inspect and test units within the apprenticeship had a much better understanding when they had done other elements of the apprenticeship and understood the wider system.

The Hon. COURTNEY HOUSSOS: That is certainly something that I raised earlier this morning, which is from the Plumbing Trades Employees Union, which was talking about the need to then license the maintenance; the installation is licensed, but not the maintenance, which can be just as important. You would obviously support that recommendation.

Mr SMITH: Entirely, yes.

The CHAIR: That would be a cert IV recommendation?

Mr SMITH: No. The maintenance, our view would be that that would be in line with the installation, which would be a certificate III and fundamentally probably the same qualification, which is that apprenticeship.

The Hon. COURTNEY HOUSSOS: Yes, absolutely. That is very, very helpful, thank you very much. I will move on to—

The CHAIR: Sorry, we have 35 minutes.

The Hon. COURTNEY HOUSSOS: I am trying to be very disciplined. You told me to be very disciplined.

The CHAIR: You have been very good, Ms Houssos. In terms of the commissioning, you need certification to install and then you would want certification to maintain. What is unique about commissioning? Is that turning it on and—

Mr SMITH: You do not have certification to install per se at the moment. The design work is now very well regulated through the Design and Building Practitioners Regulation, which we are very happy with because it follows that same model of an appropriate qualification as the regulation. So design work is happening fine. Then the install is being done predominantly to the design but not always, but closely to the design, hopefully. Then there is an installation statement made and the certifier will look at the statement to sign off. This is just the experience we are finding on the ground that our members are going in a year later to do the annual fire safety statement and they are going, "That doesn't match the standards."

So the feedback we are getting from our members at the moment is that they are going a year after somebody has paid to have a rather expensive fire system installed and saying, "This doesn't meet X or Y or Z. You're going to have to do this much work to correct that." So what we would advocate for is that a certifier sign-off—a certifier classification within fire protection licensing, a cert IV qualification, would go in and certify that it had been installed as per the design and installed correctly, and they would then be responsible for that if a year later there was an issue.

The CHAIR: So at the moment whoever installs it, who may not have accreditation, basically writes the documentation, which is then signed off by the private certifier.

Mr SMITH: In a sense by a private certifier, yes.

The CHAIR: Who may not have the expertise or may not be on-ground to check.

Mr SMITH: They would be required to have accreditation now under the most recent thing, in the last year, and this has only been in the last year this has come in, but we are still finding that there are some issues when people actually get to that first annual inspection, which we are now past and we found this in the last few months.

The Hon. TREVOR KHAN: How many times has it been found, to your knowledge?

Mr SMITH: I would have to say that what I am giving here is anecdotal in that I have had members mention it to me. It has come up at a members' meeting and there was a fair chorus of support. I could not give you a specific number.

The CHAIR: What would be the additional checks and balances in the commissioning certification as opposed to the installation, whatever the private certifier has currently signed off on now? What is the distinction?

Mr SMITH: If you have a certifier with the appropriate certificate IV qualification, they would be able to go and look at the system in its totality. They would understand the full installation process and its implications further on. They would have a wider remit. At the moment, as I say, if you are looking at the private accreditation scheme, you have people who have—well, at the moment they would be under the transitional pathway, so they would have undertaken some private assessments and been granted that. Moving forward, they potentially have some cert II qualifications and a mix of different qualifications, depending on which element they were certifying, whereas it could be much cleaner, much simpler if you had one person who was the certifier with the appropriate qualification who understood the entirety of the system and looked at it and said, "Yes, that is correctly installed as per the design. I am happy to sign my name if you come back to me in a year's time if there is a problem."

The CHAIR: And that is somebody who understands that there is a system in place and they all interact and they have the skills to sign off on that?

Mr SMITH: Absolutely that, yes, and at an appropriate level to understand that.

The Hon. TREVOR KHAN: So working on the basis that it is anecdotal, what are the sort of problems that are being identified as making it, in a sense, noncompliant?

Mr SMITH: That things have not been installed as per the design—so there is a design that meets compliance and the installation does not match that design, and that could be a range of many different things, but that fundamentally is the issue: There is an approved design and that has not been met.

The Hon. COURTNEY HOUSSOS: And you are saying that it is not being picked up by the certifiers. I think it was during our last inquiry we established that the role of the certifier is essentially to rely on the certificates that are provided to them. You are saying that that certification that is being provided to them, there needs to be more rigour around that.

Mr SMITH: Yes. At the moment that is fundamentally an installation statement saying, "I have installed this as per the designs", and what we are finding is a year later that they have not.

The Hon. COURTNEY HOUSSOS: That is very helpful.

The Hon. SCOTT FARLOW: Do you see this additional requirement required on all levels of building or do you see it as something to apply to a certain class?

Mr SMITH: I think you would be looking probably alongside the class 2 and above. Class 1 systems are next to nothing for fire systems.

The CHAIR: Not the multistorey buildings. What about large industrial commercial—

Mr SMITH: Yes.

The CHAIR: So not class 1s, is what you are saying.

Mr SMITH: Yes, not class 1s, is what I am saying, not the smaller residential, but everything else.

The CHAIR: Ms Houssos is keeping us to time so I will hand back to Ms Houssos.

The Hon. COURTNEY HOUSSOS: I am only the acting deputy chair. Mr Gavin and Mr Regler, thank you very much for your time. Can I just say, Mr Gavin, I am fascinated that you have got some samples.

The Hon. SCOTT FARLOW: Here is something I prepared earlier.

Mr GAVIN: I nearly did not bring them. I left them in the car and I ran back to get them.

The Hon. COURTNEY HOUSSOS: We can see them later. Perhaps before I start my questions you might want to talk about those.

Mr GAVIN: The samples I brought in—

The Hon. SCOTT FARLOW: You are not going to set them alight, are you?

Mr GAVIN: No.

The Hon. TREVOR KHAN: It is not a lump of coal.

Mr GAVIN: Not all of them burn.

The CHAIR: Mr Gavin, you have the floor.

Mr GAVIN: The samples I brought in are just to demonstrate the products that are compliant in New South Wales or in Australia at the moment. The product that has been chosen by the CPSP, the Cladding Product Safety Panel, is this one here, which is solid aluminium. It is three millimetres thick aluminium, no core whatsoever, the heat goes straight through it. Aluminium as a product melts at 660 degrees. It does not matter if it is three millimetres thick or 20 millimetres thick; it still melts at 660 degrees. Let me go on to the product that we are the distributors for, which is Mitsubishi ALPOLIC. It has got aluminium skin either side of a non-combustible inner mineral core.

I guess with aluminium composite panels, the question mark that comes up about is the fact that they are aluminium composite panels and the media say that they are all dodgy, as they say in the media. But it is like a family, truly. You have got two aluminium panels and it is what is in the middle that does all the work. I know Lacrosse and Grenfell were brought up earlier, and that was 100 per cent polyethylene, those panels, and polyethylene melts. So what we have here is a mineral core; it does not melt, it is non-combustible, the whole product has been tested and it has been deemed to satisfy and compliant in Australia. Would you like me to go on into the third one?

The Hon. COURTNEY HOUSSOS: Please. I am enjoying this.

Mr GAVIN: The third one is a corrugated core panel that is actually being considered at the moment as a bonded laminate. This is, once again, two pieces of aluminium either side of a corrugated aluminium core that is held together with glue. So what happens with this one is that once the fire gets to it you have got oxygen and glue going through the middle of the panel and the fire spreads. That is being considered at the moment. The ALPOLIC NC and the corrugated core panels just recently, last week, have been called for further testing to test to a fairly low standard called AS 1530.3, whereas the solid aluminium, that just gets a green light anywhere for some reason.

The Hon. COURTNEY HOUSSOS: That is a very effective way of showing that there is a clear difference between solid aluminium, the product that you are talking about with the mineral core and the corrugated core as well, and clear differences in terms of what the fire safety is of each.

Mr GAVIN: The supplier for the solid aluminium and the panel—I will call them "the panel", the CPSP—they have not called for any fire testing really on solid aluminium. It is a product that goes back to the eighties where people used solid aluminium and it got outdated because of the heat transfer because the energy efficiency of buildings dropped because the heat just goes straight into the building, but they have not been asked to do any of the highest possible tests within Australia. So there is no evidence whatsoever to say that solid aluminium is a safe product. The ALPOLIC NC has been tested to those higher safety standards. We, as a supplier, wanted to see how the ALPOLIC NC performed against solid aluminium so we tested to the highest possible standard, which is building a nine-metre wall and burning it.

The CHAIR: That is the AS 5113.

Mr GAVIN: Yes, AS 5113, that is correct. And the ALPOLIC passed. It was head and shoulders above the performance of solid aluminium. But because the NCC does not call for solid aluminium to be tested to that standard, it gets passed through with an easy standard. It is called the non-combustibility standard.

The Hon. SCOTT FARLOW: What is that standard? You were talking about the corrugated one being the AS 1530.3, I think. What is the standard that the solid aluminium is tested against?

Mr GAVIN: It does not necessarily have to be tested. It is just classified, it gets a clear pathway through NCC. Most of them—

The CHAIR: National Construction Code.

Mr GAVIN: Yes, National Construction Code. A lot of them have been tested to AS 1530.1, which is a non-combustibility chamber you drop it into. They do not combust; it is like a radiator basically: It comes together at 750 degrees to see if the mineral actually ignites and if it ignites then it is combustible, if it does not ignite it is non-combustible. In numerous reports that we have seen on the solid aluminium, it does not actually last the journey because it drips out of the bottom—it melts and drips out of the bottom. But this is the product that has been classified as good to go on any buildings—class 2, high-rise buildings—through Project Remediate.

The CHAIR: Mr Gavin, is it as simple as this that your position is if you are going to put a bunch of cladding up on a building it should satisfy the highest standard of AS 5113? If it satisfies that, it is good to go; if it does not satisfy that, it should not be put up on a building.

Mr GAVIN: Absolutely. From day one we have been asking for apples-to-apples testing and test the products side by side so we can actually prove that the ALPOLIC NC outperforms this solid aluminium. The test is expensive and none of the suppliers will spend \$70,000 to show their product fails dismally.

Mr REGLER: We did. We spent the money at the start because I was not prepared to sell a product that I did not believe in.

The Hon. TREVOR KHAN: Sorry, can I just go back to the solid aluminium? Solid aluminium is used in a variety of circumstances—for instance, it is used on ship superstructures, including naval vessels that would be used in low-intensity warfare exercises as opposed to high-intensity, but it is known that it will melt. But is melting the problem in terms of the buildings?

Mr GAVIN: It certainly is one of the problems. There are numerous problems.

The Hon. TREVOR KHAN: Grenfell was not a melting problem; it was a combustibility problem, was it not?

Mr GAVIN: Absolutely—two totally different issues. We are not saying for a second that solid aluminium will propagate fire the same as the polyethylene core material did. What we are saying is that under high temperature—

The Hon. TREVOR KHAN: I am just concerned that that is differentiated, because I accept that there are limitations to a whole range of materials, but if what we are interested in is the Grenfell situation, holding up a piece of solid aluminium and saying it will melt at 600-odd degrees—

Mr GAVIN: You have still got to be concerned about the safety of the occupants getting out of the building, and solid aluminium—

The Hon. TREVOR KHAN: I accept that.

Mr GAVIN: It has been proven that solid aluminium—and documented in one of the suppliers' own documents that was tabled at budget estimates—melts at 660 degrees. This test is 1,000 degrees for 30 minutes. The solid aluminium forms chunks, melting debris falling down on people trying to exit the building. That is just as dangerous as—I mean, we are concerned about the safety of people, whether they are fixed mechanically or not, because that is one of the criteria that the CPSP put in place, that they have to be fixed mechanically around the outside. We have seen in a CSIRO National Association of Testing Authorities [NATA]-tested lab that the panel actually comes off the wall; the whole panel comes down because the heat that is generated in this test melts the aluminium and it melts away from the fixing and it comes crashing down. You are not going to get the propagation—we 100 per cent agree with that—but it is about safety, it is about environmental issues. There is a whole range of durability. There is a whole range of separate topics where this product has not been tested to and is not suitable for.

The Hon. SCOTT FARLOW: So what happens to your product in similar circumstances?

Mr GAVIN: Like I said before, the core in the sandwich does all the work. The heat does not get through this core. What happens is the aluminium will melt away and flake. This is 0.5 aluminium, so that would sort of melt away and in a—

The Hon. SCOTT FARLOW: So how does the aluminium adhere—what is the adhesive for the aluminium to the core? What keeps it all together?

Mr GAVIN: It is bonded together with an adhesive. The NCC, the National Construction Code, says that you have to have a non-combustible either side—

The Hon. SCOTT FARLOW: Which is the aluminium.

Mr GAVIN: —and a non-combustible core, and the adhesive layer has to be less than one millimetre thickness per side to improve safety. So this product, the adhesive layer, is 0.05 a millimetre either side, so it is well below the threshold. In the UK it has been tested to Euroclass A1, tested through EN 13501-1. All components need to be tested for flammability, for combustibility, and that is the only product in the world that has passed.

The Hon. COURTNEY HOUSSOS: Let us just put that into perspective: It has been tested to the highest European standards.

Mr GAVIN: Yes.

The Hon. COURTNEY HOUSSOS: It has been tested to the highest standards here in Australia, but yet it is still not recommended by the Cladding Safety Product Panel here in New South Wales.

Mr GAVIN: That is right.

The Hon. COURTNEY HOUSSOS: And yet the solid aluminium is, which does have risks. I want to move on to the risks that are associated with the solid aluminium because, I will be frank, there was a briefing that the Chair and I and others participated in from the product safety panel about the installation of solid aluminium panels. There are serious dangers in the way that it is installed then as well, are there not?

Mr GAVIN: There is. The installation and what is behind the panel is just as important as the panel itself. A lot of these panels originally were put in with polystyrene insulation and all of a sudden there was a flood of people who wanted to come in and be installers to make money out of doing this. We will not sell it to anyone. They have to go through an accreditation process to make sure that they are installing as per recommendations.

The CHAIR: The rationale for the polystyrene was it that at least it provided some insulation and provided a sort of outcome.

The Hon. TREVOR KHAN: It does.

The CHAIR: It just so happened that it was a dreadful fire risk.

Mr GAVIN: Absolutely.

The CHAIR: You say that the issue is not necessarily bonded products. The issue is having a bonded product that is not a fire risk and produces some kind of thermal insulation.

Mr GAVIN: This provides some thermal insulation. We still recommend insulation in the cavities, but it should be rockwool. It should also be used in a high-standard testing.

The CHAIR: And the issue that was identified within Project Remediate's own documentation and testing was that when you have the aluminium-clad wall, which is separated out some centimetres through the insulation system—

The Hon. TREVOR KHAN: It is a funnel.

The CHAIR: —it creates, yes, a funnel or a chimney effect.

Mr GAVIN: A chimney.

The CHAIR: We saw in budget estimates and we have seen in briefings that chimney effect means the fire spreads rapidly and melts the aluminium. It is a system issue as well, is it not?

Mr GAVIN: That is a system issue, and this is one area where Project Remediate and the panel have recommended using cavity barriers in the systems so when there is a fire they expand and that blocks that cavity.

The CHAIR: I might go to the architects. If you are thinking about installing aluminium cladding as a design solution, are you aware of the concerns about condensation and the like from rapid heating and cooling?

Ms COCKBURN: Yes. I think if we just take it away from the product and we just talk about the envelope, it is really important to understand that it is a system—it is a system that has to breathe, it has to seal, it has to protect, it has to perform acoustically; sometimes it has to perform from a security basis. There are many aspects to an envelope and within that you have to have a whole-of-system approach. So there is a requirement upon us to have the knowledge and the information available to us that allows us to review how to build up that system. We rely on the expertise or the specialist advice from specific engineers that enables us to build that and then we also need to have clear information, product information, to the nth degree—and by that I mean it is not just that it covers the Australian standard but it covers all parts of that Australian standard and is very clear about where it does not comply with that Australian standard.

Part of the issue we have at this present moment is the lack of testing that is being taken out on materials in Australia, the long wait times that are at CSIRO for people to product test, and the expense. So it sort of falls short of innovation within construction and it means that it is very difficult to actually make decisions on materiality when the information is not displayed clearly within the products. It also leads to substitution where things are put in place of the original documented item and it is not clear as to where things are compliant or not.

The CHAIR: Has the issue of aluminium cladding not meeting the AS 5113 test and then the system, if you like, which is the cladding and the fixtures creating that chimney effect, been raised in your professional experience, Ms Cockburn?

Ms COCKBURN: Yes, it has, absolutely.

The CHAIR: Do you want to speak to it briefly?

Ms COCKBURN: Anecdotally, we certainly, through PI insurance, will not touch aluminium coating—that is professionally speaking in my role as a director of a company.

The CHAIR: Would it be fair to say that that system of aluminium cladding is the one that is most commonly being used though?

Ms COCKBURN: Yes, it is an interesting one. It is, or was, a very achievable system. The issue that came to ground often was the substitution by many different contractors across the board historically, and a lack of ability to control that. But the need to actually understand it in a system perspective and from the face all the way through—the preventative piece of putting stops at each level to avoid the chimney effect also then has detrimental effects upon the need to actually make the skin breathe from a part J perspective. So there are issues related to the two different ways in which an envelope needs to work within the same parts of the actual legislation.

The CHAIR: But are those issues in particular conflict because of the very poor insulating behaviour of aluminium—

Ms COCKBURN: Correct.

The CHAIR: The rapid heating and cooling leads to a large moisture build-up.

Ms COCKBURN: Correct, yes.

The CHAIR: So you are starting with the wrong product really, are you not?

Ms COCKBURN: Yes. There has been, I guess, professionally probably a shift away to avoid some of those aspects.

The Hon. TREVOR KHAN: So what is the product in the alternative?

Ms COCKBURN: Normally you would have a non-combustible material that you put externally as a lightweight cladding, a sort of cementitious product, but you have extra weight with that as opposed to the aluminium one. So there is an issue involved there.

The CHAIR: Under the current National Construction Code, though, it is compliant with the construction code to be building these large walls of aluminium cladding with the gap behind it and no barriers. Is that compliant with the National Construction Code at the moment?

Ms COCKBURN: We have not used aluminium for quite a while for that reason.

The CHAIR: Very sensible.

Ms COCKBURN: My understanding is we need to provide barriers at each floor. So that is what we do as a part of our practice. The BCA is a minimum standard and we seek to achieve above that.

The Hon. COURTNEY HOUSSOS: Who inspects the cavity barriers?

Ms COCKBURN: That is done as part of—we document it and then that the construction is carried out in accordance with those documents.

The Hon. COURTNEY HOUSSOS: So your expectation would be that the certifier would then check that these cavity barriers are in place, or does it fall on the fire accreditation person? I am happy for you to take it on notice.

Ms COCKBURN: I think on notice we can probably come back with that.

The Hon. COURTNEY HOUSSOS: That would be very helpful.

The CHAIR: Mr Smith very sensibly does not touch cladding. Is that right, Mr Smith?

Mr SMITH: Yes.

The Hon. COURTNEY HOUSSOS: I think Mr Gavin wanted to add something.

Mr GAVIN: The cavity barriers are only a requirement under Project Remediate. So in other class 2 buildings all around the country, whether it is a hospital or anything like that, cavity barriers are not necessarily required. So the panel has now put in place vertical and horizontal cavity barriers and Project Remediate will then, full stop—that is it.

The CHAIR: Which is just 220 buildings; the rest of them can all go and—

Mr GAVIN: Two-hundred and twenty buildings; the other 700 around the State, you can do what you like.

The CHAIR: Plus all the other buildings that are currently being built now.

Mr GAVIN: Absolutely. Yes, new builds are the same. You can build a building—there are plenty of architects out there at the moment that are specifying solid aluminium cladding. There tends to be a shift away initially from ACM—that is what everyone was shifting away from because of this all products being thrown in the same basket after Grenfell.

The CHAIR: You are now going to tell us what the acronym ACM stands for.

Mr GAVIN: Sorry?

The CHAIR: You are going to break down the acronym for Hansard.

Mr GAVIN: ACM stands for aluminium composite material.

The CHAIR: Thanks, Mr Gavin. Carry on.

Mr GAVIN: Where was I up to?

The CHAIR: You were saying that there are buildings at the moment, that they have stepped away from ACM, aluminium composite material, and there are architects and large building projects just using solid aluminium.

Mr GAVIN: This is why we keep saying that the AS 5113 is such an important criterion in all of this: to show what happens and get some integrity and safety back into the industry. I mean, we are starting with a product that generates heat, puts heat into a building, and melts and drips all over the place versus a product that does not.

The CHAIR: Ms Cockburn, do you see a—"barrier" is probably the wrong word to use—problem with requiring all cladding material to meet the AS 5113 standard as a basic minimum?

Ms COCKBURN: I think as a basic minimum it is probably a good starting point, but, again, I stress that it is not just the material, it is the system that needs to be tested holistically from outside to inside with all aspects of it to be considered.

The CHAIR: I think the 5113 is the wall. So you build a wall of it using the construction system and then you set fire to it. That is a kind of systems test, is it not?

Ms COCKBURN: It is yes, but obviously that is for fire, and then you have got to appreciate what other things it needs to comply with as well, but yes, for the AS 5113, a minimum standard for all materials would be a good starting point.

The CHAIR: Almost an essential starting point, would you agree?

Ms COCKBURN: Yes.

The Hon. SCOTT FARLOW: Mr Regler, I think you said in your opening statement that there was an assessment process for your product that is to happen next year, is it?

Mr REGLER: It is actually happening now, I think, with Project Remediate.

The Hon. SCOTT FARLOW: And what is that assessment process? What have you got to go through?

Mr REGLER: It is being assessed to 1530 part 3.

The Hon. SCOTT FARLOW: Is that the same standard that the aluminium cladding has gone through as well or is that—

Mr GAVIN: This was last Tuesday. We received a Project Remediate methodology for testing bonded laminate materials. Bonded laminate materials are the next lot of materials that they are looking at after they have put their one product through, which was solid aluminium. The test that is required is AS 1530.3. All that is is putting a panel on a wall and having a radiator incrementally come closer to it to test the indices levels of smoke and flame basically. So it is not exposed to any real heat, flames or anything like that. The maximum temperature in the test is 600 degrees, so aluminium—there will not be a problem with any of them.

The Hon. SCOTT FARLOW: Because you said aluminium melts at 660, was it?

Mr GAVIN: Yes. It does not get to 660. They have also asked to cut out perforations in the panel to represent an air-conditioning duct or a pipe that will expose the core material, and they have also asked for a test to be done with intersecting joints filled with silicone to see how that would perform on a building. But they have only asked for the bonded laminate materials. The solid aluminium—the golden child here—that does not have

to do anything. And what we are finding is a mass of this coming in from all different suppliers, different grades, different melting points, and none of it has to be tested—it can go straight onto a building.

The Hon. SCOTT FARLOW: So as part of that process your products are being tested. Are there other products that are being tested as well?

Mr GAVIN: The new—

The Hon. SCOTT FARLOW: As part of this new Project Remediate assessment.

Mr GAVIN: This one here is being, the corrugated core. Basically the corrugated core one and our ALPOLIC NC are the two products that they have called for further testing on. That was at a meeting called last Tuesday.

The Hon. TREVOR KHAN: I am not trying to be derogatory, but is your complaint that it is being required to be tested but it is not being tested to a high enough standard or—

Mr REGLER: That is correct.

The Hon. TREVOR KHAN: You want it tested to a higher standard?

Mr REGLER: Absolutely.

Mr GAVIN: We want all products to be tested.

The Hon. SCOTT FARLOW: And you want the other products tested to a higher standard as well.

Mr REGLER: Absolutely. Apples-to-apples testing. These poor people that are already in these buildings now have suffered enough. Why not go to the extent now of putting the best product forward for them to replace it?

The CHAIR: What is the resistance to the AS 5113 testing, the wall testing? What is the resistance that you are getting?

The Hon. TREVOR KHAN: I think you are entitled to ask what do they believe is the resistance.

The Hon. SCOTT FARLOW: I think Ms Cockburn looks like she might want to contribute to this as well.

Ms COCKBURN: My understanding anecdotally is that it is to do with cost. We get flooded with products from overseas and elsewhere that say, "Here is the newest, biggest, brightest thing." There is a lot of pressure on architects and other design professionals to accept alternatives from contractors who are looking to save a buck here or there and who are on incentivised earnings, and therefore you are between a rock and a hard place. You have specified what you believe complies and does the right thing by the testing and the standards and you are presented with other material, and when you say, "It does not have an Australian standard certification. I cannot see where this complies", you find out very quickly that they have not gone through that rigour. They have flooded the market and they have not done the right thing. And it is cost—it is cost driven—and we have been told anecdotally it is also time. Obviously CSIRO has limited funding, unfortunately. They are an extraordinary organisation and it would be well-invested money to expand their ability to get this testing done in a timely manner.

The Hon. SCOTT FARLOW: Mr Gavin, what is the cost differential between aluminium cladding and your ALPOLIC product? I guess it is hard to say a blanket, but, you know—

Mr GAVIN: The cost is comparative really. We are no more expensive. Trust that the issue is not about costs. The cost is what got us into this issue in the first place. Everyone was looking for the cheapest option with the polyethylene fill that was cheaper than a fire retardant material, and that is what everyone substituted out for. They looked to save the dollar. But as far as the cost of our material, there is the solid aluminium and right at the moment we are probably cheaper actually, but normally we are right on par with them. But it is a system as well. It is actually quicker and easier to fabricate the ALPOLIC because it has got the mineral core in it and is quicker to install. So the end result is a more price-competitive solution as well. So it is not about the money; it is about safety.

The CHAIR: But a very real concern I see in this is if the safety concerns of the aluminium system with the chimney effect eventually become widely recognised in the insurance industry, building owners who may have spent tens of thousands or hundreds of thousands of dollars remediating to get rid of ACM material are going to have to do it all over again to get rid of yet another defective system. Ms Cockburn, do you have any views about ensuring good design in the first place?

Ms COCKBURN: The intent being that if we have got clarity in the testing regime and the material within that system we can then specify and document it clearly, then that should, ipso facto through the construction process, ensure a good design.

The Hon. COURTNEY HOUSSOS: The testing regime is fundamental though; it is crucial, is it not? But this is something where the Government requires it but because this has kind of happened with the flammable cladding, there is a delay. So there is a need to have more resources devoted to fire testing. Would you agree with that?

Ms COCKBURN: Agreed, yes.

The Hon. COURTNEY HOUSSOS: Can you just explain a little bit more? You talked about there are long waits and the CSIRO. My understanding is that there are only a few fire labs that will actually provide that. Mr Regler, you are nodding as well.

Mr REGLER: That is correct.

The Hon. COURTNEY HOUSSOS: Can I get your feedback and Ms Cockburn's on what is the fire testing regime and why is there such a wait?

The Hon. TREVOR KHAN: And who pays?

The Hon. COURTNEY HOUSSOS: Yes.

Mr REGLER: If the manufacturer pays for an independent test there is no problem. We have probably spent \$700,000 in testing already on these products to make sure that the product we are putting out into the marketplace is the right product. So that is us as an individual company. With the likes of the CSIRO and Exova Warringtonfire down in Victoria, which are the two NATA-certified labs, you can get into these labs and book them now and have it done probably over a three-month period. It takes a week to get the tests sorted. Mr Gavin, that would be right?

Mr GAVIN: Yes, that is right.

The CHAIR: But is not the issue here the manufacturer or the distributor saves \$70,000 by not having it tested—

Mr REGLER: Yes.

The CHAIR: —and that is commercially important to them.

Mr REGLER: They may not—

The CHAIR: At the end of the day, the home owner—

The Hon. TREVOR KHAN: Sorry, he wants to answer.

The CHAIR: At the end of the day, the home owner spends hundreds of thousands of dollars installing and maybe refitting. It is this risk, it is shifting the risk onto home owners, is it not?

Mr REGLER: That is right. These people have all been through the wringer already. So why not give them the right product right from the word go? Why not test to the highest standard possible? Otherwise why do these tests? Why put them out there?

The Hon. TREVOR KHAN: Ms Cockburn, what interests me is this: Before you were born, I suspect, one of the great controversies that developed over aluminium was allegedly over HMAS *Sheffield*, which was sunk during the Falklands War. There was a great argument about aluminium superstructures on that ship. As it turned out, it was not aluminium; it was steel. But the problem that arose in terms of melting of the superstructure and half of the ship actually was what was in the ship: It was all the accumulated wiring et cetera that was in the building. It really goes back to this: It is not simply a melting point that is at issue; it is everything else that makes up the structure that potentially changes the dynamic? In *Sheffield* it was bedding et cetera that made the whole thing so highly combustible. It was not a question of whether it was 660 degrees; the ship was burning at far higher temperatures than that. But that comes back to your point about looking at it as a system as opposed to just one element.

Ms COCKBURN: Absolutely.

The Hon. TREVOR KHAN: And setting on fire a bit of aluminium or whatever.

Ms COCKBURN: And I think, importantly, the testing needs to illustrate the clear conditions for the entire system. So if I again take it away from the material at the moment, there is kind of a book that we almost

call the red bible, which is the CSIRO red book, which has tested systems of particular cladding or brickwork or others within it. We know with clarity that if we build walls like they have put into that book, we will comply with the certain standards that we need to for a particular given circumstance. And they are very clear as to where the testing regime stops. There are certain issues to do with when walls meet roofs, how you encase structure, how you deal with movement joints. There is a whole lot of technical—the book is a good half-an-inch thick. That kind of clarity is needed across all sorts of materials. At the moment it is a minefield as to whether or not you get that clarity with the information that is provided to you. So I agree, it is absolutely about a system. The melting point test of a particular product is only one piece of the puzzle, and where you place that particular product, because of its intrinsic nature, is really important when you go about the design.

The Hon. COURTNEY HOUSSOS: Can I ask one final question? The fire testing on each element is fundamental to you being able to assemble the system. Is that correct?

Ms COCKBURN: Yes, it is, on that system. I would also suggest, rather like an Australian-made product that suggests it has 100 per cent Australian peaches in it, that it is really clear in the labelling. That is something that is sometimes, one might suggest, purposely subdued within technical data. The asterisk down the bottom will say in big writing, "We comply with the standard," and then down here it will say, "Except for parts one, two and three," and you sit there and go, "Hang on a minute, that's the one I need." That really clear labelling from the testing regime is incredibly important.

The CHAIR: It sounds to me like aluminium cladding is in a "get out of jail free" category under the current regime. Is that fair or not fair, Ms Cockburn?

Ms COCKBURN: I personally cannot comment on that. If we walk away from what is currently happening and we look to what we want to happen, if we have that as a minimum standard—and I think we will probably take on notice whether it is just that standard, or particular parts of that standard, or other standards as well.

The CHAIR: If you would not mind. Could you also take on notice whether or not the 15.30.3 standard is an adequate test for the fire safety of cladding?

Ms COCKBURN: Sure. Also, understanding architects being great generalists, we would also be relying on our specialist advice with regard to that.

The CHAIR: I might finish by going to Mr Smith. Sitting here with your fire industry perspective, do you have any views about this discussion?

Mr SMITH: I have views. The issue with the ACP/ACM, as we have spoken about, is that anything that forces fire up is obviously—something that is flammable itself is a bigger danger. That being taken out would be our primary concern.

The CHAIR: Getting rid of the chimney effect?

Mr SMITH: Getting rid of the chimney effect. Anything that propels fire further is what we would like to see removed.

The CHAIR: This comes back to the point you raised, which is that you need to have a system-based—

The Hon. TREVOR KHAN: You say "final question" and then you do four yourself.

The CHAIR: You need to know how it operates as a system, in short.

Mr SMITH: Always. I think that probably builds on what was being said before by the architects. All of these things interact. So how they work as a system is the most important factor.

The CHAIR: As the Hon. Trevor Khan is indicating, we should end this session now. We covered a lot of ground. I thank you all for coming with us in the last hour and a bit, and for all of your submissions and assistance today. Thank you very much.

(The witnesses withdrew.)

STEVE MANN, Chief Executive Officer, Urban Development Institute of Australia – NSW Division, sworn and examined

LAUREN CONCEICAO, NSW Deputy Executive Director, Property Council of Australia, affirmed and examined

CHARLES KEKOVICH, NSW Senior Policy Adviser, Property Council of Australia, sworn and examined

The CHAIR: Thank you very much for your attendance.

The Hon. SCOTT FARLOW: Mr Chair, I have a disclosure to make at the beginning. Mr Charles Kekovich is a former staff member of mine, about two years ago, so please go your hardest on him.

Mr KEKOVICH: There go the talking notes.

The CHAIR: I will let you two sort out your issues later. We will go straight to the opening statement. Who wants to kick us off? Mr Mann?

Mr MANN: Sure, I can, that is no problem. Thanks to the Committee for the invitation to appear today on behalf of the Urban Development Institute of Australia [UDIA] New South Wales to present the views of the development industry. It is just over two years since my last appearance before this inquiry. For the benefit of new Committee members, UDIA New South Wales is the leading industry body representing the interests of the urban development sector. We have over 500 member companies. Our members are involved in urban renewal projects in Sydney and include developers, builders, strata managers, planners, project managers, engineers and local councils.

We have worked constructively with the NSW Building Commissioner, David Chandler, OAM, since his appointment in August 2019. I am impressed by David's tenacity to deal with poor construction issues and his leadership to pull together all the stakeholders and to create a better industry. On the whole, I believe David has found the right balance of action against developments with bad construction and the solutions to these problems. I sit on the Construct NSW steering committee with David. I am also on the forthcoming Ministers' industry panel for decennial liability insurance.

In our original 2019 submission to this inquiry we made eight recommendations, five of which have been explicitly adopted or are currently underway. We have been involved in the consultation for the Design and Building Practitioners Act as well as the industry rating system. To briefly recap where the industry has come since late 2019, through the 2020 focus was the implementation of the occupation certificate [OC] audit regime, which has generated the most media coverage. In response, UDIA moved to form a building industry advisory panel comprising 15 practitioners, who met early with the Building Commissioner for the trial occupation certificate audit process. Some of our members offered their sites as part of that trial. The Office of the NSW Building Commissioner [OBC] requires OC audits six months before OC to allow for any rectification work and use a traffic light system to guide compliance.

Through 2021 the focus has been on OBC establishing the principles of what a trusted developer and builder looks like and the rollout of the industry rating system, which is designed to give consumers greater confidence in selecting an apartment. The Building Commissioner is recommending developers and builders obtain certification for their business and their delivery structures. Currently this independent rating is being offered by Equifax, and the commissioner hopes there will be others. The vision for the rating tool system is to bring more of the industry through the process with the aim of obtaining a rated status, which will give the consumer confidence when purchasing off-the-plan apartments. UDIA has continually sought to highlight the excellence that lies within much of our industry, particularly the small- and medium-sized developers, which deliver more than 50 per cent of the apartment projects in New South Wales.

A key focus in 2022 will be on developer-builder quality ratings and decennial liability insurance. This is intended to return security and confidence to the insurance market. Restoring confidence to the apartment sector is crucial as New South Wales navigates an economic recovery. Approvals and, more importantly, commencements are down 49 per cent from the peak in 2018, with some turnaround this year; we have had 6 per cent growth. The apartments industry supports 90,000 jobs at a total value of \$50 billion to the New South Wales economy. The supply of new apartments will be very important as borders reopen, particularly given the deep affordability challenge for housing. Reforms have increased the emphasis that the developer needs to have the correct team around them who are appropriately qualified and experienced, which has been realised in the Design and Building Practitioners Act. I am working closely with the commissioner where there are construction problems to deliver enforceable undertakings. We are working to educate and upskill our members. Thank you.

The CHAIR: Thanks, Mr Mann. Ms Conceicao?

Ms CONCEICAO: Thank you. Good afternoon to the members of the Committee. On behalf of the Property Council of Australia, I would like to thank the members of the Public Accountability Committee for the opportunity to provide testimony in the further inquiry into the regulation of building standards. At the Property Council, our members are the nation's major investors, owners, managers and developers of properties of all asset classes. They create landmark projects, environments and communities where people can live, work, shop and play. The property industry shapes the future of our cities and has a deep, long-term interest in seeing them prosper as productive and sustainable places. The Committee's investigation into the efficacy and adequacy of the Government's regulation of building standards as well as the costs, effectiveness and safety concerns arising from the use of flammable cladding is essential to ensuring a safe, secure and transparent building and construction industry across New South Wales.

The Office of the NSW Building Commissioner and the Property Council have benefited from regular engagement through membership briefings, meetings and consistent feedback on changing regulatory and legal frameworks governing the New South Wales building and construction industry. We continue to work closely with the NSW Building Commissioner, David Chandler, and the New South Wales Government more broadly to ensure the integrity and quality of built form in class 2 buildings. We reiterate our support for the NSW Building Commissioner to remove rogue operators, who constitute a small percentage of the market but are responsible for the majority of the decline in consumer confidence. The New South Wales Government should also be commended on the work it has commenced in establishing industry-wide rating tools, such as iCIRT, and the introduction of the Design and Building Practitioners Act and the Residential Apartment Building (Compliance and Enforcement Powers) Act, as well as implementing and modernising existing tools to better reflect the twenty-first century building and design functions.

As a member-based organisation, we are constantly investigating and identifying better ways of doing things here in New South Wales and understand that there is a constant requirement to implement and update effective and considered regulation. That is why the Property Council has recommended that the New South Wales Government prioritises a housing-led recovery, especially placing an emphasis on the recovery of a shortfall of 54,000 dwellings, to keep up the pace of demand for housing across New South Wales. At the Property Council, we are passionate about ensuring that the people of New South Wales have access to housing choice, diversity, affordability and security, which includes safe apartment living and confidence in doing so. We feel that our organisations and members play a vital role in achieving an equitable supply of housing that will drive investment and certainty throughout the building and construction industry while putting downward pressure on house prices. Our members take reforms seriously and share the goal of renewed confidence in the building and construction industry more broadly.

In relation to this, we recommend permanently allowing the staged lodgement of regulated design and compliance declarations with a staged construction certificate application process. We recommend that retail and commercial sections of class 2 developments which do not interfere with the occupation, operation, egress or functionality of a building be exempt from requirements to provide up-front regulated designs, as required under the Design and Building Practitioners Act; introduce and develop an Australian standard form licence for the installation of temporary ground anchors on neighbouring lands, therefore removing the requirement to register them as an easement; and amend the Environmental Planning and Assessment Act to establish that the version of the Building Code of Australia that applies throughout an entire building should be based upon the construction certificate, which includes either the ground floor or podium, whichever element is higher. It is our sincere hope that we can today expand on our submission and provide valuable insights and feedback to Committee members. Thank you.

The CHAIR: Thank you both for your opening statements. I will look to the Opposition to start questions.

The Hon. COURTNEY HOUSSOS: Thanks very much, Mr Chair. I thank both organisations and all of you here for your time and for your submissions. Mr Mann, you are a bit of a frequent flyer at our building inquiry hearings, so thank you very much for your information over many years. I want to touch on a couple of issues that you raised in your opening statement about the rating system. As a member of the ministerial committee, if any of these questions are not appropriate, feel free to wave me off. It is currently looking at being provided by Equifax but just on class 2 buildings. Is that correct?

Mr MANN: Yes. The ministerial panel has not started yet. It is due to start. Its focus will be decennial liability insurance [DLI] specifically.

The Hon. COURTNEY HOUSSOS: Sorry, I confused the two. I apologise.

Mr MANN: I do not believe it will look at the ratings, but it is still a worthy question in that the ratings will position parties to then obtain DLI.

The Hon. COURTNEY HOUSSOS: And it will form the basis of that?

Mr MANN: Yes, so it could well be studying that.

The Hon. COURTNEY HOUSSOS: Okay. In terms of the ratings, are you aware that they are just for class 2 buildings at this stage?

Mr MANN: Correct.

The Hon. COURTNEY HOUSSOS: My understanding is that it will be for the builders, the developers and the buildings themselves. Is that correct, or is it just for the buildings?

Mr MANN: Very good question. The pilot just finished about three weeks ago. The pilot was with one of our members, so I have been through the detail of that. At the moment it is with one provider, which is Equifax, and that is the iCIRT product. I think—and I am questioning the Building Commissioner—that it does need to be down to every special purpose vehicle, or the delivery vehicle of each project, but it would be concentrating on ensuring that the head body providing the contract has that certification and that the SPV has the appropriate see-through in terms of pursuing any legal issues. That is not fully worked through yet, I have to say.

The Hon. SCOTT FARLOW: You noted in your submission as well that you join with the Building Commissioner in that there is neither good nor bad but thinking makes it so, when it comes to special purpose vehicles.

Mr MANN: That is how we do life in terms of financing all sorts of projects, not just apartments. That in itself is not the issue. The real issue is the ability for a consumer to be able to pursue through that SPV to where the money is. I definitely support where the commissioner is heading with all of that work. It is crucial to—it will be interesting. There will be some businesses that have a very, very good ethics and experience in all of that but still need to improve some of that legal look-through from the SPV.

The Hon. SCOTT FARLOW: Have you got any recommendations for how that can be done?

Mr MANN: I have several in front of the commissioner at the moment in terms of that process and how he communicates the mandatory side of that, because we are expecting it to become mandatory, but that is still a work in progress. How a customer actually obtains that and what is the value of that—the difference between, say, a builder-developer and a developer and a builder being separate. There are different ratings there.

The CHAIR: Mr Mann, could we just follow through? Assuming the rating system comes in and is stacked up for class 2 buildings, how do you envisage that working in practice? What would be the product of it? What would be the outcome?

Mr MANN: The intention is that the rating has a score. It happens to be three stars, which is a pass mark. The highest mark is five. It will be quite challenging to achieve five, and there will be some processes that are unusual. For example, one of the ratings issues is if the directors are directors of a lot of companies. A company that wants to provide good look-through actually keeps SPVs alive to ensure that people have good look-through. Another way of managing that is to assign the liabilities and get rid of those companies. It will actually be procedures that are currently good that rate you poorly because your director is across lots of companies, but it is just a procedural thing that needs some time. That will need six or nine months to work through and change that approach. I believe the banks are starting to buy into that whole process as well, which will be very positive.

The CHAIR: The final product will be that some developers get three stars, some get four stars, some get five stars and some do not get three stars and therefore cannot conduct business. Is that your understanding? Or can they still conduct business but they just do not have a rating?

Mr MANN: I don't know the answer to that. I think that is a question for the commissioner in terms of where we end up. The proposal is that it becomes mandatory, but that has not become a certain outcome yet.

The CHAIR: Ms Conceicao, do you have a view about that product, the end part of this reform, the ratings?

Ms CONCEICAO: No, nothing to add to what Mr Mann has said.

The CHAIR: I assume, therefore, that if a development is produced by a three-star developer, there will be less guarantee about quality, and that might impact the price. Is that the intent?

Mr MANN: What we want it to do is to be a message for consumers to consider those issues. Perhaps you have a well-rated developer and a less well-rated builder, or vice versa. I do not think those will have to be marketed. Again, these are questions that I have in front of the commissioner now: How is a consumer going to know? Are they going to have to look it up?

The Hon. SCOTT FARLOW: I suspect the five-star developer would want to put "five-star developer" on their documents, and the four and three are not going to say anything.

Mr KEKOVICH: Yes, they would be publishing it. And also they would be suffering from further scrutiny from the regulator if they were to achieve a lower than three-star rating. That is the bed bug basic, according to Mr Chandler.

The CHAIR: But surely the purpose of it is to have transparency? It would be an odd process to go through to get ratings of three, four and five stars and not require it to be published. Are you suggesting that is on the table, Mr Mann?

Mr MANN: No. I am just saying—think of the customer. If the consumer is looking to buy said apartment, it is not going to necessarily be on the marketing material. It might be if you are five, but it might not be if you are three.

The Hon. TREVOR KHAN: But if you go and buy a fridge, it has the ratings on the fridge door, and that is a \$1,000 or \$2,000 purchase. You are not going to buy a unit for \$1,000 or \$2,000. You are going to buy a unit for \$750,000 to \$1 million, even for a small one. So why do you have I think an obligatory disclosure of star ratings on your fridge door and not on your unit door?

Mr MANN: The completed product would be part of that. You will not be marketing a completed product; you will be marketing off the plan. You may not even know the builder at the time, so it may be the developer putting that forward.

The CHAIR: Well, who is going to get rated?

Mr MANN: These are questions for the commissioner, because it is unfinished at the moment.

The Hon. SCOTT FARLOW: But in a sense, to pick up the Hon. Trevor Khan's point, you are not necessarily rating on the project. You are rating on the history, in a sense. Is that correct?

Mr MANN: Yes, that is a good comment. You are. A lot of the approach from the commissioner has been to look at the history of the team who are delivering the development, covering off on the Design and Building Practitioners Act so there is a line of sight that is going to help the certifier in their process. All of that is going to help the consumer.

The CHAIR: Mr Mann, are you suggesting that the rating system is going to apply to the building, or is the rating system going to apply to the developer? The other alternative is that the rating system is going to apply to the builder. Who is the rating system going to apply to?

Mr MANN: You are right; it is not quite right to say the builder, but it will be the development team for that particular project. It might be a different builder for different projects and a different developer.

The CHAIR: So it is the developer, the builder and the architect?

Mr MANN: No, just the first two. The Design and Building Practitioners Act gives the line of sight largely for the certifier on the history of those designers as part of that project.

The CHAIR: Tell me in simple, plain terms, who are going to be the people or the entities that will be the subject of the rating.

Mr MANN: Developer-builder—one entity, whoever is going to be contracting. That may well be the SPV, but then backed by the head party. Developer, builder—two, I think.

The Hon. COURTNEY HOUSSOS: But these are questions for the Building Commissioner, to be fair.

Mr MANN: Correct.

The Hon. TREVOR KHAN: They are, but it is interesting, isn't it?

The CHAIR: Indeed.

The Hon. ANTHONY D'ADAM: Presumably they separate and re-combine, don't they? You do not necessarily have the same developer and the same builder working together.

Mr MANN: Correct. It might be two different apartments and there are two different teams.

The Hon. ANTHONY D'ADAM: If the rating is a combined rating of two entities that have combined for one specific purpose and then go their separate ways, what value does that information actually provide to the consumer?

Mr MANN: A fair bit of it is the value that it is providing to the regulator to ensure that these entities have passed through, and then the way that the OBC are using that process to shore up the rest of the development process—the banks and the other providers in that process.

The Hon. SCOTT FARLOW: Just to pick up on the point that the Hon. Courtney Houssos made, a lot of these questions are more relevant for the Building Commissioner. But from your perspective, to both organisations in what you can answer, how do you see this changing the practices of the industry? How is the industry going to adapt? Particularly to the Hon. Anthony D'Adam's point, is it going to see more people coming together on one project, or is it going to continue those associations because they know the ratings of that other partner and will continue it on? How do you see the industry changing?

Mr MANN: It will lift the bar in terms of quality. If you know your counterpart and you do more business with them, it is likely that that would be more often the case. But different projects require different skills. So a developer who is using an external builder may well change the builder and enjoy the confidence of reviewing that star rating.

Mr KEKOVICH: You will also find that in the building and construction game, like politics, there is a very small circle of people working in that field. This basically legitimises word-of-mouth recommendations. You are going to know if a developer has good standing in the building and construction game by obviously the rating that they have achieved through iCIRT. That might encourage you, might not encourage you, depending on how they are rated, to partner with them on joint projects or what have you. In a way it formalises something that is already informal in a lot of respects, but it also allows the regulator to keep track of those developers who have not demonstrated a certain level of efficacy in the building and construction industry, or those that might potentially have a less than satisfactory background.

Ms CONCEICAO: I think it goes beyond that as well. I think it goes to the heart of what the Building Commissioner is trying to do here, and that is to raise the bar in the industry. By having levels of certification, it is an aspirational target to have organisations aiming to increase their compliance in order to build their business relationships and increase the quality. It relates to the output and quality that is saleable and, therefore, increase demand for hopefully a higher-quality product. Collectively it goes to the heart of the role of the Building Commissioner, which is to raise the bar of the industry.

The Hon. SCOTT FARLOW: Do you see it entrenching current players at all?

Mr MANN: I think that is one of the challenges. How does the industry reinvent itself when you do not have a track record? You might bring 30 or 40 experts into your new construction team or your new developer. They are some of the issues again in front of the Building Commissioner.

The CHAIR: Isn't one of the other issues that the final product is that some buildings will have three stars, some buildings will have four stars, some buildings will have five stars. That will play out in terms of what the purchase price is. Therefore, the people who can least afford it are the ones most likely to have a defect-ridden building. That just shifts down the risk again to the people who have the least capacity to afford it.

Mr KEKOVICH: It would not necessarily equate to a higher sale price if you had a higher rating. There has been no evidence presented to us in that respect, unless I am missing something that the Committee has been privy to.

The Hon. SCOTT FARLOW: No, but in terms of supply and demand in the market, people who want a five-star building with less risk will be paying more for it effectively.

Mr MANN: Potentially.

The CHAIR: If you had, all things being equal, an apartment over here with a similar view and similar facilities done by a three-star developer and builder and the one next door is a five-star developer and builder, if that doesn't play out in the final price, I would be surprised. Do you disagree with that, Mr Kekovich? You are the property industry expert; I am not.

Mr KEKOVICH: We have to see it play out first before I can comment on something along those lines.

The CHAIR: That seems to me though to be one of the most obvious conclusions. You do not accept the obvious conclusion?

Mr MANN: I think it is a fair proposition. Let's run with it. Therefore, what is the question?

The CHAIR: Does that then shift the risk of defects—a building with less guarantees in it shifts the risks of defects down to those people who can least afford it?

The Hon. TREVOR KHAN: But what is the alternative?

The CHAIR: The alternative is that you insist on a higher standard for all buildings, but I am asking about the shifting of risk.

Mr MANN: We are already looking for a higher standard. Three stars is a high standard, and that is the pass mark as far as the Building Commissioner is concerned. As I explained, there are some complicated reasons why you do not get the higher star rating that do not necessarily go to the capabilities or the history of how the developer has performed.

The Hon. TREVOR KHAN: Can I ask a question? What I am interested in arises out of evidence that we received in a previous inquiry. Do not ask me which, because I have been on so many that it has all become a blur. It was that the primary area of insurance claims was waterproofing.

Mr MANN: Yes.

The Hon. TREVOR KHAN: Let us suppose that is external waterproofing, rather than bathrooms. That is a problem that arises or becomes evident not in year one or two but maybe in year 10 or later. It seems to me that a lot of the buildings that are being built now have a high aesthetic quality to them, with garden beds hanging off the side of the building coupled with aluminium cladding down the sides of them and the like. How does your star rating deal with the fact that potentially what we are doing is building buildings that may be really well built but the problem is not the build quality, the problem is the design and that problem comes out in year 10 or 20, not in year two?

Mr MANN: The Design and Building Practitioners Act has done a fair bit towards looking to achieve that in terms of lodging the as-built drawings much more quickly and looking at the question of how variations are dealt with. I think your proposition is a fair comment. We build more complicated buildings and there are more complicated systems in managing those buildings as well. That has also been a focus for the commissioner.

The Hon. TREVOR KHAN: That is right, but how is that built in? How is a warning given to the consumer? You get it in cars. You are buying something for which the ongoing maintenance cost is going to be very high or potentially on an upward curve as these complex systems start to develop problems. Or do we just ignore that as just one of those things? You can go to Rome or Paris and see lots of buildings that are walk-ups. They all look fairly the same. They have been there for 100 years or 200 years and they seem to work. We build apartment blocks in Sydney where you really wonder what they are going to be like in 25 years. We almost seem to be building, it is unfair to call them prefabs—

The CHAIR: Disposable.

The Hon. TREVOR KHAN: —but real problems waiting to happen. It seems to me that we are not building for longevity nowadays. Am I wrong?

Ms CONCEICAO: The premise of the work of the Building Commissioner is to increase the quality of the apartment buildings and the way in which our practitioners work together. The whole premise of the work of this commissioner is to address these issues. Rightly, we should have systems in place to address defects that happen down the line, and I think that falls into the detail of the work that sits under that of the Building Commissioner. But we are in furious agreement that those who purchase into apartment buildings should have a guarantee or some sort of support to ensure that when defects occur, they are adequately and safely addressed. I do not think we are in any level of disagreement with you there.

The Hon. TREVOR KHAN: I suspect not, but the problem is—sorry, Mr Mann.

Mr MANN: I was just going to add, as we look at things like green roofs to combat heat gain and the like, they are going to stay complex. They are not going to lessen in complexity. I think it is a reasonable question. I am not sure it is as simple as "complex building means you are going to have problems". It needs to be very well designed and then constructed. I think there have been strong steps towards improving that. Most of what we are looking at, at the moment, are problems that have occurred prior, not looking forward.

The CHAIR: Part of the answer to this going forward, put forward by the Building Commissioner, is that we have this rating system. That is going to be one check. I have raised potential concerns about how that will play out in terms of the economic fairness. The other big part of it is 10-year insurance.

Mr MANN: Yes.

The CHAIR: You have a 10-year insurance product, which will be voluntary. Is that your understanding? It will not be mandatory. It will be an option available for some buildings.

Mr MANN: I believe that is still to be decided as to whether it is voluntary or mandatory, and may be managed through the rating system.

The CHAIR: Ms Conceicao or Mr Kekovich, do you know where we are going in terms of voluntary or mandatory on the 10-year insurance products?

Ms CONCEICAO: No, sorry. I do not have any further information on that one.

Mr KEKOVICH: No, neither.

The CHAIR: My understanding from the Building Commissioner is that it will be an option available and can be taken up by some buildings. That is the government policy. Again we get to this point that people who can afford to pay for it will get a five-star building with 10-year insurance; they will be alright. Everybody else who cannot afford to pay for it will get a slightly cheaper unit which does not have any of those protections. Are we just entrenching the problems but down-shifting it to those who can least afford it, Mr Mann?

Mr MANN: I think we need to make sure that is not the outcome. I absolutely agree. I think the intention is that we are lifting the quality across the industry, definitely.

The CHAIR: But if you can avoid the integrity measures by getting three stars and not getting the insurance, how does that lift it across the industry?

Ms CONCEICAO: It lifts it because the buildings that may be in production or have previously been in production that have had issues are those that would otherwise be rated one and two stars. Through this process, they will not be able to be developed. I understand and register your concerns about the variability between three stars and five stars, but what we know is that three stars is a passing mark. Three stars is a safe building to operate in. Whether the design is as vibrant as need be or the history of the developer goes back the length of other developers may impact on the rating differential between three and five stars. But it is the intention that if three stars is a passing mark, then three stars is a safe product to purchase into and live within. The ultimate aim of this legislation and this work is to ensure that when you buy into an apartment, you have that safety and that guarantee in that work. That is the aim. Now, if we set a "competency achieved" mark and anything over three stars was considered fine, that may have differentials in pricing or other elements down the track. But does it give those building at three-star levels aspiration to increase the quality further? It would not, no, so I think—

Mr MANN: Well, insurance will potentially be cheaper if you have the higher star rating, so that is going to be a goal. And then, of course, there are other protections, which are the OC audits. The intention is that you are still building a quality building, and at OC audit six months before any of those issues will be detected.

The CHAIR: But if we go down this path of three, four and five, there will be a difference in build quality. Some buildings will get the 10-year insurance and some will not. Mr Kekovich may disagree with me, but I assume that would impact upon the purchase price. And so the cheaper building will be three stars without insurance, and we get to that point where the people who can least afford it are going to be having the highest risk of defect-ridden buildings.

The Hon. SCOTT FARLOW: But how is that different to what is happening now?

The CHAIR: That doesn't seem right. I am interested in the witnesses' response—

The Hon. TREVOR KHAN: Can I put it another way? Mr Mann, is it the position, as you anticipate, that the lower-rated buildings will be the ones that the Building Commissioner spends more time inspecting and pursuing?

Mr MANN: The intention is that those developers are not in New South Wales. I think it will be quite untenable if they are having to have a lot more cost and are potentially getting lower prices. They have a bigger focus under OC audits—don't work in New South Wales.

The Hon. SCOTT FARLOW: So effectively those players are run out of the market?

Mr MANN: Yes.

The CHAIR: But through what measure?

The Hon. TREVOR KHAN: Well, access to finance—

Mr MANN: Yes.

The Hon. TREVOR KHAN: —pursued by the Building Commissioner.

The CHAIR: You have not been sworn in, Mr Khan, so I am going to ask the witnesses.

The Hon. TREVOR KHAN: It is what he said, David.

The CHAIR: I might just ask the witnesses.

Mr MANN: That is what I am explaining. I think it will be untenable to do business at below three stars.

The CHAIR: Right, but nothing mandatory? There will be market forces that will drive them out.

Mr MANN: I believe that is the intent of Government.

The CHAIR: Do you think market forces have been working well to date?

Mr MANN: I think market forces have changed dramatically since the work under these two Acts, absolutely.

The CHAIR: How has that played out?

Mr MANN: That is playing out with developers who have problems going into enforceable undertakings to fix those, with a real focus from the industry around quality and working with the commissioner, with more training. Really, it is quite a comprehensive—

The CHAIR: But that is a response to the activity of the Building Commissioner, not a response to the market. That is actually regulation that is doing enforceable undertakings.

Mr MANN: Yes.

The CHAIR: I am asking you how the market is going in terms of ensuring quality in buildings.

Mr MANN: How the market is going?

The CHAIR: Yes. You say that is what will drive bad developers out. How is that going?

Mr MANN: Well, the market is depressed, but that is for a whole heap of reasons. It is down by about 50 per cent, but the market is still trading and backing quality developments, buying apartments, absolutely.

The CHAIR: How is the market backing quality developments? How does the market tell if it is a quality development or not a quality development at the moment? Is there some mystery of the market that identifies build quality?

Mr MANN: Well, the market is still active; that is how I was answering. You are asking how is it responding. Well, it is still trading at 50 per cent below where it was.

The Hon. SCOTT FARLOW: I think Mr David Shoebridge's question was how was the market responding to these issues, not necessarily how the market was going generally.

The CHAIR: You said that the market will drive out bad builders in the future, and you said it is already having that impact now. I am asking you how it is having that impact.

Mr MANN: I think I suggested the regulation will drive out bad builders, not the market. Yes, the market will respond to that and be warned and, as you say, not pay as much or not trade.

The CHAIR: Mr Kekovich does not seem to think that there is any sort of inherent, market-driven indicator from three, four and five stars. I do not understand how your evidence is sitting together here.

Ms CONCEICAO: Just to clarify, Mr Kekovich's statement is that we have yet to see the evidence of these star markets because they have yet to be rolled out. I understand the position of Mr Mann, and we would reiterate that the work of the Building Commissioner to set these regulations and these Acts make it a market decision as to where to build. Our members, our developers, work right across the world and right across Australia, and they inherently look at very specific market factors through regulation, through planning, through cost of delivery when making decisions on where to build. Through this work here in New South Wales, we are making it harder for developers who do not seek to meet the standards and easier and more credible for those that do. That is the role of the work that we do with the Building Commissioner.

The Hon. SCOTT FARLOW: I have to say that I take the presumption that a five-star developer would be able to market that and be able to make more money off their development by doing so, but I imagine there are a whole range of things that go into a development and marketing and development. You could be a three-star developer who says that they have Miele appliances, for instance, compared to a five-star developer who has generic AEG or something.

The Hon. TREVOR KHAN: Generic Electrolux.

The Hon. SCOTT FARLOW: Electrolux, sorry; AEG is higher end. But there are a whole range of factors in terms of pricing, is that correct?

Mr MANN: Yes.

The Hon. SCOTT FARLOW: In terms of how developers market their products and the like?

Mr MANN: And there are different products in every building as well in terms of each apartment, so there would be a value proposition in many apartments.

The CHAIR: One matter that was raised in the Property Council's submission was being able to lodge design and compliance declarations through the staged development process, rather than having to put it all up-front—doing the design work as you work your way through a development. Do you suggest that that would actually provide a better outcome in terms of good design? Do you want to talk to that?

Ms CONCEICAO: Yes, absolutely. The premise for that position is that as a development is built, if there is a change to the regulations, then the work that has been done to reinforce those buildings at a ground level or sub-ground level needs to be able to support the building as it goes up. If the work that needs to go into that building changes throughout the development stages, it may not have the right footings and groundings to be able to support the changed development that happens at different stages of development. We think it is really important that once you have built the ground floor and the solid base for that building, you then build the building that is expected upon it so that it provides a safe outcome.

Mr KEKOVICH: It does also provide further surety to the market, who perhaps may have purchased off the plan for that particular development. For instance, it may be marketed with a three-metre ceiling height. If there was a change to the Building Code of Australia during the development of that particular class 2 building, that might impact the height of the ceilings and the end consumer may be receiving a two-and-a-half metre ceiling or a two-metre ceiling as a result of that. So it does also create a bit of certainty to the market and really does reinforce the need for clarity moving forwards for developers.

The CHAIR: I thought they were different issues—changes in building code and staged lodgement—from reading your submission, but perhaps I misread it. Unfortunately we have run out of time. Thank you for your submissions and your assistance today. I am not sure that any questions were taken on notice. We will go into recess until two o'clock.

(The witnesses withdrew.)

(Luncheon adjournment)

CON TSIAKOULAS, Compliance Officer, Plumbing Trades Employees Union, sworn and examined

LEIGHTON DRURY, State Secretary, Fire Brigade Employees Union, affirmed and examined

The CHAIR: Welcome to this afternoon's session of the Public Accountability Committee's review of building safety and building compliance in New South Wales. Our next panel is two representatives from the union movement. Mr Tsiakoulas, thank you very much for your submission. We have read and digested that. I might ask you both if you wish to give a short opening statement. We might do the same order in which you were sworn in. Mr Drury?

Mr DRURY: I do, Mr Shoebridge. With the leave of the Chair, I do have a couple of pages here. It will not be too onerous; perhaps three to four minutes, if that is alright?

The CHAIR: Yes, we will get started.

Mr DRURY: Good afternoon and thank you for the opportunity to address this Committee. As stated, I am Leighton Drury, the State secretary of the Fire Brigade Employees Union [FBEU]. The FBEU represents 6,500 professional firefighters across New South Wales, with over 95 per cent of those firefighters being members of our union. As you would know, Fire and Rescue NSW protects 95 per cent of the population of New South Wales. I have been a firefighter for 21 years. I am here today to address, I suppose, several other related matters, as outlined in the Committee's terms of reference. One of the things that I am asking today in my evidence is for the Committee to take into account the following, if any recommendations are made. One of the main reasons this inquiry is being held into flammable cladding is the tragic loss of life at the Grenfell Tower, which, I think, highlights the problem that this Committee is here to discuss. I am also here to talk about the systemic lack of fire service and the increasing risk to the community.

When playing, I suppose, in the firefighting world and the lack of resources that we are receiving as professional firefighters, I would like to address a couple of different topics. One of those is aerials and no new fire stations. New South Wales has seen extreme population growth and urban sprawl, particularly in the west and south-west areas of Sydney—Oran Park, Marsden Park are examples. This growth has outpaced emergency services infrastructure and support. I make no qualm about this: These communities are at risk as we speak. We have also seen an explosion in high-rise buildings becoming more and more commonplace. Therefore our density of aerial or ladder fire appliances—these are the ones that deal with these high-rise fires—certainly have not kept pace. It is certainly not there to address the risk that is being put in place by this building work. Certainly what we have seen in Europe and overseas is that the lessons from Grenfell are being taken seriously. We are having appliances that are taller and more equipped to deal with the complex fires that are occurring put into service to manage that risk. What we see as the union is that Fire and Rescue NSW needs an increase in its funding to maintain those adequate resources in that context.

Another disturbing fact that we are seeing out of this Government is the closures of stations. The members on this Committee may not be aware, but we are seeing the proposal of Redfern Fire Station being closed. Obviously, Redfern is in the city. Fire and Rescue NSW, due to budget cuts, are looking to amalgamate Redfern Fire Station with Alexandria and rebadging it. This is, obviously, a reduction in services, not an improvement nor an increase. Redfern attended 2,326 incidents in the last financial year alone. On Regent Street, we are seeing exponential growth in high-rise buildings. Building owners are reaching out to our union—something that generally does not happen, interestingly, with our union, building owners reaching out to us—with their concerns. So it seems quite remarkable that a government would think it appropriate to allow this fire station to be shut down with the growth that is happening in that area.

Another thing that is in dispute at the moment with the union and Fire and Rescue NSW and, obviously, the Government is a proposal. If you read the papers recently, Fire and Rescue NSW and the Minister plan to take offline a large number of our retained stations across New South Wales. These stations rely upon availability of on-call firefighters. Due to the lack of extra on-call firefighters and budget cuts, we are seeing stations being added to the list of already too many stations that can be taken offline. Stations under this proposal are stations like Rhodes Fire Station; Merrylands Fire Station, adjacent to Parramatta; Mortdale Fire Station; Bundeena; Helensburgh; Scarborough. These are stations in well-built-up areas. Those communities deserve the response that makes sure that it keeps them safe. Depriving the community of a fire response is not the answer. We have spoken to some of the impacted communities recently and they expect better services.

Another problem that we have within Fire and Rescue NSW is a lack of resourcing in training. Specifically, I suppose, to this Committee is a lack of training in complex high-rise fires. As you can imagine, a cladding fire is a complex fire. They are dangerous and can be overwhelming. Firefighters must reflect these conditions and combat them. Currently it does not. Compounded by a lack of increases in aerial resources and

stations being shut, this will be a recipe for disaster. Not only does this put firefighters in unnecessary danger; it increases the potential for the loss of life in extreme high-rise buildings. Not to cut into my comrade over on my left, but we do have a lack of staff in our fire safety and building regulation section in Fire and Rescue NSW.

Firefighters are the subject matter experts when it comes to fire. They must be involved in the decision-making process from start to finish, to ensure compliance with regulatory and legislative obligations that provide fire safety within the built environment. Fire and Rescue NSW's Fire Safety Branch is charged with minimising the potential consequences of fire and other emergencies on firefighters and the people they are there to protect. They are a relatively small team, compared to the enormous task before them. Without appropriate funding, it becomes an impossible task. Having projects come to the Fire and Rescue NSW Fire Safety team at the brief-and-design stage will lead to better outcomes for everybody. We are seeing these too far down the line and then not being able to pick them up before we can make those changes. Again, reducing services is not the answer here. In addition to the Fire Safety team, the local knowledge of fire stations' crews is very important.

In conclusion, everything that I have just described there leads into what happens from the start of a building to the end where we have an emergency. What we are seeing is this systemic watering-down or reduction of resources to make sure that our communities are safe and firefighters are safe. We have been seeing this now for 10 years. I think this Committee has heard me say this before, but I will say it again: We have less professional firefighters now, in 2021, than we did in 2011. We have seen over a million people move to New South Wales. I could not even tell you how many buildings have been put up in that time. It is time for this Government to act. We certainly call for more funding to address that situation.

The CHAIR: Thanks, Mr Drury. Do you have any of that in writing there? Could you provide a copy to the secretariat? We will get it to Hansard and circulate.

Mr DRURY: All except the conclusion.

The CHAIR: Mr Tsiakoulas.

Mr TSIAKOULAS: Thank you very much for the opportunity to contribute today to the upper House Committee inquiry. We believe that the quality and level of regulatory oversight in New South Wales can improve significantly and must improve if public safety is to be maintained and public confidence in the system is preserved. Our background is that the Plumbing Trades Employees Union [PTEU] strongly support the Committee's aim, which is improving the efficiency and adequacy of the Government's regulation of the built environments in New South Wales. Unfortunately, in New South Wales the regulatory regime is non-existent at the moment in certain sectors about the importance of fire protection and also in the plumbing sector. We believe now, moving forward, that these issues, which are not identified in our key issues, are to improve fire protection licensing and registration. That will obviously improve community safety. These frameworks, we believe, will better protect the community and property in the event of a building fire. We also want to see the reduced risk of deaths from fire, injuries, and property harm and destruction.

We also want to improve training and safety for fire protection workers, improve the compliance with building fire safety regulation, leading to reduced cost for owners, occupiers, government, emergency services and local government, increase community confidence that the work being performed is performed by appropriately skilled workers to prescribed standards and also with that to reduce risk for firefighters responding to fire emergencies. Examples of this, whether to reduce the risk of fire, deaths from fire, injuries, property harm and destruction, cast our minds back 12 years to the Quakers Hill Nursing Home disaster. We believe that, if anyone sleeps and puts their head on a pillow, the person installing that work, maintaining that work and servicing those systems has to be a licensed and competent person. In New South Wales that is not the case. That leads to these catastrophes that happen.

As was mentioned by my counterpart and my comrade to the right in regards to the Lacrosse tower in Melbourne and also the Grenfell Tower in London, the Grenfell disaster was an extremely tragic example, where the use of inappropriate materials with inadequate fire protection systems resulted in catastrophe. In Melbourne, the Lacrosse tower was clad in the Grenfell-type flammable aluminium cladding. The fire spread 13 storeys in 13 minutes. If it was not for the well-functioning and properly installed and maintained fire protection system, the Lacrosse fire would have been a major catastrophe. A further fire broke out in Melbourne, at the Neo200 apartment building in Spencer Street in Melbourne's CBD, in February 2019. Again it was the effectiveness of the fire protection systems that prevented a large-scale tragedy. In New South Wales, the State's Cladding Taskforce has audited over 185 building records and conducted over 4,000 inspections. As a result, 225 buildings in the State have been deemed high risk.

The fire risks posed by flammable cladding are clearly unacceptable. There are two main ways we can reduce those risks, both of which are important. One is to remove the noncompliant cladding. Another is to make

the occupants of those buildings safer. The current policy approach is to focus on the removal and replacement of noncompliant cladding. We support the intent to remove all noncompliant material from New South Wales buildings. However, we are increasingly uncertain about the extent of which is practically achievable. We also believe this, accompanied with the strong licensing regime for testing and maintenance, will help get across, because, as we know, all these necessary funds that are required to do all these things may have a huge impact on cost on strata and on building funds. We also believe that effective fire protection requires the minimum high-level training that is currently in place. Thank you.

The CHAIR: Thank you both for your opening. Mr Tsiakoulas, do you also have your opening statement in writing?

Mr TSIAKOULAS: Yes.

The CHAIR: Could you provide a copy to the secretariat?

Mr TSIAKOULAS: Yes.

The CHAIR: Thank you. I will hand over to the Opposition to commence questioning.

The Hon. COURTNEY HOUSSOS: Can I thank you both for your time, for your opening statements and, in particular, to the plumbers for your submission. I have been using that as the basis for a number of my questions this morning. I do not expect that you have been watching it closely, Mr Tsiakoulas. But I can tell you that your recommendation to license fire maintenance workers, has certainly received endorsement from a number of stakeholders this morning. We heard from the National Fire Industry Association. They recommend a certificate III for maintenance. Then they also have a recommendation that they spoke to us about—a certificate IV for the commissioning of the work. Do you have a view on that?

Mr TSIAKOULAS: Looking at what is there at the moment, obviously, the certificate IV involves the design and then the ongoing certification, the ongoing maintenance. Therefore, there are a lot more things, identifying different types of systems, that you have to also be aware of. Obviously, the certificate IV in design that they are advocating, I believe, is what we would support as well because it is obviously—we are trying to create a level. They are, obviously, going that level higher, which is good. We are talking about the installers. We represent more the guys that are actually doing the installations, the guys on the ground. They are actually working for fire protection companies. Therefore, that back end that would be required in that company, to complement the certificate III tradespersons that we represent, as well, is a good thing obviously, because they need that extra technical, as they are doing their work, that backend support. So, yes, we would support it.

The Hon. COURTNEY HOUSSOS: We heard that there has been a fire accreditation scheme that has been in place for just 12 months. One of the things that the National Fire Industry Association told us about was that—I think the quote was "There's been lots of teething problems." One of the problems has been that the checks that are required under the accreditation scheme are actually then uncovering issues that should have been done at that installation stage. Do you have any feedback on that scheme?

Mr TSIAKOULAS: Yes. We see that a lot in the passive fire space as well. At a major shopping centre, just recently, one of our fire contractors—this is a project that was finished five years ago—they had 500 passive fire jobs. Passive fire is the protection so the fire does not spread from one part of a building to another, through ductwork, through penetrations and stuff like that. This major shopping centre now had 500 defects that had to get rectified. At construction it was not picked up. It was not picked up till the five-yearly test after. This is a main thing, that a lot of these defects do not get picked up until the five-year test. That is a big concern as well.

Mr DRURY: Or a fire.

Mr TSIAKOULAS: Or a fire, yes, again. So, we are waiting five years. These accreditations that they speak of, because the people actually doing that—they are entry level. Let us call them entry-level practitioners—do a certificate II for 10 days and all of a sudden they go around doing inspect and test—they did not actually build the building. They did not design it. They did not work on it. Therefore, they do not know what they are looking for. They are just ticking and flicking. "It says that I've got to do a monthly test. I've ticked that the door works and the hydrant's got a bit of water, the hose has got a bit of water." And they move on. The licenced, the certificate III-equivalent tradesperson who actually worked on the building actually knows the difference. So, when they are actually doing the inspection, they can identify—they would have picked that up in their first monthly or their six-monthly or their yearly test, because they would have seen it is not there.

There are examples, which I should have brought in, where fire protection—there is two levels of fire protection. There is the one that you can see, the sprinklers. Then there is the ceiling space one. Obviously, if there is a ceiling space on fire, you cannot see it if you are in the building and it spreads. There is numerous buildings that they did not actually put it in at all—it is a cost cut because you cannot see it. These examples should have

got picked up at a test. They are not getting picked up till the five-yearly test, which is actually—you need to be a licensed and registered tradesman to do those tests. That is why these things get picked up at the five-year test. That is a long time to wait. Minimum entry level: certificate II, 10-day course, non-experienced, go around, tick and flick. These examples that got picked up at the shopping centre down south got picked up at the five-year. For four years, what happened?

The CHAIR: I assume that you support of the idea of having a certificate IV-qualified fire engineer, basically, sign off on the commissioning.

Mr TSIAKOULAS: Yes, I do. The examples are why we support it. Yes, a hundred per cent.

The CHAIR: That is has been constructed as per the designs and that it meets Australian standards.

Mr TSIAKOULAS: Yes.

The Hon. COURTNEY HOUSSOS: This is not the case in other States. For example, in Victoria, they actually have a more rigorous system. Is that correct?

Mr TSIAKOULAS: Yes, they do, because it is from early on. You are licensing for your annuals—there is different types, different levels of testing. There is monthly, six-monthly, yearly, five-yearly, 10-year, 25. When you have the more stringent level early on, these things do not fester and get left behind. The problem is that they might have—say it was not installed correctly, which we have had examples of. Then you move forward to the person that is doing that first—even in his monthly he would pick up those things. But if you are only doing—"The test says I have to just tick this that the light works"—you are not looking for the other faults because you never worked on it, you have never seen it, you never got the experience on it. That is where these issues then only get picked up when an actual licensed and registered person that is a certificate III equivalent then goes and does the testing, to confirm that the building was as installed. That is again the issue. It does not happen so much, because you got licensed and registered tradesmen doing those tests earlier. So we are not waiting for that five years for these things to get picked up.

The Hon. COURTNEY HOUSSOS: It has consistently come back to us this morning that it is how the system works. It is not just the individual components; it is actually how it all works together. That is with a range of things. Thank you very much, Mr Tsiakoulas. Can I just ask Mr Drury just a couple of quick questions. I saw you nodding in agreement about a couple of the points there. Would you like to respond to those, Mr Drury?

Mr DRURY: Yes. I absolutely agree. The way that firefighters work—we look at a building. We obviously understand the class of the building and what fire protection levels it should have. We then have a pretty good idea of what sprinklers it will have, what mechanical air-handling systems it will have, whether stairwells are pressurised or not, fire ratings of walls. If those things are not in place or put in by somebody shoddy, then we are setting up systems and operations of attack or defence based on that information. The reality is, in these cases where these things fail, that ends up being catastrophic because you end up putting crews into places where they should not be, you send evacuees into places that they should not be.

One of the biggest problems that, I think, you will find coming out of Grenfell is that there was a building that was not compliant. There was a litany of failures around services and council approvals and all that stuff with Grenfell. But, if someone had checked something back then who had the proper licence—certainly the FBEU supports licensed people to install this work because it keeps my members safe—you are just not going to see that level of tragedy at the end. There is always going to be problems. There is always going to be accidents. My industry would not exist without accidents. But how you minimise those, I think, is where it comes down to, with regulation and, obviously, having licensed people installing these sorts of things.

The Hon. COURTNEY HOUSSOS: I am mindful of time.

Mr DRURY: I will just give one example. There is difference between the type of glass that you put into a sprinkler head. That matters, because it opens at a different temperature. Some people do not know the difference between that. There is how many different?

Mr TSIAKOULAS: Nine.

Mr DRURY: There are nine different sprinkler heads you can put in. I have been in places where the highest rated temperature should not be. It should be one of the lowest because it is in a residential place. That means the temperature needs to hit 30 degrees higher than what it does. That is the difference. It is a very, very little difference that no-one can pick up on, unless you look at the colour of that glass and go, "That's black and it should be red."

The CHAIR: Mr Drury, you were talking about the staffing numbers to review fire safety issues for new development, particularly with multistorey development. We have seen a surge in multistorey development

in the last few decades. You were indicating the staffing numbers have not kept up. Do you want to take us to that?

Mr DRURY: Yes. Certainly, what we saw a few years ago was a decrease in our fire safety sections. We have a lot of them: alarm reduction, building compliance, building surveying, doing fire safety certification. One of the regulations that has changed—which I still disagree; it should not be changed—was around the "must" to "may" in delivering a fire safety certificate. There is now an algorithm that chooses which buildings we have a look at, compared to—we used to look at every single one of them. My understanding is Fire and Rescue NSW has started to implement more staffing but it is nowhere near going to play catch-up to what we have seen happen in the last decade. There are a lot of buildings out there that would not be near being compliant. Certainly we are not seeing a slowing-down in building works anywhere. You go a kilometre anywhere and you will see a crane in the air. They are the buildings that are the more complex fires, where we do have, probably, a greater life risk. I suppose, again, if we are not having the right regulation, the right design, the right regulator and then the right response when we do have a problem, we are going to have a worse result.

The CHAIR: This is in the context of there being a default approval if matters are not addressed within 42 days. Is that right for these concurrence?

Mr DRURY: That is correct.

The CHAIR: A lot of multistorey buildings, as I understand it, are being ticked off on a fire safety standard simply because the resources are not there to check.

Mr DRURY: Correct.

The CHAIR: Mr Tsiakoulas, are you aware of this issue?

Mr TSIAKOULAS: Yes, unfortunately, we are.

The CHAIR: In your words, what is happening?

Mr TSIAKOULAS: Again, sometimes it just comes down to cost. One fire practitioner will knock it back. Then they will just go shopping to get the desired result they need to get something approved. That guy disappears, he signs off and his company goes away, shelf companies. They just keep working in that same sector, keep doing the same thing over and over again. Because they are not licensed you cannot look on Fair Trading to see who they are. We have got a system on Fair Trading where, at the moment, if someone knocks on your door and they are an electrician, they are a plumber, they are a builder, you can look up their name to see if they have actually got an accreditation. For fire protection, you do not know what you are getting. People know that loophole. People use it. There is a network there of people that—when they get stuck, they will ring each other. "I know someone that will sign it off for you." It is just a never-ending story, unfortunately. With no regulator, no strict licensing regime, these situations just fester. It is not until we get to a five-year or a 10-year test that we actually then start seeing these faults getting picked up, that were signed off five years previously. We know at the five-year mark we are guaranteed to get someone that is a certificate III trained in fire protection that will then do that work to be compliant.

The CHAIR: You are very critical in your submission about the current regulatory framework. You call for, as I understand it, some kind of specialised regulator at least for plumbing work. Did you want to speak to that briefly?

Mr TSIAKOULAS: Yes. I will give you a classic example. In New South Wales currently we have major infrastructure projects. Those projects are won by joint venture. They believe that the Fair Trading is not applicable to them. Right now, on a project, one of the major infrastructure projects just up the road here, they do not believe that plumbers should be installing the deluge mains, which are for fire protection, on the hydrants. They think they can self-deliver that with unskilled labour. So, right now, on three projects, as we sit here, one a kilometre away, one three kilometres away—I have put in a request for both—they are just using unskilled labour to install deluge mains. The deluge main in a tunnel is the most important critical aspect because if there is a fire that is in a tunnel it is a fire protection system. The main feeding those—sprinklers, let us call them, they believe they do not have to do it. When you speak to the regulator, they say, "Send us an email. You will get a response in two days." That two days could vary. They are not going to go out there. It is a big infrastructure project. It does not happen.

The CHAIR: Is this the metro project?

Mr TSIAKOULAS: We have an issue at the metro. That was the first example. They are installing from Chatswood to Crows Nest and they had unskilled labour installing the pipe. We have pulled it up on them now. Now, after installing the first three kilometres in each tunnel—six Ks—they got stuck because they could not test

it properly. They did not know that when you test a lineal pipe, for example, it expands. So they got their testing wrong. So they have stopped doing the testing. They are going to contract that out to a plumber. Now they are going to do the installation. They are going to hire plumbers to do it.

The CHAIR: What is the safety system?

Mr TSIAKOULAS: The fire hydrant. This is the water, the pipe.

The CHAIR: This is the fire hydrant system.

Mr TSIAKOULAS: Yes. They did not believe they had to have a licensed—even though Fair Trading, on their website, before any plumbing is given out you have to have a licence.

The CHAIR: So there are six kilometres of—

Mr TSIAKOULAS: That were installed by guys that were not plumbers. Yes.

The CHAIR: Which project are we talking about?

Mr TSIAKOULAS: On the Metro, from Chatswood to Crows Nest.

The CHAIR: So six kilometres of the Metro line from Chatswood to Crows Nest had the fire hydrant system installed by anybody.

Mr TSIAKOULAS: There was a crane driver, a rigger, a trades assistant and, I think, let's call him someone else.

The CHAIR: Who signed off on that?

Mr TSIAKOULAS: They have because we stopped them. We went in there and said, "This is a licensing issue. You're doing the wrong thing." So they have stopped that work. They are going to contract out a little bit more and away you go. So, now they are going to stop the guys—this is happening as we speak. They are going to hire some plumbers. I said, "Well, you can't actually do that because Fair Trading actually say that before you do any plumbing work in New South Wales you have got to do an application." They do not have a licence to self-deliver. So this is a big issue.

The CHAIR: What is going to happen to the six kilometres of noncompliant plumbing that they have got in the Metro project? That is a lot of plumbing—six kilometres.

Mr TSIAKOULAS: That is right. We are working on it at the moment. We are hoping the regulator steps in. But, unfortunately, our history—when I started the union out at Leppington Rail Link, they used a civil company again. It cost them \$2 million to get it all inspected. WestConnex 1A, the tunnel from Concord to Haberfield—when they tested it, because they had unskilled labour again, they were not plumbers, the Jersey curb blew out when they did the test. This is a systemic problem in the infrastructure space where they believe they do not have to comply with New South Wales regulations for the deluge main installation.

The CHAIR: When you say "deluge", that is the chunk of water that the sprinklers deliver to put out a fire, which is what you want in a tunnel.

Mr TSIAKOULAS: Yes.

Mr DRURY: It is absolute key, Mr Shoebridge, in tunnel fires.

Mr TSIAKOULAS: Right now on 3B WestConnex, they have got a contractor there. They told me who the contractor was. I went to Fair Trading and I looked up, as you do, which is just public information. They do not have a plumber's licence, the company.

The CHAIR: When you contacted Fair Trading about six kilometres of noncompliant hydrants on a major infrastructure project—

Mr TSIAKOULAS: Sent an email.

The CHAIR: When did you contract Fair Trading?

Mr TSIAKOULAS: I will have to take that on notice, on that date, sir. I cannot remember the date but it is an email.

The CHAIR: What was the response?

Mr TSIAKOULAS: It is just an email. You cannot speak to the inspectors and the regulator. You have to send an email. They will action it within two days.

The CHAIR: What action has happened from Fair Trading about this?

Mr TSIAKOULAS: We are doing the action. We are the one pushing what we are doing. I cannot comment on Fair Trading because I cannot wait.

The CHAIR: Mr Khan, did you have any further questions?

The Hon. TREVOR KHAN: No, I was just taking a bet as to how many there was.

The CHAIR: I think six kilometres of Ma-and-Pa-Kettle hydrants on a major infrastructure project is worth a couple of minutes of questions.

Mr TSIAKOULAS: The issue there was that we had a safety concern. We had to walk from Chatswood to Crows Nest in the tunnel. They believed that if there was a fire—again, the emergency evacuation plan said that the only exit out was back at Chatswood, so if you were three Ks in the tunnel that was the only way you could get out. As I was walking I was seeing the pipe. I go, "Who's installing?" That is how it started. But, again, at that time, when we were doing the safety concern, we could not talk about that because it is a different permit, a different issue. You are not allowed to overlap that through the WHS Act. We had a safety concern, which was justified because—why would you walk three Ks back through a tunnel, in a fire, instead of trying to get out at Crows Nest? That was a separate issue. That is where we were able to see the pipes installed.

The CHAIR: Mr Drury, Mr Tsiakoulas, unfortunately, we have run out of time. I would blame the Chair for that. Thank you very much. I do not think you took any questions on notice.

Mr TSIAKOULAS: Just for the date for the Fair Trading. I will get that.

The CHAIR: Thank you. If, in answering that, you have got any more details, photographs or other about that issue, feel free to expand on their noncompliant—

Mr TSIAKOULAS: I can give the metro. I can give 3A, 3B, 1A, 1B.

The CHAIR: Provide what you can, Mr Tsiakoulas.

Mr TSIAKOULAS: No problem. Thank you very much.

(The witnesses withdrew.)

DAVID CHANDLER, NSW Building Commissioner, sworn and examined

JOHN TANSEY, Executive Director, Policy and Strategy, Better Regulation Division, Department of Customer Service, affirmed and examined

TRENT CURTIN, Acting Deputy Commissioner, Field Operations, Fire and Rescue NSW, affirmed and examined

JAMIE VISTNES, Manager, Fire Safety Policy Unit, Field Operations, Fire and Rescue NSW, affirmed and examined

The CHAIR: Thank you very much for your attendance this afternoon and for the Government's submission to this inquiry. Do any of you wish to give a brief opening statement? Mr Tansey?

Mr TANSEY: No, thank you.

The CHAIR: Mr Chandler, Mr Curtin or Mr Vistnes?

Mr CURTIN: Just a quick one on behalf of Fire and Rescue NSW. We thank the Committee for the opportunity to participate today. For context, I am currently the Acting Deputy Commissioner, Field Operations. In my substantive role, I am the Assistant Commissioner, Community Safety, having previously held a similar role in Victoria and having had responded to a cladding building fire in Victoria two years ago. I have with me Mr Jamie Vistnes, who is our manager for fire safety policy. He is a highly respected fire engineer and is responsible for developing policy and advocating for improvements in regulation of the built environment both in New South Wales and across Australia.

In addition to our better known role of responding to calls for assistance for fires and other emergencies, Fire and Rescue NSW performs a really important role in improving safety and resilience in the built environment in New South Wales. Through our Community Safety Directorate, we provide subject matter expertise and advice to industry on various matters relating to safe evacuation, fire brigade intervention, and fire and life safety matters in the built environment. We have recently been engaging in several forums, advocating for an enhancement of the role of Fire and Rescue NSW. We have also been working to improve our efficiency and our resourcing to better support the building industry. We have got an important role to play, alongside other government departments, in improving the safety and confidence in the built environment in New South Wales. We welcome the opportunity to take any questions today. Thank you.

The CHAIR: Thank you. I will hand over to the Opposition to commence questioning.

The Hon. COURTNEY HOUSSOS: Thank you very much for your time, everyone, this afternoon. Mr Chandler, you would be aware that the Privium Group stopped work on their building sites on Friday 4 November and has now appointed administrators?

Mr CHANDLER: Yes.

The Hon. COURTNEY HOUSSOS: When were you made aware of this?

Mr CHANDLER: It is not something that I have particular coverage of. It was handled through Fair Trading. I was aware of it, but it is not a matter that I directly deal with.

The Hon. COURTNEY HOUSSOS: Can you explain why you do not directly deal with that?

Mr CHANDLER: It is a class 1 building. My remit is principally on class 2 buildings. So that was a matter that was handled and responded to directly by BRD. I was aware of the response.

The Hon. COURTNEY HOUSSOS: BRD being—

Mr CHANDLER: The Better Regulation Division.

The Hon. COURTNEY HOUSSOS: Mr Tansey, are you better placed to be answering questions?

Mr TANSEY: I have not been directly involved in it either. I am aware of the events and became aware—I think it was in last week or the end of the week before. I am aware, I think, of responses too, I think, by the State Insurance Regulatory Authority [SIRA] and icare in terms of impacted home owners who might be covered by the Home Building Compensation Fund.

The Hon. COURTNEY HOUSSOS: Mr Chandler, are you aware of how many homes they are currently building in New South Wales?

Mr CHANDLER: No. I have not been handling this matter directly. I am happy to take the questions on notice and come back to you.

The Hon. COURTNEY HOUSSOS: Mr Tansey, are you aware of how many buildings?

Mr TANSEY: No, similarly.

The Hon. COURTNEY HOUSSOS: SIRA has said that homebuyers may have access to home building compensation. What would stop homebuyers having access to home building compensation? Mr Chandler?

Mr CHANDLER: I think that question would be best directed to SIRA. They have written a statement. I am not directly involved in the matter. I am not trying to be difficult, but I really cannot add anything more to your question. I can take a question on notice and refer it and get somebody to get back to you with the answer. But it is not something that is in my direct remit.

The Hon. COURTNEY HOUSSOS: I understand that. But, Mr Chandler, I am asking you a question about home building compensation. You are the Building Commissioner of New South Wales. What would be the situation where homebuyers would not have access to home building compensation?

The Hon. TREVOR KHAN: This is really outside his expertise. We know what Mr Chandler does. Ask him about—

The Hon. COURTNEY HOUSSOS: Trevor, do you have a point of order?

The Hon. TREVOR KHAN: Point of order: This is really outside the terms of reference.

The Hon. COURTNEY HOUSSOS: To the point of order: It is not outside the terms of reference. This is an inquiry into building regulation and standards.

The CHAIR: I do not think there is any question that it is within the terms of reference. Mr Chandler, I think, is in a position to indicate whether he has something he can add to it or it is within his remit.

The Hon. TREVOR KHAN: He has already indicated what the answer to that is.

The CHAIR: I think there was a separate question asked by Ms Houssos. But Mr Chandler is able to handle himself.

Mr CHANDLER: It is not a subject that is in my direct remit—the class 1 buildings under the Home Building Act. I am really looking after the reforms in class 2 buildings as the priority of the work that I have been set. I am very happy to take a question on notice from you and get the right answer put back to you.

The Hon. COURTNEY HOUSSOS: We are here for several hours this afternoon. Perhaps, Mr Tansey, you can make some inquiries and find out how many complaints have been lodged with Fair Trading to date.

Mr TANSEY: Yes. I am happy to endeavour to do that.

The Hon. TREVOR KHAN: Noting they have 21 days in which to provide answers, as I understand.

The Hon. COURTNEY HOUSSOS: Yes, but I am asking whether, this afternoon, we can ascertain—

The Hon. TREVOR KHAN: Noting that they have 21 days in which to answer.

The CHAIR: If you are going to take a point of order, Trevor, that is probably better.

The Hon. TREVOR KHAN: Yes, I will.

The CHAIR: What is the point of order?

The Hon. TREVOR KHAN: Point of order: We know what the rules of engagement are. We go through exercises each time of saying witnesses have 21 days. They are entitled to know that. This exercise of "Get back before the end of the day" is outside what we agreed as the standing practice.

The CHAIR: I will just rule on that. You are all aware that the procedural fairness rules and the resolution of the Committee entitle you to take a question on notice and answer within 21 days. But I think you are also aware that we would appreciate, wherever possible, for you to be able to cooperate with the Committee. If information can be found to assist with the Committee, then we would all be grateful for it. It is well within a member's entitlement to ask for that assistance, and Ms Houssos has done so. If you can, Mr Tansey, we would be gratefully helped.

Mr TANSEY: I can ask. If it helps the Committee, just in the interest of being clear—the Home Building Compensation Fund and that part of the Home Building Act is not within the allocation of the Minister for Better Regulation and Innovation. So it is, honestly, outside of our portfolio's administration now because responsibility

is shared between SIRA and the Minister responsible for SIRA and icare and the Minister responsible for icare. Just so nobody thinks we are trying to be unhelpful. It is, honestly, not something that Fair Trading directly deals in and administers.

The Hon. COURTNEY HOUSSOS: Mr Tansey, I am asking you specifically about which complaints have been lodged with Fair Trading. I understand that someone who works under Mr Chandler, Mr Whitton, gave comments to Channel 7 last week and encouraged people to lodge a complaint with Fair Trading. I am interested to know how many of those complaints have been lodged, how many homebuyers in New South Wales are currently affected by this collapse. Mr Tansey or Mr Chandler, how are you coordinating with SIRA? How is Fair Trading coordinating with SIRA? You have just outlined that there could be some bureaucratic issues here.

Mr TANSEY: I can take that on notice. But, to be candid, I was not expecting this nature of issue to come up this afternoon. So I am not across those issues. I am happy to take questions on notice and find out about how it is being balanced between our complaints intake and SIRA that actually oversees the insurance scheme. Of course, there might be a distinction between the people who would come to Fair Trading with a complaint generally about building or the completeness of building or incompleteness of building. But, once there is a trigger event like this and the builder goes into some form of administration, as your question rightly points out, it will trigger the potential for coverage by the compensation fund, which, as I said, is not something that we administer or are close up to. There is a distinction there between how we would or would not become directly involved in the matter.

The Hon. COURTNEY HOUSSOS: That goes to the heart of my question, Mr Tansey, which is: How are the two agencies coordinating? How are you making sure that people are not falling through the cracks? Last week they were being told to lodge a complaint with Fair Trading. This week, now that a trigger event happened on Friday, they are likely to be going to SIRA. We need to make sure that these people are not falling through the cracks and are being actually assisted by the New South Wales Government. Can you tell us how that is occurring.

The Hon. SCOTT FARLOW: Point of order: I think that Mr Tansey indicated pretty much to the same question of the Hon. Courtney Houssos before that he would take the answer on notice and he did not have the information at hand.

The CHAIR: I think, to be fair to Ms Houssos, this question is about the coordination between the two agencies. Mr Tansey may be able to speak to it. Then Mr Chandler may be able to add something.

Mr TANSEY: I am trying to make some urgent inquiries, but I do not have information on hand.

Mr CHANDLER: I have just sent a message to Mr Whitton to ask him exactly the answer to your question. Hopefully, that will come back quickly. But we do have some discussions between SIRA and my office, mainly with interest looking at some of the work that we are doing in terms of risk management. But they are different Ministers. Therefore, there would be no normal role for me in the dealings with SIRA.

Mr TANSEY: I have just, with the beauty of the interweb, clarified that there is a statement on the SIRA website directly dealing with Privium and providing very simple advice to affected home owners about some basic facts of the matter and providing both a 1300 number and direct emails and even direct claim forms for people who want to be able to easily access assistance.

The Hon. COURTNEY HOUSSOS: That was actually where my original question came from, Mr Tansey. In that statement it says they may have access to the Home Building Compensation Fund. I am interested to know whether they do or not and what would be the reasons why they would not. The—

The Hon. TREVOR KHAN: That is a matter not for this witness, as you know.

The Hon. COURTNEY HOUSSOS: They have taken that on notice, so I am just making it clear. Mr Chandler, in a letter provided by the administrators to people who were affected by this collapse last week, they said they are—this is from the administrators, and I quote—"working closely with the applicable building regulators in Queensland, New South Wales and Victoria". What contact has your office had with the administrators for Privium Pty Ltd?

Mr CHANDLER: None.

The Hon. COURTNEY HOUSSOS: Nothing?

Mr CHANDLER: None.

The Hon. COURTNEY HOUSSOS: You are the Building Commissioner for New South Wales. You are not the regulator for this. Is that correct?

Mr CHANDLER: Correct.

The Hon. SCOTT FARLOW: He said before it is a class 1.

The Hon. COURTNEY HOUSSOS: I appreciate that we can get into technicalities about different classes of building, but the average person out there would expect that the building commissioner would be able to provide some assistance. I just want to be clear. You have no assistance to provide to the people affected by the Privium Homes collapse.

The Hon. TREVOR KHAN: Point of order: This witness has already answered these questions. The nature of this really—if it is intended to embarrass these witnesses, that is fine. But Mr Chandler has come along repeatedly to these inquiries, given evidence with regards to a whole variety of complex matters.

The CHAIR: I get the flavour of the point of order.

The Hon. TREVOR KHAN: This then is the nature [disorder].

The Hon. COURTNEY HOUSSOS: To the point of order—

The CHAIR: No. I think I have heard—

The Hon. COURTNEY HOUSSOS: This is not designed to embarrass these witnesses. This is on behalf of hundreds of families who have lost their homes, who expected to be there before Christmas. These are legitimate questions.

The Hon. TREVOR KHAN: This is absolutely outrageous.

The CHAIR: Order! Mr Chandler has now been asked three times about his role. He has indicated very clearly that his role is restricted to class 2 buildings and that the Privium homes are class 1, single residences. I do not know if there is much further assistance we can get by putting that to Mr Chandler a third time. Of course, the time is your own, Ms Houssos, to use. Mr Chandler, do you have anything to add to your earlier statements?

Mr CHANDLER: Nothing. I can do whatever I can to help, come back to you but, as I say, it is not my direct remit. While I am very disappointed to hear about this particular collapse, as I am with any collapse, this is not one that I am directly handling.

The Hon. COURTNEY HOUSSOS: Mr Chandler, I would like to turn to a slightly different part of the collapse. Privium Group had conditions placed on its licence. We have established in previous inquiries that you do have responsibility for licensing of builders. Is that correct?

Mr CHANDLER: I have powers under the Home Building Act, yes.

The Hon. COURTNEY HOUSSOS: We have established previously—

Mr CHANDLER: I do not administer that part of the Act. That is administered directly by the department. It is not an area that flows to me. I have powers there, but they were just general powers provided to me before, in fact, I was benefited with the powers that came under the Residential Apartment Buildings [RAB] Act and subsequent legislation.

The Hon. COURTNEY HOUSSOS: Conditions on building licences should be directed where?

Mr CHANDLER: We will take it back to BRD. I will come back to you with an answer. I am going to take that question on notice, if I may.

The CHAIR: You may want to ask Mr Tansey.

The Hon. COURTNEY HOUSSOS: Mr Tansey, do you have anything to do with conditions on building licences?

Mr TANSEY: Not as a day-to-day piece of administration. I have got the licence check in front of me now. So I can see the licence. I am broadly familiar with the licensing regime.

The Hon. COURTNEY HOUSSOS: There were restrictions on the Privium licence between 2012 and 2014. Are you aware of those? Are you able to access those?

Mr TANSEY: I can look up their licence history, yes. I can see that going back to various conditions over time.

The Hon. COURTNEY HOUSSOS: That is right. Can you explain why those conditions were put on the licence?

Mr TANSEY: I can see different conditions at different times. I assume the ones you are interested in are for periods where they—either it was only for contracts, not requiring what was then called home warranty insurance, and there was some limits for a period to the class of building they could construct.

The Hon. COURTNEY HOUSSOS: Perhaps, Mr Tansey, you can provide us with those conditions. Can you just talk us through those different conditions that have been on the licence, please?

Mr TANSEY: Yes. For a period between 31 March 2014 and the end of June 2014 there is a condition stating, "Only for contracts not requiring home warranty insurance."

The Hon. COURTNEY HOUSSOS: Sorry, can you just state the time period again, please?

Mr TANSEY: Yes, it was 31 March 2014 to 30 June 2014. There is a condition here—

The Hon. COURTNEY HOUSSOS: Sorry, can you explain why that condition will be put on someone's licence?

Mr TANSEY: I can guess. One reason would be that they might not have had eligibility to provide or purchase home warranty insurance.

The Hon. COURTNEY HOUSSOS: Can you explain what that means, Mr Tansey?

Mr TANSEY: There are any number of all kinds of licensed builders in New South Wales who do not do work that requires home warranty insurance, either because the nature of the work is below monetary thresholds, the type of work they do is not covered by the home warranty insurance scheme or there might be periods where they want to do that work, but, if they are not able to meet some of the tests to gain eligibility for the insurance, then they cannot do the work because it has to be covered.

The Hon. COURTNEY HOUSSOS: What is the eligibility for that insurance?

Mr TANSEY: That is an issue that now has been administered by the State Insurance Regulatory Authority [SIRA] and before that for a decade.

The Hon. COURTNEY HOUSSOS: So that eligibility is determined by SIRA or by Fair Trading.

Mr TANSEY: No, it is determined by whoever is regulating the insurance at the time, which today is SIRA.

The CHAIR: The long and the short of it is that if they cannot get home building insurance, they cannot do residential building work and there is a limitation on their licence.

Mr TANSEY: Correct. It is required to be covered by insurance, and so the public register records that fact.

The Hon. COURTNEY HOUSSOS: Then the assessment is done by SIRA and the information is provided to you as the regulator.

Mr TANSEY: That is right. There has to be an interaction between the two regulators because the licence which is administered by Fair Trading and the insurance which is administered, as we said, at the moment, by SIRA, have to go together to make somebody potentially wholly eligible. If they are not eligible to do work that is covered by the scheme, then that is a condition on their licence and noted on the public register.

The Hon. COURTNEY HOUSSOS: It has been said publicly that there is a Fair Trading investigation into this. Do you know anything about that investigation?

Mr TANSEY: No. I have not been involved in the investigation.

Mr CHANDLER: It is really not part of this portfolio. I would just have to ask you respectfully that this is not part of the portfolio which I am working in, but I can tell you that there were 16 people as of last Friday who had registered as a result of the invitation for people to register their names in regards to that collapse. Please, this is an inquiry dealing with class 2 buildings. My remit has been clear since the day of my appointment. I just ask that for the purposes of the most productive use of time—it is your call. I am happy to sit here and say, "It is not my remit," for as long as you wish, but—

The CHAIR: Can I just ask one question arising from that, Ms Houssos?

The Hon. COURTNEY HOUSSOS: Sure.

The CHAIR: I suppose the issue is that there has been a reform agenda for class 2 buildings. You have the carriage of that, Mr Chandler, and we will talk about that at length. We have here though up to 700 people

who have incomplete homes. They are class 1 buildings—standalone dwellings. Indicators for that collapse were happening months ago with this builder.

The Hon. COURTNEY HOUSSOS: Years ago.

The CHAIR: Ever since, there was nothing in place from Fair Trading to pick it up. Is there a significant gap in protections for this part of the industry, Mr Tansey?

The Hon. TREVOR KHAN: Point of order: As good as these witnesses are, they are public servants. The rules of procedural fairness make very clear that public servants are not obliged, really, to answer questions that go to issues in policy.

The CHAIR: I will rephrase the question.

The Hon. TREVOR KHAN: I know the question is somewhat rhetorical and might be fair, but it is unfair on these witnesses to jam them in that gun.

The CHAIR: I will rephrase the question. If this was an apartment building, we may have had Mr Chandler seeing the warning signs months ago with a failure to get finances in place. Significant warning signs were in place months ago. If it was a class 2 building, Mr Chandler may have picked it up. What resources are there in Fair Trading to pick up the same kinds of warning signs, which in this case could affect 700 home owners in the class 1 industry, Mr Tansey?

Mr TANSEY: There are practices in place between Fair Trading and SIRA on coordination and collaboration on issues. We have regular meetings. There may well be greater knowledge in the agency than I personally have today about any pre-indicators of concerns about the builder or previous inquiries or complaints we would have received from home owners. Any other dealing and investigation into it—to be frank, I had not thought that this might be the focus of the inquiry today. I thought we would be talking about cladding and certification and engineer registration, so I have not come as prepared as I might have liked to be if I had known this was going to be the line of inquiry. But I am happy to take on notice greater questions about complaints or inquiries or, indeed, investigations underway.

The CHAIR: The media reports say that Fair Trading was aware from at least early November. I suppose I am going to ask you, Mr Tansey, what are the resources in place in Fair Trading to respond and protect home owners when those kinds of early warning signs happen? What are the resources? Where do we look to in Fair Trading for this kind of protection?

Mr TANSEY: Complaints on, as you know, the broad remit of Fair Trading—complaints or inquiries on any matters will come through both our call centres and our complaint handling units, which can triage complaints according to different areas. Complaints about problems with building can be referred off to either building investigators or the building inspectors within the organisation. We will sometimes proactively get intel from inspectors or investigators when they are out and about dealing with people about any concerns or early indicators of builders not performing. They come through our front door and they can come straight through our operational people and they can be turned into profiling of the activities of builders.

The CHAIR: Mr Tansey, I do not think there is any issue that complaints were coming in. The question is, though: What resources and powers are there in Fair Trading to protect people in that? What was the response? Everyone knows complaints went in. The question is about what happened in response.

Mr TANSEY: Mr Shoebridge, I do not want to get into a place where through well-intentioned ignorance I give you poor information—

The CHAIR: I am not asking you to speculate.

Mr TANSEY: —so I would really prefer to take on notice questions about the complaints received and in particular how they were dealt with. I just do not want to give you poor advice out of my interest in trying to help.

The CHAIR: I appreciate that. I do not want you to guess. We want evidence.

The Hon. COURTNEY HOUSSOS: Can I just ask, Mr Chandler, what monitoring do you have of builders' licences in class 2 buildings? If conditions were placed on a licence holder for a builder who was building class 2 buildings, what oversight do you have or what communication do you have within Fair Trading to red flag these builders with you?

Mr CHANDLER: I would report to you that red flagging and attention has been substantially improving over the last year as the intelligence capabilities of the regulator have improved. There are no red flags that I am aware of at the moment. The difference between a class 2 delivery and a class 1 delivery is that in class 1 you

make progress payments, whereas in class 2 you do not have to settle until the project is finished. The safety valve there is that if the builder did not get to the end, then the consumers would not be required to settle.

The Hon. COURTNEY HOUSSOS: Mr Chandler, what we are actually talking about here is that there is a builder who has had licence restrictions over many years, and we now have—

The Hon. TREVOR KHAN: You are talking about class 1, which has not got a line of sight.

The CHAIR: We will wait till the end of the question.

The Hon. COURTNEY HOUSSOS: There is a licence holder here who has had red flags on their licence over a course of years and has now collapsed. What is in place to ensure—would you normally be notified if those kinds of licence restrictions were on a builder in the class 2 space?

Mr CHANDLER: Not normally, no.

The Hon. COURTNEY HOUSSOS: Can you tell us—and I am happy for either Mr Chandler or Mr Tansey to take it on notice—how many building licence holders have conditions on their licence at the moment?

Mr CHANDLER: For class 2?

The Hon. COURTNEY HOUSSOS: No, they are regulated by Fair Trading. How many builders?

The CHAIR: I think that is question for Mr Tansey.

Mr TANSEY: Yes, I will take that on notice. You are talking about tens of thousands of licences.

The Hon. COURTNEY HOUSSOS: Can you provide us with the total number of licences and the number of them with conditions on them, please?

Mr TANSEY: Yes, I will take that on notice.

The Hon. COURTNEY HOUSSOS: I will provide some context for both of you. There are obviously only 16 people apparently who have made complaints to Fair Trading. It is estimated publicly that there are 145 homes at least in New South Wales that are currently under construction. What has emerged overnight is that there are a large number of other people who have paid deposits and do not have access to home building compensation and that the builder has not taken out that insurance on their behalf. That is extremely concerning because it is likely that these people who paid their deposit have lost their money entirely. Would that happen in an apartment building? Would you lose your deposit in an apartment building if this happened?

Mr CHANDLER: The deposit will be held in trust. You would get your deposit back for a class 2 building. If the developer failed to perform—and you are talking about a developer now versus a builder—you make a deposit with the developer and that is held in a trust account, except for a couple of people who ignored that rule until a few years ago. A purchaser of an off the plan apartment puts their money in trust on deposit and that is held separate away from the developer until such time as the developer completes the building, at which point they get an occupation certificate and then they can call on the purchaser to settle. That is the cover that is there as the safety valve for deposit in class 2 buildings. It is different to class 1, where you make progress payments.

The Hon. COURTNEY HOUSSOS: So the people who have possibly lost their deposit entirely would not have lost their deposit if it was in an apartment building. Is that what you are saying?

Mr CHANDLER: If they had bought an off the plan apartment, the money would have been held in a trust, which was not available to the developer until the developer then was in a position to call on settlement where the funds join the settlement funding money at the end of the project. There is a very different delivery model for class 1 and class 2 buildings. Class 1 involves progress payments where you make a deposit and then you make progress payments. The risk there of course is that if the builder falls over along the way, then you are caught in the calamity that these people are in. I think it is something that is work to do. I am personally not thrilled with the situation that they are in. In terms of class 2, the circumstances are very different. They do not lose their deposit.

The CHAIR: But ordinarily if you are purchasing in class 1, the deposit would be held by real estate agents and held in a real estate agent's trust account.

Mr CHANDLER: If you buy land then your deposit will be held by the real estate agent until you settle. If you buy a house and land package or you buy a house—

The CHAIR: Separately.

Mr CHANDLER: —that is a different exercise.

The CHAIR: It is not a contract for sale, is it?

Mr CHANDLER: Yes.

The CHAIR: No.

The Hon. COURTNEY HOUSSOS: Mr Chandler, one of the things that you have been talking about to address the issues in class 2 buildings is the rating system, which has already been raised this morning. Can I ask you, off the back of those kinds of collapses, which are not uncommon, would you consider expanding the rating system to class 1 buildings to provide those home owners with more protections?

The Hon. TREVOR KHAN: Again, that is a policy matter.

Mr CHANDLER: That is another question for the Minister, that is all. It is not my election to do that. Minister Anderson is responsible for class 2 buildings.

The CHAIR: I think the point Mr Khan is making is that it really is a policy question and we have here members of the public service.

The Hon. TREVOR KHAN: It is great to ask about the rating system but—

The CHAIR: They are not in a position to provide the policy. There seems to be compelling reasons for the question, Ms Houssos, but you cannot ask these witnesses to back you in on that.

The Hon. COURTNEY HOUSSOS: Mr Tansey, perhaps you will need to take these questions on notice. I am interested in the scope of the investigation. Are you able to provide on notice, about the investigation into Privium Homes, when it was established, how many people are going to be working on the investigation, whether it will be headed by Fair Trading or by SIRA, what the scope of the investigation is and what the reporting date is?

Mr TANSEY: I am happy to take that on notice.

The Hon. COURTNEY HOUSSOS: Thank you. In the letter from the administrators to the home owners, they were told that some of the contracts have been transferred or are in the process of being transferred to a different construction company. Is Fair Trading playing any role in supporting the home owners to find new construction companies to complete their builds?

Mr TANSEY: I would have to take that on notice.

The Hon. COURTNEY HOUSSOS: If you can also tell us how many of those have been assisted.

Mr TANSEY: If I can, in case it helps us later, emphasise the point again that when it comes to administering the claims of home owners and some aspects of the orderly management of claims, that is going to be done by the insurance regulator—SIRA—not by Fair Trading. There may be an important demarcation point there. But I am happy to take as much as we can on notice.

The CHAIR: Commissioner, are you aware of the large planned community, I think in Rosebery, that is constructed by Otto?

Mr CHANDLER: The Otto project at Rosebery, yes.

The CHAIR: It is described on its website as a "brilliant master-planned community" with a lot of very positive commentary on it. There have, however, been substantial interactions between your office and the developer there. What is the state of play?

Mr CHANDLER: It is a pretty unfortunate situation there because this building was built by a company—and I will just refer to my notes because I just need to make sure that I get the names of the entities right because it is quite a complex exercise. Icon Construction Australia (NSW) Pty Ltd were the builder contracted by Capital associated with the Christian Life Centre to undertake that project. Icon Construction Australia (NSW) Pty Ltd went into receivership at the end of last year. This is a complex and messy exercise, Mr Shoebridge, where these owners have been caught in a situation where Icon Construction Australia (NSW) sold its business essentially to the Kajima group of companies. What they managed to do was to take the business and leave the responsibilities of the company behind it.

The CHAIR: Basically, in some ways, they are asset stripping and leaving the liabilities behind and taking the actual business.

Mr CHANDLER: Correct. There are many complexities around it because then the business that was purchased by Kajima went on to become the core business of a company known as Icon Co (NSW) Pty Ltd. I have to keep referencing notes because the number of Icon Cos are quite a lengthy list.

The CHAIR: Mr Chandler, I spent some couple of hours trying to chase this down myself and I failed, so please take us through it.

Mr CHANDLER: I managed to put this together as best I can. What happened is that all the employees and the officers of what I call the "old co" were transferred to the "new co", but the responsibilities of the old co were left behind with that. There are significant defects in Otto 2, which are publicly known. I attempted to get a commitment from the directors of who I thought were the spokespersons for the new co business that they would undertake to fix those defects. It might have been my naivete in asking those questions, but there was no clarity ever made as to which company was speaking on behalf of whom.

I dealt with a director called Mr Julian Doyle. He was part of the old company and he took up a directorship with the new company and held that directorship for nearly five years. During the course of that time the new company that housed the business that was acquired undertook Opal Tower; projects at 1-31 Victoria Street, Roseville; projects at 23-41 Lindfield Avenue, Lindfield; and 659-669 Gardeners Road, Mascot. I have been attempting to meet with the directors of new co to ascertain where this company is going because, during the course of 2020, a new company called Icon SI (Aust) Pty Ltd started to take on the new business that was acquired by the company. There were no Australian directors left in Icon Co (NSW) Pty Ltd at the end of last year.

I had a call from Mr Doyle in about November to say to me, "I'm no longer a director of Icon Co (NSW) Pty Ltd, and I have just had the old co placed into receivership." I was not very happy about that because the cards were not being played the way that I thought they were being played, but that is the reality. Fortunately, we have been able to issue a building works rectification order to the developer, Capital, and that has at least motivated now an advancement of—hopefully this week an offer will go on the table to the owners of Otto 2 to at least try and address the significant defects in that building. I do not think that is going to make them whole. It is going to be a very disappointing situation.

I have a long way to go to get to the bottom of this. But during the course of it, Icon Co's legal representatives have weighed in to try and get me to agree to relinquish my powers to refer directors of that company to organisations like ASIC if I find that they have not appropriated themselves properly. In fact, I have a copy of a deed that the lawyer for Icon sent me to say would I please enter into a deed and pledge not to use my powers to refer these people, if I decided they needed to, to another agency.

The CHAIR: They were trying to bind the hands of a statutory official.

Mr CHANDLER: Absolutely. I basically said, "Good luck with that. I'll see you in the Supreme Court if you wish to actually form an injunction." They have withdrawn on that matter. Since then, I have made it my business to go and look at these other projects that have been built by the people who were the vendors of the old company. Very similar defects are present in the buildings I have named. Those buildings are also in litigation. This company now has Opal Tower in litigation; the Victoria Street, Roseville, project in litigation; the Lindfield project in litigation; and the Gardeners Road, Mascot, project in litigation. If anybody had heard the interview the other night on Channel 9, they would have heard that the owners at Opal Tower are some \$5 million into the cost of litigation and the owners at Otto 2 are nearly \$1 million into litigation. My urging to this company has been, "Why don't you stop spending your money on litigation and go and fix the defects?"

The CHAIR: This is a company that engages in wrecking people's financial lives through these defect-ridden buildings. Are they currently in the process of constructing any current dwellings?

Mr CHANDLER: I understand that they are tendering for new work. There was in fact a new project potentially announced in their name that they are the preferred contractor on. They are now contracting under Icon SI (Aust) Pty Ltd at the moment. They are not contracting any new projects under Icon Co (NSW).

The CHAIR: Mr Chandler, is there a role for a kind of banning order to be considered, because for me I find it—

The Hon. TREVOR KHAN: I am not stopping you from asking this question.

The CHAIR: Actually, I will rephrase the question.

The Hon. TREVOR KHAN: No, don't.

The CHAIR: Do your powers currently allow you to issue what would in effect be a banning order to say that Icon Pty Ltd in whatever form it is, including companies closely associated with it, shall not continue to engage in the construction sector in New South Wales?

Mr CHANDLER: There is a process that we have to go through as a regulator. As you know, we have got to apply natural justice. We are currently in the process of conducting post-occupation certificate audits on these three projects. In the event that the defects are confirmed—and I have been out and had a look at these and I have to tell you that I expect that there will be—there will be orders placed on the developers of those projects because the RAB Act actually goes to the developer who engaged Icon. As is the case for Otto 2, the developer Christian Life Centre has had to step up and take the responsibility for the defects that are present in that project. Unfortunately, they will also have to step up and face the consequences because just across the road there is Otto 1, which has similar defects in it. I just have not got to that project because I wanted to deal with one and then deal with the other.

I am actually going to get a researcher to write up the customer experience of the Otto 2 project and publish it because I think this needs to be on the public record as to just exactly what these owners have been through. I did meet with the owners committee on Friday and they were hopeful of advancing a resolution of the Otto 2 project defects with the developer in the next week. They did express gratitude for the fact that, had it not been for the RAB Act powers, they would not be in that position. I think everybody collectively in this room has had a little finger in that pie.

The CHAIR: Mr Tansey, in terms of the department's oversight of—let us pick Icon for example, leaving this pathway of financial ruin and wreckage behind it. What is the department's role in driving those kinds of players out of the industry? Is it all with the Building Commissioner, or does the department have a separate role?

Mr TANSEY: As you would well know because we have talked about it extensively before in this room and others, for the last few years we have all been a scrum behind Mr Chandler here and our focus has been his focus and vice versa. You know the direction of the reform agenda, particularly into the class 2 segment and these kinds of issues.

The CHAIR: I suppose a concern I have in this—and I say at the outset that I tried to find my way through that tangle and I could not. I appreciate you finding your way through the tangle, Commissioner.

Mr CHANDLER: I am glad you have asked the question.

The CHAIR: There should be some kind of pre-emptive protective power. The thought that this corporation is out there tendering for work right now and potentially putting another couple of hundred home owners through the same wringer, I find untenable. Is there a protective measure in place that you can call upon, Mr Chandler?

Mr CHANDLER: When we get to the bottom of this, there will be a couple of things that we will probably make some recommendations about. I think the days of simply being able to buy the company out of a company and leave the shell behind should be something we need to look at closing down. I do not think that should be—they just simply close off the statutory warranties by ring fencing the company and putting it into receivership. I think we should have a look at that. We are also making some inquiries to FIRB to have a look at what were the conditions on the sale of the business to Kajima. At this stage, FIRB have not been overly forthcoming in the information we have sought. We will continue to press there.

The CHAIR: That is the Foreign Investment Review Board.

Mr CHANDLER: Yes. Then the next area that we will go is subject to if we see any particular inappropriate behaviour of the two directors who were both directors of the Icon old co and the Icon new co—that is Mr Julian Doyle and Mr Nicholas Brown. If we find any inappropriate actions by either of those two gentlemen then it would be my intention to refer them to the appropriate regulator.

The CHAIR: Which brings me to a question, Mr Chandler. Are you in a position to table the deed that they sought to have you sign?

Mr CHANDLER: Yes, I am happy to table that. The moment I got this I just looked at it and said, "You are joking." This really should be on the front page of *The Sydney Morning Herald*.

The CHAIR: Did it come with some correspondence?

Mr CHANDLER: It came with a covering letter outlining that unless I agreed to enter into this they would take the matter to the Supreme Court the following Tuesday at five o'clock.

The CHAIR: Would you be in a position to table both of those documents?

Mr CHANDLER: I will take that on notice and provide that extra document. I will pull that together to provide to the Committee.

The Hon. TREVOR KHAN: That will be gratefully received.

Mr CHANDLER: Really, this is actually the first one of these that I have seen like this. There are other players out there who have left a trail of companies behind them, but, you know—

The CHAIR: This is brazen.

Mr CHANDLER: This Icon company that went broke that was put into receivership last year was previously known as Icon Southern Cross Pty Ltd, Southern Cross Icon Pty Ltd and, ultimately, Icon Construction Australia Pty Ltd. It had more names than the Scarlet Pimpernel.

The Hon. SCOTT FARLOW: They are not very creative either, are they?

The Hon. ANTHONY D'ADAM: Are these all SPVs? Is that the reason why there are so many iterations?

Mr CHANDLER: No, these are Pty Ltds. No, these are not SPVs for the purposes of a development. These are just companies for the purposes of conducting an ordinary business.

The CHAIR: But in this case they are a sort of variation on phoenixing, where they actually sold the business and left the liabilities behind. They took all the goodies from it.

Mr CHANDLER: Everybody should read the receiver's report on this particular insolvency. I mean, what really got up the nose of the residents who are trying to get some money back to fix their defects was that there was a sum of approximately \$200 for the staff fund that ranked ahead of their particular claim.

The CHAIR: You did mention this was the Opal Tower.

Mr CHANDLER: This was the builder of the Opal Tower. If you simply added up all of the litigation that is surrounding these five projects, it would be a very large number.

The CHAIR: But, you see, Opal Tower was how many years ago now? Two and a bit years ago?

Mr CHANDLER: December 2019.

The Hon. SCOTT FARLOW: It was December 2018.

The CHAIR: It was the better part of three years ago. The main players associated with the construction of the Opal Tower are still out there—

Mr CHANDLER: Yes.

The CHAIR: —and indeed they are leaving this trail of wreckage behind them. I come back to this point, Mr Chandler. I appreciate the work you do and I know how detailed it is. You have got Icon one, two, three, four, five, six, seven and eight to chase through. But where is the protective power to help consumers to stop this happening? Where does that lie?

Mr CHANDLER: We have made it clear on a number of fronts that there should be caution taken. For example, I have been briefing the banks over the last six months, not on this particular matter, but on pointing out to them that organising a developer's loan requires them to have a better line of sight to the delivery of projects than perhaps they have in the past. In other cases, for example—pretty well universally—the banks require that all contracts for development finance have to be conducted under a design and construct contract. That is an arrangement of convenience for the banks, which I do not mind. I think that is an appropriate exercise, as long as the company that is being engaged to do a design and construct contract has the competencies to do that. Some do, while some have lesser skills and some have no skills.

I have been making it clear to the banks that since the RAB Act came in in New South Wales, they should pay much more attention to the character, capability and financial standing of the contractor delivering the job. Because if the job is delivered up at the point of occupation certificate and it has got substantial defects in it, then the consequences of that are that the project will not get its occupation certificate. So we now have quite a deal of attention being paid by banks. I expect that, by the time we have introduced the rating system, banks will—I know that one bank has advised me informally that they have moved to say that they will not lend to another project where the developer does not have a rating. Why would you if there was such a piece of information available? Very shortly in New South Wales we are going to have this capacity for consumers, financiers and insurers to look at the ratings of the developer and the builder before projects are backed.

The Hon. TREVOR KHAN: That is because their security is essentially under threat if either you step in or alternatively you do not give them a rating.

Mr CHANDLER: In the case of, for example, The Acre project at Bellevue Hill, which is a project we went into at the end of last year, that was being financed by one of the major banks. We did an OC audit on that project and found substantial defects in that project. We subsequently issued a prohibition order on that project saying that until these defects are fixed then it is our intention for that project not to achieve an occupation certificate. At the time, one of the major banks was the lender into that. They explained to me that historically they looked at the quality of the lend being substantially the assets that were available to the bank in the event that the developer defaulted. They had never really paid any attention to the quality of the builder and the developer's likelihood to turn up with a decent building. They were really looking at it through their lens.

But I have got to say that over the last six to nine months the banks have moved to a position where they are now paying much more attention to this because when we do have a project where there is a prohibition order, like The Acre one at Bellevue Hill, that could be another six, nine or 12 months before that project goes through. The bank in this case was fortunate at The Acre, where the developer actually had enough cash to pay out the bank's loan and the bank left. But the project is still sitting there stopped today. It has got a stop work order, it has got a prohibition order and it has got a building works rectification order and all of that has to be sorted out before that project turns into completion. That message is getting out there loud and clear and banks are paying attention.

The CHAIR: But until the ratings system is in place and until you stack up that part of the work, we have got players like Icon who feel sufficiently empowered that they threaten you with Supreme Court injunctions and Supreme Court proceedings. You have got the backing of the State Government behind you, we hope.

Mr CHANDLER: I assuredly do.

The CHAIR: Where does that put a single home owner? They must be getting run over in this process, unless you intervene.

Mr CHANDLER: Mr Shoebridge, there are many elements of areas of work to do that my digging up over the last year or two has thrown up. The introduction of the residential apartment buildings Act was the first step in tidying this up. It is having a significant impact across the industry; it really is. The introduction of the Design and Building Practitioners Act is now standing up, and it is having an equally significant change. I think what is happening is that we have got incremental things that are being done, but historically consumers have not had the benefit of an independent risk rating for the players. Governments are not people to provide that risk rating. That is not what governments do.

People who provide those ratings, like Equifax, are regulated players. You would want that rating provided by a regulated player. The 80 per cent to 90 per cent of good players in the industry are now moving to realise that in fact having a rating is the thing that sets them apart from people that will never have a rating and never should. I am hoping by the end of next year we have really redefined that landscape so that exposure for consumers stops. There will always be defects. We are well into this reform exercise, but there will always be defects. The really good thing about this though is that the people who cause them will be around to fix them.

The CHAIR: One of the concerns that has been raised with my office about the rating system—which is, I understand it, a voluntary system that you are proposing at the moment, where builders and developers put their hand up to be rated. Is that right, Mr Chandler?

Mr CHANDLER: Correct.

The CHAIR: Therefore, high-quality builders who feel they can get a four or five star rating will put their hand up and get rated. Their properties will sell at a premium. Those who feel like they will fail the rating system or probably feel like they should fail the rating system because of their building quality will sell their products at a lower price without the premium. Therefore, the risk is that those people who can least afford to have a building with defects and who can least afford to have a premium property will be the ones who cop it.

Mr CHANDLER: I disagree with that view. First of all, ratings are something that we have been working on, as you know, since day one, when I provided you and the other Committee members a briefing way back. Ratings needed to be designed by the industry for the industry. Equifax have engaged banks, insurance companies, owners' corporations, lawyers, contractors and developers. This is not something that has just come off the wall. This has been—

The CHAIR: Mr Chandler, I am not pushing back against a ratings system. What I am suggesting to you is by having it as an opt-in system you create two classes of buildings—those at a premium without defects, and those for those who cannot afford those buildings.

Mr CHANDLER: I disagree with that.

The CHAIR: How do you prevent that split in the market?

Mr CHANDLER: The first thing you should be doing, which we will be doing, is making it clear that consumers, first of all, have a choice. There is no elitism at all with the rating system. The rating system is designed specifically not to be elite. For example, a small development company that might do 20 or 50 apartments a year could enjoy the same rating as someone who is doing 1,000 apartments a year. What the rating system is looking for is the character, competencies and the financial capacity of those organisations to work at the level at which they are working.

We have had lengthy conversations with the industry as to what this industry looks like in three or four years from now, when it is producing north of 25,000 apartments a year. The industry advice back to me is that we need potentially 150 quality builders and 150 quality developers. We do not need the rest. Let us assume that we have got people who are stepping up and getting rated who are right across the spectrum. We are talking about people who provide economy-type product as opposed to premium product. What happens with these sorts of things is then they become a condition of lend. Then we have a situation where the banks are starting to step in and say, "Why would we finance a project where the developer or the builder did not have a rating?"

As we move forward in the next year, the regulators' efforts now, as we discussed way back when I first started, are that we want to create a situation where the regulator could apply its best efforts and where the effort is most impactful. So the more people at this end of the spectrum who have got a rating relieve the regulator from a lot of its load and we can now focus on the people who are at the bottom. My view is that there are potentially 10 developers, 10 builders, 10 certifiers and 10 engineers that probably represent 80 per cent of the defects that I have seen. If we were focused on just them, then we are starting to extinguish the pipeline of stuff that has caused so much grief in the past.

The other thing about the ratings is that we are saying to developers, "This is not just simply have a born-again moment; get your ratings and we forget the history." We are also saying, "If you want to be rated and you want to have the regulator out of your face, then you have got to go back and fix some of your legacy projects." I cannot go into details at the moment on that, but you are aware that we have introduced a tool which is an enforceable undertaking. You have seen the first of those applied at the Skyview project at Castle Hill. Expect to see more of the enforceable undertakings entered into as we get developers to realise you have got to go back and clean up some of your mistakes of the past.

The Hon. ANTHONY D'ADAM: I just wanted to clarify, the rating system is actually a private system. Is that right?

Mr CHANDLER: Yes.

The Hon. ANTHONY D'ADAM: How is it that your office is having such a directive role in the construction of the system?

Mr CHANDLER: We always set out to encourage the market to come up with a private sector-led rating system because—Equifax have been a first mover, but we have been talking to Moody's and Standard and Poor's, et cetera, to say, "There is room in this market for you to be in the play as well." We are agnostic as to who provides this, but we are absolutely resolved to encourage the private market to do this. The reason why is that the next step in this exercise is the decennial liability insurance, which the Minister recently announced. The insurers will start to price the premium for that product based on the integrity or the rating of the contractor.

When we first put this ratings initiative to the market, of course, people were saying, "But what if I don't have a five star rating? What if I've only got a four?" The first couple through have got a four and one of them got a three. We have had to say to them, "Look, if you had a one or two you would have a problem, but three is a good starting point." They can start to build their business because the ratings provide advice to the company about how they can improve their business.

One of the companies, for example, had a trail of companies that were over 15 years old, SPVs that were finished and there were no problems on the project, but he was just leaving them hanging around because he thought it was a bad thing to close them down and clean them up. In fact, the ratings said having the shadow of those around is not a good thing; that is affecting your rating. The other more important thing is that for this particular business they said, "Look, you outsource 80 per cent of your work, but you don't do any credit ratings of your trade contractors. We see that as a business risk." So the builder said, "Wow. I hadn't thought about that." So he is now out getting credit ratings on his supply chain that does 80 per cent of his business. He will progressively graduate up to a five star.

The Hon. ANTHONY D'ADAM: Is it fair to say though that the rating system is actually there to serve the finance sector, not to actually serve the consumer? Its primary purpose is actually to give assurance to the finance sector?

Mr CHANDLER: No. It is there to serve the consumer. It has always been a consumer-facing exercise.

The Hon. ANTHONY D'ADAM: Ultimately, isn't it going to just serve those interests primarily?

Mr CHANDLER: No, it is going to serve the consumer. It was always designed to serve the consumer.

The Hon. ANTHONY D'ADAM: But you are not actually designing the system; Equifax are designing the system.

Mr CHANDLER: We have been very much involved in—we have been invited to participate in the design of the system from day one. It is very much a consumer-facing exercise. I would be surprised, for example, if the Owners Corporation Network were anything other than very enthusiastic about the fact that this is truly a customer-facing product.

The Hon. ANTHONY D'ADAM: Does this have trade practices implications? If someone has got an unfair rating that is clearly going to have an adverse impact on their business. How do they actually rectify that?

Mr CHANDLER: When you have a ratings system provided by a regulated player, then the Australian Prudential Regulation Authority [APRA] regulates that rated player. If somebody is unhappy with their particular rating—this is a regulated rating as opposed to, say, a Tripadvisor-type rating, where it is based on what someone thought five minutes ago. A regulated rating system is one that is accountable and has to be reported. Any complaints about a rating and the resolution of those ratings must be reported to APRA on an annual basis. This is a really rigorous, fair and regulated process. Government could not possibly do this. I am hoping, now that other ratings agencies can see that there is a market for this product, we will actually get some other players in and increase competition.

The Hon. ANTHONY D'ADAM: If it is APRA regulated, does that mean—

The Hon. TREVOR KHAN: Are there any other examples of this style of rating being applied in other industries or the like? This is not a criticism.

Mr CHANDLER: Not in the construction industry that I am aware of. New South Wales are actually leading everybody on all of this. Let me call it out. There are people looking over the fence right now saying, "Hey, you've got a handle on this in New South Wales."

The Hon. TREVOR KHAN: Even the Victorians?

Mr CHANDLER: I do not want to go talking about our colleagues interstate. But you watch in the next two or three years to see if this doesn't catch fire.

The Hon. ANTHONY D'ADAM: I was going to ask a question about the data that is the source. Who actually owns the data? That will be Equifax that will own it.

Mr CHANDLER: That is a really good question. Let us just talk about exactly what data exists out there. There are two types of data, including what is called nonconsensual data. We are holders of large amounts of nonconsensual data. The New South Wales regulator would be one of the holders of the largest assets of data in the country. But that is nonconsensual data.

The Hon. COURTNEY HOUSSOS: Can you just be clear when you say "we" hold it. Who are you talking about? The New South Wales Government generally?

Mr CHANDLER: The department. The regulator. There is the investigations unit, and we have one of the finest investigations teams. They serve a number of people who would draw on this information—someone applying for a liquor licence or whatever. It provides services to other parts, but particularly to the work that we are doing. With the ratings that you can get from someone like Equifax or Moody's or whatever, very few companies make an executive appointment these days without actually getting someone like an Equifax to do a search on the individual and come back and say that they have got particular backgrounds or not.

The CHAIR: Apart from Cricket Australia?

Mr CHANDLER: Or Shane Warne. When you move to seek a rating of the type we are talking about through iCIRT, which is the product that is being developed by Equifax, it then steps into what is called consensual data. That means you provide another layer of data for which the organisation consents to give, because there are limits to what non-consensual data can tell you. The rater would say, "Here's a list of questions that we would like you to inform us on." The party being rated provides that information by way of consent. That is particular and

peculiar only to the ratings agency for the purposes of the rating. All of this is absolutely ethical, it is conducted properly, and it is regulated. This is a real coup. We will pull this off, and New South Wales consumers will be far, far better.

We have got the first of these developers—this is how far we have got; we will be launching this in about two weeks. The first of the developers now has already got their company rated, and they have got their current new two projects' SPVs rated, because the thing that we were finding was that on the brochure for a project was "This is another project by the Dreamworld group", but the company that was developing the project was XYZ SPV Proprietary Limited. The consumer had no choice at all; they got excited about Dreamworld doing this fantastic project, but suddenly they get a contract with "XYZ Proprietary Limited" on it. We are requiring, for this rating system, that the developer publishes the rating of their SPV on the brochure for the sale of the apartment.

The Hon. ANTHONY D'ADAM: You say "we are", but you mean Equifax's system is.

Mr CHANDLER: Equifax are providing the rating, but we are calling out to the industry—the consumers, the financiers, the insurers—and saying, "Well, this is now available. You can elect to do transactions with your eyes shut or your eyes wide open." This is monumental; I could spend the rest of the afternoon sharing my enthusiasm with you about this. This is absolutely durable, it is going to be long-lasting, and it is going to be game-changing.

The Hon. COURTNEY HOUSSOS: You were just saying it is required to be published on the brochure. So it is a voluntary system for now—

Mr CHANDLER: We are saying to developers, Ms Houssos, that they should publish this, again, voluntarily because we will be calling out to consumers and saying, "If you are dealing with a developer who is not publishing their rating on the brochure that you are buying, beware."

The Hon. COURTNEY HOUSSOS: Let us just be clear: It is a voluntary system. I understand your excitement about it.

Mr CHANDLER: I should go and have a lie-down and a Bex or something.

The Hon. COURTNEY HOUSSOS: I just want to ask some specific questions about it.

Mr CHANDLER: Please.

The Hon. COURTNEY HOUSSOS: It is a voluntary system.

Mr CHANDLER: Yes.

The Hon. COURTNEY HOUSSOS: You have just rated the one developer so far and their two SPVs?

Mr CHANDLER: No. There are a number of boats already tied up at the docks at the end of the Derwent. There are a number of boats in the Derwent, and there are a hundred or so between Sydney and the edge of the Derwent. So there is a big crowd moving towards rating. This is not something that is just on the drip now; this has got momentum.

The CHAIR: Nobody mentioned the Bass Strait.

The Hon. COURTNEY HOUSSOS: Maybe we should talk in specifics rather than analogies. The system itself will be a voluntary system; is that correct?

Mr CHANDLER: Yes.

The Hon. COURTNEY HOUSSOS: It will be voluntary about whether you disclose it or not?

Mr CHANDLER: Voluntary whether the developer discloses it or not.

The Hon. COURTNEY HOUSSOS: Yes. Will that information be publicly available elsewhere?

Mr CHANDLER: Only their rating will be publicly available. That will be held on the Equifax website. So a consumer can look on the website and say, "That developer has got three-, four-, five-star rating."

The Hon. COURTNEY HOUSSOS: It will be on the Equifax website. Will it be on a New South Wales government website?

Mr CHANDLER: There is no need for us to host it on our website. It will be publicly available information.

The Hon. SCOTT FARLOW: Quickly on this point, you are saying that only the developer will be rated. So the SPV will not be rated?

Mr CHANDLER: No, I am saying that the developer—we are pressing for all SPVs to be rated.

The Hon. SCOTT FARLOW: But will that be available on the Equifax website or not?

Mr CHANDLER: Yes.

The Hon. SCOTT FARLOW: Okay. That was just a clarification on what you were saying.

Mr CHANDLER: I have actually seen the artwork for the first couple of these, and it is just exactly what we imagined it would look like. It has got the developer's brand on top saying, "Another one of our developments. This project is being developed by this particular SPV, and here is this SPV's rating." Now, the rating of the SPV, of course, is then linked carefully to the corporate entity, and the thing that this is really driving is the fact that the umbilical cord that exists between them now is going to be substantial as opposed to insubstantial. This is a huge game-changer.

The Hon. ANTHONY D'ADAM: It assumes, though, a level of due diligence from purchasers of apartments. We have had the purchasers of the Hassall Street development before this inquiry. I think it seems that you are just assuming a level of due diligence that is perhaps not necessarily there in the market and that there will still be exploitative operators out there that you are relying on this system to eliminate. It seems they will still be there and able to prey on those who have not exercised their due diligence.

Mr CHANDLER: I do not think so. This will be normalised in the market. I would expect anyone who is going to be offering a mortgage to a purchaser to say, "You know you're buying an apartment off a non-rated developer. Are you really serious about that?" These things take a little bit of time to mature, but the moment they do they change the game forever. You really have to—and I am happy to spend more time with you and talk to you about encrypt detail on this—probably more time than justified here. This has been the product of two years of work. To see this now coming over the fence, the State of New South Wales should be well proud of this particular piece of achievement, and this is going to go much more beyond the State of New South Wales. It is going to become the main plank that is going to give insurers the confidence to support a decennial liability insurance product. At the same time, the other thing it is going to do is it is going to ensure that developers properly engage consultants to fully document their jobs and build compliant projects. That is what it is going to really drive.

The Hon. SCOTT FARLOW: Mr Chandler, I take it from that you are saying that the ecosystem is going to change, effectively.

Mr CHANDLER: Totally.

The Hon. SCOTT FARLOW: So the banks are going to say to somebody that they are lending a mortgage to, effectively, "Is this a five-star, four-star, three-star rated development?" You are going to have lawyers and conveyancers going through and looking at the Equifax website on these projects as well. The whole market will change in that regard.

Mr CHANDLER: Correct. But I do not want to degrade the fact that—someone who gets a three-star rating is, as far as I am concerned, good to go. It is a very good-quality rating, a three-star rating, and there is an opportunity for businesses to mature their rating over time. There will be some players that will come out with a five-star rating on day one. Some will have a four; some will have a three. I do not think anyone will be running around town with a one or a two, but three is good to go, as far as I am concerned, and that is a huge step forward for this industry.

The CHAIR: Could I suggest we may return to this, if we have time, but there are a number of matters that I think we have an obligation to raise that were raised in the evidence today. Can we address some of those?

The Hon. SCOTT FARLOW: Sure.

The Hon. TREVOR KHAN: Yes.

The CHAIR: Mr Tansey and Mr Chandler, I will first go to you. Interior designers and the Design Institute of Australia raised with us concerns that there was no accreditation model for them and that, whilst architects and other industry players had an accreditation model, without an accreditation model they were being frozen out of interior design work in class 2 buildings. Have they raised this with you?

Mr TANSEY: Mr Shoebridge, yes, they have. There have been discussions—as, in fact, there have been with all of the different stakeholders in building up the Design and Building Practitioners regime. So, yes, I am aware of that, and I did have the opportunity to listen in to some of that testimony this morning.

The CHAIR: It struck me that they had a very credible and reasonable case to present to allow for them to get an industry-based accreditation and they had a model that would stack up. How advanced are the discussions

about getting that happening? For me, when we passed that legislation, it was not to put a bunch of interior designers out of business; they were not the focus of the legislation.

Mr TANSEY: They are not being put out of business because, of course, they can continue to do their work and have it signed off by an architect who is registered under the scheme. So there is nothing stopping them doing their work. We are also giving some thought to probably a more moderate carve-out than I think they were advocating this morning and in our discussions with them—for example, looking around some elements of commercial fit-out that might be suitable to take out.

I think there is some nuance to the argument, including how I saw them making it this morning. We do not see entirely eye to eye with them with the idea that all of their work is simpler or more straightforward such that it does not have a significant impact on the building. Our view is we are open to continuing to have those discussions as we have been, say, with the architects. I know you were talking about some elements of their feedback on the scheme now. But we are not, at this stage, minded to set up that specialist line of registration for interior designers because we still think there are issues and we are satisfied that they are perfectly capable of continuing to trade and do their work, but they need to do it—

The CHAIR: Under the auspices of an architect.

Mr TANSEY: Of an architect; to have it signed off and declared.

Mr CHANDLER: Can I just add a little bit to that?

Mr TANSEY: Yes.

The CHAIR: If they are doing penetrations or removing walls, that seems to me to be reasonable. But if they are doing just simply interior design work, as more commonly understood, having to do that through the auspices of an architect seems to be an inappropriate restriction on their work in class 2 buildings.

Mr CHANDLER: We are having conversations with the market on this—probably council and others. I personally think there is a sensible workaround on this. I would like to get that to a point where it is clearer. My experience with construction and buildings coming to completion is, for example, a shopping centre where you do not have a number of let shops at the time. What you do is the area that is set aside for a shop or multiple shops, you can bring that to a point where you can have the critical infrastructure of fire safety and all of that all resolved and perhaps we can take the view that then to fit that space out, which requires a development application, could possibly be accommodated. Let's just let this move without everybody getting too excited about it. We want a solution.

The CHAIR: Is there a time frame for that?

Mr CHANDLER: I would hope by middle of next year that would be able to be done. They can continue to work and—I think what we need to do is to make sure that we end up with a well-considered response where we receive some considered representations rather than just simply the first couple of views from the first people to the room. Mr Shoebridge, I just think we should have a proper consultation period on this.

Mr TANSEY: If I could add again too, I think the other thing is that—and this goes to the point of us being really alive to not wanting to unnecessarily restrict their work—it would only impact on their work if the work they are doing involves the building elements as the Parliament gave them to us. There would be a lot of scope for them being able to do work that does not require regulated designs or declarations unhampered, but it would be where they start to hit those key elements that their work would be touched on by the Design and Building Practitioners regime.

The Hon. SCOTT FARLOW: What are those key elements?

Mr CHANDLER: The structure, the waterproofing, the building enclosure, the fire services and the key services in the building.

The Hon. SCOTT FARLOW: I think they used the example this morning of, effectively, in their work that they are moving walls around. I would imagine there is a distinction between whether something is a supporting wall compared to whether it is just a fabricated wall and all that as well.

Mr CHANDLER: If it is an intertenancy wall. If it is an interspatial wall, which was built with a fire rating with the intent of separating one use from another, then that wall would be caught by the Act. But if it was walls within that space, then not so.

The CHAIR: I think there is a degree of ambiguity that they have. I think that is why a registration system that made it clear what the boundaries were would be of significant benefit to the industry.

Mr CHANDLER: We should do it sooner than later, but I think we would want to go through a proper consultation process.

The CHAIR: If waterproofing is the issue, remodelling the bathroom could potentially raise the whole issue—and I have never known an interior designer that did not want to remodel a bathroom, so I think they have a valid case.

Mr CHANDLER: Most shops do not have a bathroom. I think you are leading to waterproofing, are you?

The CHAIR: I think that there is furious agreement there is a legitimate issue there.

Mr CHANDLER: For a shop fit-out.

The CHAIR: And also for doing two or three apartments in a residential building. They may come and just do a specialist job in one or two apartments. That is where they are having trouble as well.

Mr CHANDLER: Sure, but I would rather consider that space as what you would call cold shell space; it is unfitted-out space. I think we are going to see the cold shell application move from just simply in retail to residential. I think there is a case, for example, of considering more cold shell opportunities, particularly for, say, disabled people and NDIS fit-out where why would you want an apartment fitted out for one use and then have to tear it all out for a subsequent use? I think we just need to contemplate the broader idea of cold shell as we move forward to clarify this.

The CHAIR: The Institute of Architects raised very real concerns, some with the structural parts of the Act—and I do not think we are in a position to debate that. But one of the issues they raised was with the requirement for architects to have five years of recent and relevant practical experience in class 2 residential buildings before they could be registered. They point to the very detailed and ongoing registration and licensing certification that architects have to go through, and they push back against that five years' experience. Where are you in terms of conversations with the Institute of Architects?

Mr TANSEY: We are nearly there, to be honest, in agreement with them. We are actively looking at making a change, much as they were characterising it this morning, where we can have regard as an eligibility assessment to a range of work in other classes that are broadly relevant, and it will be about getting the right balance between the numbers of years of experience in those other classes. But, yes, we are very close to agreeing with them how they can import that and essentially broaden the pathway through which architects can get into the scheme.

The CHAIR: That accepts the merits of the core part of the architects' argument, which is that they are one part of the industry that is highly credentialled, highly regulated and insured. They seem to be—

Mr CHANDLER: And hold its members to account.

The CHAIR: And hold its members to account, absolutely, yes; we could talk about private certification. But they do seem to bring a very valid argument to the table. Do you agree with that?

The Hon. TREVOR KHAN: A clear professional body ethos.

The CHAIR: Yes.

Mr TANSEY: Look, we agree with that. It is probably material to the interior designers thing. As you all well know, this is a very new scheme. It feels painfully familiar, but it is still pretty fresh. It is unapologetically about bringing greater transparency and accountability to more players but not just everybody. I guess we are trying to take a measured view about, when the primary architecture is there, where we can tweak it around the edges. With the architects, we are pretty much there; with the interior designers, not so close.

The CHAIR: But that conversation accepts the core merits of the architects' argument that they have longstanding, effective industry regulation. You accept that core argument coming from the architects, Mr Tansey?

Mr TANSEY: Yes.

The Hon. TREVOR KHAN: What about some of the other areas?

Mr CHANDLER: Very credible players.

The CHAIR: Yes. Sorry, Mr Khan?

The Hon. TREVOR KHAN: What about some of the other areas where we did not seem—actually, seeing we have got representatives from—

The CHAIR: I was just going to go to fire. Is that alright?

The Hon. TREVOR KHAN: Yes.

The CHAIR: I am sorry, Mr Curtin, to leave you there for so long. The submission we got from the National Fire Industry Association was quite compelling, I thought. One particular point that they wanted was to require a commissioning certificate for any new installations or major refits of fire protection systems. Where do you stand on that and on having it done from somebody with certificate IV qualifications?

Mr CURTIN: I guess our experience is that we see a lot of noncompliances, and we see maintenance issues across the sector on a day-to-day basis. Any activity in certification that can bring that to a level where we see compliant and maintained systems provides a safer environment for the community and for Fire and Rescue firefighters.

The CHAIR: Do you support the idea that there should be a commissioning certificate? To be clear, what they were saying is they often find on the 12-month certification that they send someone in with the appropriate certificate IV skills at the 12-month level and they find out that whatever the hell was signed off—

The Hon. TREVOR KHAN: No, certificate III, I think, they were saying.

The CHAIR: Sorry, certificate III—whatever the hell was signed off by the certifier at the construction point had a very modest degree of relationship with the approved plans, and major variations between the approved plans and what was built. But if you picked that up 12 months down, you have already had a building in occupation for 12 months and it is much harder to fix it. That is why they thought—and it seemed to me a compelling argument—to have a commissioning certificate.

Mr CURTIN: I guess the detail of that I would have to take on notice and come back to you with a detailed response, but anything that is done to align the way the building is designed to be built and the fire safety systems are designed to make sure they are maintained appropriately is the best-case scenario for us.

The CHAIR: Are you aware of concerns that were raised by the plumbers—the Communications, Electrical and Plumbing Union—about six kilometres of fire protection systems—

The Hon. TREVOR KHAN: Just before we get on to that, David. I have lost my witness list, but the issue with regard to—

The CHAIR: Mr Smith?

The Hon. TREVOR KHAN: Yes, Mr Smith. He only talked about it in terms of being—what was his description?

The Hon. COURTNEY HOUSSOS: Teething problems with the fire regulation system.

The Hon. TREVOR KHAN: Yes.

The Hon. COURTNEY HOUSSOS: Fire accreditation system, sorry.

The Hon. TREVOR KHAN: No, it was not the accreditation; it was actually that noncompliance with the design was being picked up. He talked about it—

The Hon. SCOTT FARLOW: It was rather the certification system, wasn't it? That it was not being certified?

The CHAIR: I think that was the point he said: that the 12-month inspection picks up a whole bunch of noncompliance, but the noncompliance is from the moment of installation. Mr Curtin, are you aware of noncompliance being picked up at the certification process?

Mr CURTIN: No, not through that process.

The Hon. TREVOR KHAN: Mr Chandler might be.

The CHAIR: Mr Chandler?

Mr CHANDLER: We are seeing in the field noncompliances at the certification process. Let me also make the comment that I have just run into a building that was certified by a local government as well, so it is sort of an issue that does not seem to be the domain of private certifiers. We have been giving a huge amount of effort to fire safety, and in the next month we will issue a report on reforms to improve fire safety in new and existing buildings, which spans all of those issues, that we have had Michael Lambert working on for the last six months. It is a very high-quality piece of work.

The CHAIR: Well, it would be.

Mr CHANDLER: Hopefully it is going to drive some changes in a positive direction.

The CHAIR: Is it your understanding that it addresses this commissioning certificate?

Mr CHANDLER: Yes, it does. It sets the best-practice objectives that we are looking for. Again, let's get that report on the table, and happy to take any direct questions from you or other Committee members as soon as that is on the table. I have not had a direct hand in this because it has been a big piece of work, but the director of my office has been working, and Fire and Rescue have been working very closely with us on this. We are collaborating on a range of fronts now. Let's have a look at this piece of work, Mr Shoebridge, and happy to take questions as soon as it is available.

The CHAIR: Alright. Did you say Christmas Eve for that one, Mr Chandler?

Mr CHANDLER: Sorry?

The CHAIR: Did you say Christmas Eve that was being delivered?

Mr CHANDLER: No, no, and it will not be a Friday either. We will try and get it out on a useful day to you. In fact, if you would like, I will deliver a copy personally to you.

The CHAIR: Thank you, Mr Chandler. I appreciate it.

The Hon. TREVOR KHAN: It would seem that if that commissioning certification issue was fixed—

The Hon. COURTNEY HOUSSOS: Can I add myself to the distribution list?

Mr CHANDLER: You absolutely may. I would be delighted to bring a copy to you personally.

The Hon. TREVOR KHAN: It would seem that if this commissioning certification issue was fixed, it would actually resolve a number of the issues that Mr Drury raised—not all, I will note that, but certainly that seemed to be strong amongst his. I think it seems to be a legitimate point that it not only goes to value and quality of the building; it actually goes to a significant safety issue not only for residents but for the fireys themselves. It does not seem unreasonable that we fix something as fundamental as that. I think you are probably in uproarious agreement.

Mr CHANDLER: Well, I am. The thing that strikes me by your comment is that what I am seeing with the implementation of the Design and Building Practitioners Act is that this stuff is getting a lot more clarity and locked in very much earlier in the project. So I have now sat in, just as an observer, on three audits of declared designs, for example. The detail and making sure that people actually address the requirements are becoming far more locked in through this process under the Design and Building Practitioners Act. Again, it is going to take a year or two for everybody to get on the tram, but we are going to have very high-quality buildings in New South Wales.

The CHAIR: It may take longer than a year to get on the tram, from what we understand.

The Hon. ANTHONY D'ADAM: At least 18 months.

The Hon. SCOTT FARLOW: Eighteen months. At most.

Mr TANSEY: Don't mention the trams.

Mr CHANDLER: Don't mention the trams. Sorry.

The Hon. COURTNEY HOUSSOS: Mr Chandler, this work being done by Mr Lambert—does he investigate fire maintenance?

Mr CHANDLER: Yes. We tried to do an end-to-end project, Ms Houssos. What struck me was that there were gaps all the way through, from the design all the way through to the maintenance. I asked a working group of fire industry practitioners to come together and say, "Let's do a map of where all the gaps are—where are the training gaps; where are the accreditation gaps—make some recommendations that can be implemented quickly but also put some discussion papers out there of things that need to be considered in a subsequent round." Let's get the document on the table. I will deliver you a copy personally.

The Hon. COURTNEY HOUSSOS: I will look forward to it. Mr Chandler, a specific recommendation from the plumbers' union—

Mr CHANDLER: I heard that.

The Hon. COURTNEY HOUSSOS: —was that the fire maintenance workers should be licensed, as they are in Victoria and as they are elsewhere. We do want to find the best possible standard, so licensing the

tradespeople across the course of the construction of the building and then holding them accountable for their work absolutely has to be a key part of the response.

Mr CHANDLER: Sure. I think the next phase of that work is then to look at, when the strata titles legislation is being reviewed, what is the duty of care of the people in the building, the owners corporation and the strata managers about "How do you maintain this kit?" because quite often a good, reliable kit is installed, but then it goes on the slide downhill in terms of maintenance. I think the next big piece of work we are going to be looking at beyond the new bill will be the maintenance backlog.

The Hon. COURTNEY HOUSSOS: As part of that work, are you looking at requiring a building manual from the builder or from the developer to be handed to the strata committee?

Mr CHANDLER: That will be available as part of the role of the contractor now declaring their designs and handing their work in, yes. That will all be available.

The Hon. COURTNEY HOUSSOS: That will be part of the lodgement on the ePlanning portal?

Mr CHANDLER: The building manual, yes. But the documents in one discoverable place will be the first starting point.

The Hon. COURTNEY HOUSSOS: I understand that. Do you have a time frame for that, Mr Chandler?

Mr CHANDLER: I hope that we will have all of this stood up by this time next year.

The CHAIR: Mr Curtin, the Plumbing Trades Employees Union gave us some very unsettling evidence about six kilometres of the fire protection system in the city metro line being installed by unlicensed workers—not plumbers, no certification at all. That is the dowsing system, which is the emergency fire suppression system in a tunnel. Are you aware of those concerns?

Mr CURTIN: No, we have not heard about that—not until today.

The CHAIR: Is it surprising that you hear about it the first time? Six kilometres of core fire protection in a major public transport system that is being built at the moment—is it surprising that you have not heard about it till today?

Mr CURTIN: Probably not surprised we have not heard about it. Someone would have to bring it to our attention for us to know about it. We have got a team that works closely with infrastructure projects—mostly fire engineering design and then commissioning it at the end of the project. We do not have an inspection team that goes through tunnels or other projects along the way.

The CHAIR: Would it be your expectation that that major fire suppression infrastructure would be built by somebody with appropriate licensing and credentials—in this case, plumbing?

Mr CURTIN: We would certainly have an expectation that it meets the required performance solutions when it is commissioned. We would rely on that both for community safety and for firefighter safety when we need it. I would expect that a person who is certified would provide a better outcome than someone who is not certified.

The CHAIR: That sounds a very ambiguous position to have. If your only position is how it works at the end rather than who actually built it—is that your position, Mr Curtin? You are only worried about the end product, not who built it?

Mr CURTIN: One of the challenges for us is that unlike buildings above the ground, where we have the National Construction Code and a lot of rigour around the regulatory system, it is a little bit less rigorous in subterranean infrastructure. We rely on contracts and arrangements with Transport for NSW and contractors for engineering reports. It is a far less regulated environment for us.

The CHAIR: When the Plumbing Trades Employees Union told us that the contractor in these public-private partnerships basically said, "We're not bound by that construction code. We can basically press on, regardless," that probably reflects the law; is that right?

Mr CURTIN: It probably does. It is less regulated there. I would not know in terms of the plumbing standards, whether you have to have someone certified in that area.

The Hon. TREVOR KHAN: Can I just ask, Mr Chandler—I am not being rude when I ask this question; it just interests me. I am not quite sure why, but I have met a number of engineers from above-ground infrastructure projects who have designed and been responsible for the installation of what I will call fire control systems. At

least three of them have been English—and I noticed Mr Smith today was English as well. Is England the source of a lot of our qualified engineers in this area? If so, why?

Mr CHANDLER: It is interesting that Engineers Australia do not have a chartered engineer of fire.* It is one of the areas that we are working with Engineers Australia to backfill. Western Sydney University is fast-tracking some qualifications, but the main qualifications in Australia can be got at Queensland university or across at Christchurch's university. We have not had a university dedicated to fire. We are working with Engineers Australia to get that chartered fire engineer, just as we are trying to get a chartered facade engineer. These are very well-developed career pathways in the United Kingdom and also the United States; we are seeing a pipeline of people coming from there. If you find somebody that really knows their stuff, they have got a background in the United Kingdom.

The CHAIR: Facade engineers is a good segue to cladding, but before we go there—

The Hon. TREVOR KHAN: Just before that, I have to say I very much respected what—

The CHAIR: Mr Smith.

The Hon. TREVOR KHAN: —the plumbing union had to say, but there is more on a building site than the necessary trades, I have to say. If you have a fire engineer on that site, you have a level of skill in these projects. I am concerned if it is suggested that we have simply had some TA and somebody else—I forget what the term was—

The CHAIR: A crane driver.

The Hon. TREVOR KHAN: —and a crane driver putting in six miles of piping, that actually is very unlikely to be a proper reflection of the facts.

The CHAIR: Mr Curtin, if you could take on notice any information you have in that regard, because on the state of play at the moment it is exactly as troubling as Mr Khan suggested. He has tried to fill the gaps quite heroically, but we will see if that is true or not.

The Hon. TREVOR KHAN: It does seem to me there are more people on site than a crane driver and a TA.

The CHAIR: There may be. Mr D'Adam?

The Hon. ANTHONY D'ADAM: I had a question that arose from a question that I asked the Owners Corporation Network. It arose in the discussion around providing training for body corporates for strata committees. I wanted to ask—and perhaps, Mr Tansey, you can take this on notice—about whether the strata legislation, the Strata Scheme Management Act, at the moment actually constrains the capacity of strata committees to pay for the training that is necessary to support the governance functions of the strata committee, and adjunct to that is whether the legislation actually constrains the expenditure of administration funds around supporting the work of the Owners Corporation Network—so that systemic advocacy that is clearly necessary from the owners' perspective but, in fact, the current statutory arrangements actually inhibit those kind of payments. Perhaps you could take that on notice.

Mr TANSEY: Yes, happy to take that on notice. For completeness, that nest of issues—and I did hear some of that evidence this morning too, around the training and skilling of people and, yes, the vicious circle of it being a disincentive to people taking on the role. Those issues arose and have been considered at length in the strata legislation review. When that is tabled shortly, we will have another platform for discussing all that as well.

The Hon. COURTNEY HOUSSOS: Do you have a timetable for that?

Mr TANSEY: I am hoping in the next couple of weeks of sitting. It is due to be tabled by the end of this year, if memory serves. So it could be this week or next week.

The Hon. ANTHONY D'ADAM: This week is the last week of sitting.

The CHAIR: Well, you have tomorrow, I think, Mr Tansey.

The Hon. TREVOR KHAN: Yes, we will not be doing it tomorrow.

* In [correspondence](#) to the committee dated 23 November 2021, Mr Jonathan Russell, General Manager, Policy and Advocacy, Engineers Australia, corrected this statement by the Building Commissioner to advise that Engineers Australia does have a chartered scheme for fire safety engineers.

Mr TANSEY: Is it tomorrow?

The CHAIR: I think tomorrow is the government business day for the end of the year.

The Hon. ANTHONY D'ADAM: Further to that, Ms Stiles also spoke about the strata register and I wondered whether you could provide some further details about what is happening with the strata register. Is that a statutory process? What is the basis for the strata register being established and what kind of time frame are we looking at for a strata register?

Mr TANSEY: That has been out for two cycles of consultation. The most recent cycle, which was on a draft paper and proposed set of information collection, only closed in the last couple of weeks. If we can get the drafting finished, we would hope to present a reg to bring that all in before the end of this year—so we have only got a couple of executive council committees to go—with a view that it starts in the middle of next year.

The Hon. COURTNEY HOUSSOS: Mr Chandler, can I ask for an update on how many properties are being remediated under Project Remediate?

Mr CHANDLER: There are 155 projects that have applied and have been accepted for Project Remediate, and there is a number of other projects that are still being considered. If you just give me a minute, let me pull up that.

The Hon. COURTNEY HOUSSOS: Can you tell me how many applications—

The Hon. TREVOR KHAN: Just let him. He said, "Give me a minute."

Mr CHANDLER: Sorry. I should have—

The Hon. COURTNEY HOUSSOS: I am just asking as he pulls up the information.

The CHAIR: It may be relevant to what Mr Chandler is looking up.

Mr CHANDLER: I should have had this open. I am sorry.

The Hon. COURTNEY HOUSSOS: Can you say how many applications were received?

Mr CHANDLER: There are 290 buildings that have put their hand up for consideration. Quite a number of those buildings were considered previously and not considered by the Cladding Taskforce as being high risk; 155 buildings have been confirmed and have signed or indicated that they are going to proceed; 46 of the buildings that have been assessed so far have been considered not eligible; and the Cladding Taskforce is currently reviewing a further 89.

The Hon. COURTNEY HOUSSOS: They are not eligible on the basis that they are not high risk?

Mr CHANDLER: They are not high risk, no.

The Hon. COURTNEY HOUSSOS: How many have actually started work?

The CHAIR: By "work", you mean physical construction work.

The Hon. COURTNEY HOUSSOS: Physically removing some cladding.

Mr CHANDLER: Under Project Remediate or just under remediation?

The Hon. COURTNEY HOUSSOS: Under Project Remediate, how many buildings have had some cladding removed from them?

Mr CHANDLER: We have taken cladding off buildings for testing and triaging for seven or eight buildings at the moment, and we should have a further 26 done in the next month. That is where we lift the cladding and we do a detailed look underneath the building to inform the design process which follows.

The Hon. COURTNEY HOUSSOS: So it is still in the testing phase?

Mr CHANDLER: No, we are not in the testing phase; we are in the scoping phase. This is where a lot of buildings have lost their way in this cladding remediation. We have got one building in North Sydney, for example, that has decided to go its own way, which is not a problem because it probably did not have the chance to get involved into Remediate early enough. So this is not a criticism of them, but their project has gone from \$1 million, I understand, to \$2 million simply because the scoping effort was inadequate. Now, we are finding that the biggest issue here is that people have started these projects without an adequate level of scoping. So the very first thing we are doing in Remediate is to actually go and have a good look at the building, with appropriate expertise, to define the scope of work that is required.

The CHAIR: No-one would criticise Project Remediate as being too hasty, Commissioner.

Mr CHANDLER: Well, the people who I deal with that I am pushing along sort of feel that they are being beaten up for haste, so you can see this coin from both sides.

The CHAIR: I have never heard that complaint ever before.

The Hon. COURTNEY HOUSSOS: There has been no-one.

Mr CHANDLER: I will organise a meeting for you for someone who feels well and truly driven.

The Hon. COURTNEY HOUSSOS: Mr Chandler, no other global or Australian jurisdiction has recommended solid aluminium over composites. What was the reason that you decided to go with solid aluminium?

Mr CHANDLER: You know that we gave you a briefing on this matter and you were well satisfied, so I am just wondering where did this arise again. We know that there are product vendors out there that are continuing to haggle. Now, last week I had the very person who was in here this morning in a face-to-face briefing, and he left the room saying he was entirely happy with our approach. We made it very clear that solid aluminium is not flammable; it does not need any further testing. What we are trying to do at the moment is to do some reference testing on a couple of other compositions of aluminium to make sure that they are suitable if they are to come in. So it really is quite offensive for people who are just flogging their wares to come in and confuse the conversation by misinformation.

The Hon. COURTNEY HOUSSOS: Mr Chandler, I am asking questions off the back of evidence that this parliamentary inquiry received.

Mr CHANDLER: It is not evidence; it is marketing.

The Hon. COURTNEY HOUSSOS: It is evidence that was received under oath—

Mr CHANDLER: It is marketing.

The Hon. COURTNEY HOUSSOS: It was evidence that was received under oath earlier today. I am asking you—

Mr CHANDLER: How many times are you going to recycle the same conversation?

The Hon. SCOTT FARLOW: I think it is probably fair, Mr Chandler—and, look, you take your line of questioning, but in terms of what was presented to the Committee today, if there is anything that you want to correct from what was presented to the Committee, maybe this is a good opportunity.

The CHAIR: I will put the issue, as I understand it, very clearly. The issue is that it seems to me the best test for a system-based facade is the AS 5113 standard, which looks at the wall and the system in place. The question is will Project Remediate test all panel systems against AS 5113? Then we are doing apples with apples.

Mr CHANDLER: There is no need to test solid aluminium. We are quite happy to provide you with the paper that concluded as to why that is the case. I just do not know how many times we have to chase this rabbit around the hole.

The CHAIR: It arose in a briefing that you gave to us. If you remember, there was the 5113 test and it showed that solid aluminium failed the 5113 test. Now, we are going beyond Project Remediate here.

Mr CHANDLER: Well, I am not going beyond Project Remediate.

The CHAIR: We know the answer in Project Remediate was to put barriers in place that expand.

Mr CHANDLER: Correct.

The CHAIR: But outside of Project Remediate, thousands of buildings out there are having the aluminium facade test, and we saw the evidence that it failed the 5113.

Mr CHANDLER: How about we complete the reference testing and we will make all that publicly available, and then we will have the conversation. But I find it really quite offensive that you have got vendors of product coming in here and pushing their case when, in fact, they sit in a meeting with me, amongst others, and say, "We are very happy with the fact you are not testing that, and we are happy to provide you product to test that."

The CHAIR: But why not test all products—

Mr CHANDLER: There is no need to.

The CHAIR: —under 5113, which is the system being tested—

Mr CHANDLER: There is no need to.

The CHAIR: —as opposed to 1530, which is just the melt test? It seems to me the system should be tested, Mr Chandler, and I do not understand the resistance to it.

Mr CHANDLER: Mr Shoebridge, the very highest quality solution—the safest solution—will be applied to these buildings. There are many parts to the testing that is going on. How about you just—look, the answer is I am not doing anything different to what we said we are doing. With respect, we will have the data that will support that.

The CHAIR: I think we are talking both within and without Project Remediate.

The Hon. COURTNEY HOUSSOS: Exactly.

The CHAIR: Mr Tansey, we understand there is a system in place for Project Remediate.

Mr CHANDLER: Thank you.

The CHAIR: I am on record as saying that you put those additional measures in place, that seems to get an adequate solution for Project Remediate. The question, though, is the thousands and thousands of other buildings that are not part of Project Remediate. We had Ms Cockburn from the Australian Institute of Architects say it was her professional opinion that she would not touch aluminium cladding because of all the risks associated with it, yet it is compliant under the—

Mr CHANDLER: I am not sure she is an expert.

The CHAIR: Well, it is compliant under the National Construction Code.

Mr CHANDLER: Sure.

The CHAIR: Mr Tansey, is Fair Trading doing something outside of Project Remediate?

Mr TANSEY: There are two other elements to this. For residential buildings—in New South Wales, residential buildings are facing cladding rectification. We have issued guidance about making sure that people understand, first and foremost, that they are captured by the requirements of the Design and Building Practitioners Act, and we will, therefore, have requirements for an access to declared designs and plans for those and they will be the subject of audits. We say that just to make sure that people understand that whether or not you are in Project Remediate, you will be getting an elevated level of scrutiny around those designs.

Mr CHANDLER: If your building started after 1 July.

Mr TANSEY: Yes, if you started after 1 July.

The CHAIR: Will that include satisfying AS 5113 for their systems? Does that include satisfying the wall test?

Mr TANSEY: It is going to look at the entire rectification proposals that they are putting up. Then outside of that, as we discussed at length before, any rectifications being done has to satisfy the consent authority—which, in most cases but not all, will be the local council—that it meets the building codes and any other requirements in it they want to put in place.

The CHAIR: We have seen, from materials you produced and were quite transparent about, that in Project Remediate you can have a system of aluminium cladding without barriers behind that meets the National Construction Code and yet creates that chimney-like effect and a very dangerous fire spread. I am going to ask you again, Mr Tansey: What are you doing about the thousands of buildings that are not in Project Remediate that are using that system?

Mr TANSEY: Alright. I think this is the question about cavity barriers, by and large, which—

The CHAIR: Well—

The Hon. TREVOR KHAN: David, please, let him finish.

The CHAIR: Well, no, it is not. It is about the aluminium cladding.

The Hon. TREVOR KHAN: Fairly, let him finish.

Mr TANSEY: As I said, we have got obviously intense scrutiny on those projects within Project Remediate for a range of reasons. We are then provided additional guidance out. I think, if I am right, in recent days or the last couple of weeks the Minister has written to every mayor of every council to make sure that from the top down they are aware of the Design and Building Practitioners-related scrutiny of all of those projects,

whether or not they are in Project Remediate. Things beyond that are going to be in the control of the local councils, as the consent authorities, and are going to have to meet the varying requirements of the National Construction Code, which I know you are well aware of. Depending on whether or not you go a performance solution or a deemed-to-satisfy [DTS] solution will require cavity barriers on occasion but not as the only measure. As I think you are also aware, the next edition of the National Construction Code has been the subject of consultation and is being finalised literally this week through the technical committees. Within that consideration of improvements or enhancements to the code, New South Wales has specifically advocated in its administration submission to that process that cavity barriers be required in a greater range of circumstances than they have been in the past.

The CHAIR: Perhaps you could give us some details on what the precise submission is from New South Wales in that regard, if you could take that on notice, Mr Tansey.

Mr TANSEY: Yes.

The CHAIR: Mr Curtin and Mr Vistnes, do you have a fire safety view about large facades of aluminium cladding with a gap between the cladding and the wall, without cavity barriers?

Mr CURTIN: Our view is that compliance needs to be achieved with the National Construction Code, whether that is through the DTS process or the performance solution. We look at every case on its merits, and we do not specifically have a view on individual products on their own; we look at it through those performance solutions.

The CHAIR: The investigation from the Building Commission and the department was that those facades are compliant with the National Construction Code but still may present a significant fire spread risk. Are you saying that the beginning and the end of your inquiry is "Comply with the code" and that is it?

Mr CURTIN: For matters outside of Project Remediate, we review the matters as they come to us based on the National Construction Code. We have been involved in the Cladding Safety Product Panel, and I am comfortable with the technical advice that we provided into that panel to make sure we have got the safest possible products.

The CHAIR: Ms Houssos has one question requested to be taken on notice, I think.

The Hon. COURTNEY HOUSSOS: Mr Chandler, you said that there were seven or eight properties that were having testing of the cladding and some panels removed, and another 26 to be done this month. Does that mean they will be completed in November?

Mr CHANDLER: Sorry, in the coming month. Really, getting on these sites, with COVID, has only just started to wind up. We have done seven, and we have got another 26 logged to do in the coming month. This is not just testing the product. This is actually lifting up the panel and having a look at the other missing components. On that project at Darlington the other week, for example, there was just aluminium. There was no moisture barrier, there were no fire barriers, and there were no window heads. There was no drainage at the bottom of the facade wall. We want to make sure all of those things are identified so that when we design a solution—a multi-component solution—for this replacement program, all of those multi-components do their job and they are there.

The Hon. COURTNEY HOUSSOS: Mr Chandler, I am not doubting the thoroughness of the approach for these particular buildings. I am just wanting to get a sense of how many panels of flammable cladding have actually been removed. Are you able to give us that on notice?

Mr CHANDLER: No, we put the cladding back on for the time being. We wanted to lift it all up and have a look and see what is there. It is a matter of just bolting that down and then getting on with the design process so you can get on with ordering and replacing the material.

The Hon. COURTNEY HOUSSOS: Just to be clear, they have not actually physically removed any of it; they are putting it back on the buildings for now?

Mr CHANDLER: Correct, yes. The Minister has got a piece of it. I think he meant to share it with you.

The Hon. COURTNEY HOUSSOS: He brought it to budget estimates.

Mr CHANDLER: Did he?

The Hon. COURTNEY HOUSSOS: I do not know what he wanted me to do with it.

The CHAIR: I thank you all for your attendance today. Mr Chandler, I just read that effort of a deed. It is a hell of an industry you try to regulate, so good luck to you.

The Hon. TREVOR KHAN: A hell of a solicitor, I have to say, too.

The CHAIR: It is a hell of a proposal to get that undertaking from the Building Commissioner.

Mr CHANDLER: Audacious, would you call it?

The CHAIR: I would call it thuggish, actually, if you really want to know. That is the description I would call it. I would describe it as a thuggish communication.

The Hon. TREVOR KHAN: The covering letter would be interesting as well.

The CHAIR: Thank you for your evidence today. Thank you for your work. That concludes today's hearing.

(The witnesses withdrew.)

The Committee adjourned at 16:32.