

# 2019 Budget Estimates - Questions on Notice - Better Regulation and Innovation - Minister Anderson

## Portfolio Committee No. 6 – Transport and Customer Service Hearing Monday 9 September 2019

### Question:

The Hon. DANIEL MOOKHEY: Minister, how many have had their cladding removed in the past 12 months?

Mr KEVIN ANDERSON: I am happy to take that question on notice in relation to the number that have had cladding removed because there have been a number of buildings that have been identified where owners of those buildings have removed the cladding themselves. They have been identified as having some form of cladding. Again, whether it is at risk or not, just because buildings have cladding, Mr Mookhey, I might—

The Hon. DANIEL MOOKHEY: I accept that, Minister. You have taken it on notice so I am going to move on. You have the power to order buildings to remove their cladding. How many rectification orders have you actually issued in the past 12 months?

Mr KEVIN ANDERSON: I am happy to take that on notice, Mr Mookhey. What we are doing is a further assessment of those buildings that have been identified as having some form of cladding—whether that cladding is unsafe or not. Just because a building does have cladding does not mean to say it is unsafe. What we are doing is, we are working very closely with local councils now who are the consent authority for those buildings to do a further assessment on the rectification that is required on some of those buildings.

### ANSWER:

Consent authorities have the responsibility and powers under the *Environmental Planning and Assessment Act* to order action including rectification of buildings. The Department of Planning, Industry and Environment has issued orders on 16 buildings, with a further 8 orders to be issued and currently pending finalisation. The Cladding Taskforce is in the process of seeking detailed advice from councils, that comprise the majority of consent authorities, regarding the progress of them issuing orders.

### Question:

The Hon. DANIEL MOOKHEY: I accept that you have taken that on notice. The Government has identified 34 public buildings which are government-owned and have had flammable cladding. The last available public information says that 17 of them have still not had it removed. Can you tell us whether or not any of those buildings have had their cladding removed? This is something that you can directly control—they are the government buildings. How many of those 17 buildings that are still outstanding have had their cladding removed? What is the latest number?

Mr KEVIN ANDERSON: Those 17 buildings are still being assessed as to what type of cladding, where cladding is used, whether it is in foyers, whether it is on windowsills, whether it is in reception areas or wherever it is. Those buildings are being further assessed.

The Hon. DANIEL MOOKHEY: So where are they?

Mr KEVIN ANDERSON: I do not have the exact location of those buildings but I am happy to take that on notice and bring that back to you.

The Hon. DANIEL MOOKHEY: What functions do they perform? Mr KEVIN ANDERSON: It ranges from education, planning, health—

The Hon. DANIEL MOOKHEY: When you say education, are we talking schools?

Mr KEVIN ANDERSON: I would suspect so. But again, I can get those details to you.

**ANSWER:**

The 17 Government owned buildings that are outstanding are finalising assessment or planning for rectification. Details of the addresses of individual buildings are not being publicly released by the Cladding Taskforce due advice received that the release may present a public safety risk.

**Question:**

The Hon. DANIEL MOOKHEY: What types of public functions are being performed in these buildings?

Mr KEVIN ANDERSON: I can get those details for you.

The Hon. DANIEL MOOKHEY: Do we have any hospitals? Mr KEVIN ANDERSON: There are two health sites.

The Hon. DANIEL MOOKHEY: Which ones?

Mr KEVIN ANDERSON: I can get those details to you as well.

**ANSWER:**

The buildings' functions include justice, arts, environment, sport, tertiary education, and health. Information about buildings in the health cluster undergoing rectification were provided in the Health portfolio evidence to Budget Estimates.

**Question:**

The Hon. DANIEL MOOKHEY: How are renters notified, particularly when a lease changes over?

Mr KEVIN ANDERSON: We are doing everything we possibly can to ensure if a person moves into a building that they would do their research on that building. We would hope the owner would then notify them.

The Hon. DANIEL MOOKHEY: Is there a standing requirement for somebody to tell them, including a government agency?

Mr KEVIN ANDERSON: I am happy to take that on notice.

**ANSWER:**

The Cladding Taskforce arranged letters to be hand-delivered to occupiers of residential multi-storey buildings identified by the Cladding Taskforce at the time the buildings were identified.

Under the *Residential Tenancies Act 2010* landlords must ensure that a property is fit for habitation and that all statutory requirements relating to the health or safety of the residential premises are complied with. Landlords must not induce a tenant to enter into a tenancy agreement by making a false, misleading or deceptive statement or promise or by knowingly concealing certain material facts.

Such material facts include that the residential premises are subject to significant health or safety risks that are not apparent to a reasonable person on inspection of the premises. This means that where the landlord is aware of it, they must disclose the presence of cladding that poses a health or safety risk.

**Question:**

Mr DAVID SHOEBRIDGE: Thank you. Minister, you do not know what you are talking about. There are still buildings of that 4,000 that have been given the tick by your Fair Trading NSW that have cladding that breaches your standard. Do you accept that or do you not even understand that, Minister?

Mr KEVIN ANDERSON: Mr Shoebridge, in terms of the assessment that has been done on those buildings, any building that was found to have—and local jurisdictions are the complying authority. Any building that was found to have ACP, or the aluminium combustible cladding above 30 per cent—what we talked about with the polyethylene—is required to be removed. That is my understanding. If that is different, then I am happy to take that on notice but that is my understanding.

**ANSWER:**

As at July 2019, all 4,019 buildings identified by the Cladding Taskforce have been inspected by Fire and Rescue NSW. Of these, 754 buildings were assessed as having cladding that does not pose a significant fire safety risk and 2,712 buildings were assessed as not at risk from cladding. 629 buildings were assessed as requiring further assessment as a higher priority because they had cladding that potentially increased fire risks. 76 of these buildings have been cleared, leaving 553 buildings still requiring attention.

Buildings are assessed by Fire & Rescue as higher risk and requiring further assessment because they have cladding in a quantity, location and/or arrangement which potentially increases fire risks. These buildings are not necessarily at increased fire risk.

**Question:**

Mr DAVID SHOEBRIDGE: Minister, your evidence earlier was that you would expect the owners of buildings with identified high-risk flammable cladding to tell tenants when they move in. You would expect that. You have not made it a requirement. Why not?

Mr KEVIN ANDERSON: I am happy to take that on notice. It could be something that we would look at because what we did do interest the first—

Mr DAVID SHOEBRIDGE: Sorry, it could be something you might look at?

Mr KEVIN ANDERSON: Hang on—

The CHAIR: Order!

Mr KEVIN ANDERSON: I am happy to consider it. We have not made that yet. The 33,000 letters that were doorknocked by the task force were to residents that were there at the time in a transient population. We would be happy to look at anything that we can do to make those buildings and make those people feel safe in their homes. So if there is something that we can do better we will absolutely do it better.

**ANSWER:**

Under the *Residential Tenancies Act 2010* landlords must ensure that a property is fit for habitation and that all statutory requirements relating to the health or safety of the residential premises are complied with. Landlords must not induce a tenant to enter into a tenancy agreement by making a false, misleading or deceptive statement or promise or by knowingly concealing certain material facts.

Such material facts include that the residential premises are subject to significant health or safety risks that are not apparent to a reasonable person on inspection of the premises. This means that where the landlord is aware of it, they must disclose the presence of cladding that poses a health or safety risk.

**Question:**

Mr DAVID SHOEBRIDGE: Minister, do you know that the collapse in building standards in New South Wales has cost New South Wales taxpayers more than \$200 million last year in a blowout in home building insurance? Are you aware of that?

Mr KEVIN ANDERSON: In relation to home building insurance—

Mr DAVID SHOEBRIDGE: It is not your business, is it?

Mr KEVIN ANDERSON: Not really, Mr Shoebridge. It comes under SIRA, which is the State Insurance Regulatory Authority. I am happy to take that on notice. That is a matter for another portfolio.

**ANSWER:**

This question falls under the portfolio responsibilities of the Minister for Customer Service.

**Question:**

The Hon. MARK BANASIAK: Are you also aware that property and property transactions are the only asset class taxed by all three levels of government and that in some cases they are taxed twice, which is the case with New South Wales? Do you think that is fair?

Mr KEVIN ANDERSON: I am happy to take that on notice rather than comment on that.

**Answer:**

This question falls under the portfolio responsibilities of the Treasurer.

**Question:**

The Hon. MARK BANASIAK: Minister, can you confirm the Quality Regulatory Services [QRS] initiative requires that regulators implement a risk-based approach to regulation?

Mr KEVIN ANDERSON: I am happy to take it on notice.

**Answer:**

It is correct that the Quality Regulatory Services initiative requires that regulators implement a risk-based approach to regulation.

**Question:**

Mr KEVIN ANDERSON: The cladding register is an online portal for self-registration of buildings by owners and property managers. The register was established under the Environmental Planning and Assessment regulation and opened in October 2018.

The Hon. COURTNEY HOUSSOS: And closed on 22 February. Are you confident that that list is complete?

Mr KEVIN ANDERSON: The numbers and the registrations are there, but should anybody find that they think that they may have cladding, we are very open to ensuring that we cover everyone off. Just because it is closed off, we would be certainly open, if someone believes there is another problem.

The Hon. COURTNEY HOUSSOS: The Minister said in the same session that penalties would be attached if declarations were not made. Are those penalties in force?

Mr KEVIN ANDERSON: I am happy to take that on notice, Ms Houssos.

**Answer:**

The Environmental Planning and Assessment Amendment (Identification of Buildings with External Combustible Cladding) Regulation 2018 commenced in October 2018 and imposed penalties for failure to comply with the requirements to register buildings.

**Question:**

The Hon. COURTNEY HOUSSOS: Minister, do you believe aluminium cladding is an acceptable replacement product for banned cladding products?

Mr KEVIN ANDERSON: Ms Houssos, I am not an expert in that field. I am happy to take advice on that in relation to that particular product.

The Hon. COURTNEY HOUSSOS: But you are the Minister responsible for this. Do you have a view?

Mr KEVIN ANDERSON: I am not an expert in aluminium cladding but I am happy to take that on notice, take advice of experts, review that and come back to you.

**Answer:**

The appropriate solutions for an individual building need to be determined with regard to a range of important factors related to the whole building including, for example, the performance requirements of the Building Code of Australia, any conditions of consent, and the fire safety provisions in the buildings.

**Question:**

The Hon. DANIEL MOOKHEY: And evaluate products. But we asked you specifically about these products because this is where the public concern is about. I will ask you again: Are you intending to ban waffle cladding products? If so, when? What steps are you taking to ensure that any product that may well be subject to a ban in the next 12 months is not currently being installed?

Mr KEVIN ANDERSON: Again, Mr Mookhey, I am not an expert. I will have to take that advice on notice in relation to any evaluation of a product that is deemed to be dangerous and then it will be further assessed. I am happy to take that on notice. If that product does come into that scope, then I am happy to come back to you on that.

**Answer:**

The advice of Fire and Rescue NSW is that 'waffle cladding' is not a recognised term in relation to external cladding products. As such Fire and Rescue NSW have not issued any official 'warnings' about 'waffle cladding'. The term 'waffle cladding' could potentially be referring to:

- 'Honeycomb' cladding – the term 'honeycomb cladding' may refer to 'honeycomb' aluminium composite panels which are a bonded laminate product. Bonded laminate cladding is deemed non-combustible and is permitted as wall cladding under the National Construction Code.
- Expanded polystyrene (EPS) – Use of the term 'waffle cladding' could be referring to insulated cladding systems such as EPS. 'Waffle pods' are one version of EPS.

These systems comprise of expanded foam, foam panels or similar products fixed to a structural frame, with the external face being sealed, rendered and painted. The Department of Customer Service continues to assess on an ongoing basis all products to ensure it complies with the Building Code of Australia.

**Question:**

The Hon. COURTNEY HOUSSOS: Minister, have you been to a meeting of the Cladding Taskforce?

Mr KEVIN ANDERSON: No, I have not.

The Hon. DANIEL MOOKHEY: Why not?

The Hon. COURTNEY HOUSSOS: This is the body that is charged with the response for cladding from the New South Wales Government perspective and you have not sought time to attend?

Mr KEVIN ANDERSON: The Cladding Taskforce has not met in the time that I have been available and vice versa.

The Hon. COURTNEY HOUSSOS: Sorry, it has not met because of your diary constraints or it has not met since you became a Minister?

Mr KEVIN ANDERSON: We have not been able to link up. I am happy to take that on notice. However, we have not been able to meet at this point in time. I can check when the next meeting will be.

**Answer:**

The next meetings of the Cladding Taskforce are scheduled for 17 October and 5 November 2019.

**Question:**

The Hon. COURTNEY HOUSSOS: Minister, I will just stop you there. I have just got one more question. If this new type of waffle cladding product that Fire and Rescue NSW is issuing warnings on is actually banned, what is the process to go back and recheck the buildings that have already been checked for flammable cladding?

Mr KEVIN ANDERSON: Ms Houssos, I am happy to take that on notice.

**Answer:**

The advice of Fire and Rescue NSW is that 'waffle cladding' is not a recognised term in relation to external cladding products. As such Fire and Rescue NSW have not issued any official 'warnings' about 'waffle cladding'. The term 'waffle cladding' could potentially be referring to:

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These systems comprise of expanded foam, foam panels or similar products fixed to a structural frame, with the external face being sealed, rendered and painted. The Department of Customer Service continues to assess on an ongoing basis all products to ensure it complies with the Building Code of Australia.

**Question:**

The Hon. EMMA HURST: I also wanted to know how many puppies are bred annually with the intent of racing, how many are registered and how many puppies are euthanised without ever having entered the racing industry?

Mr O'BRIEN: I do not have those figures in front of me in terms of breeding numbers.

The Hon. EMMA HURST: Are they available?

Mr O'BRIEN: The commission registers litters from birth, so they would have numbers.

The Hon. EMMA HURST: Can I get that on notice then, please?

Mr O'BRIEN: Yes.

**Answer:**

The Greyhound Welfare & Integrity Commission has advised that information on breeding and whelping statistics is published on its website. The Commission noted that greyhounds are usually trained for racing between the ages of nine to 16 months, and are prohibited from racing until 18 months of age.

**Question:**

The Hon. EMMA HURST: Could you also put on notice how many greyhounds have been euthanised because they could not be rehomed as well? Has GWIC implemented whole-of-life tracking for registered greyhounds? If so, how is this being implemented?

Mr KEVIN ANDERSON: I understand that a whole-of-life tracking process is in place with GWIC from the time they are born all the way through so that we can put welfare and integrity of those dogs at the top of everything that Greyhound Racing NSW does. It is a major focus of Greyhound Racing NSW as well as the regulatory body through the Greyhound Welfare and Integrity Commission. I think that over the last two years, in leaps and bounds, they have focused very clearly on welfare and integrity. We are seeing that now through the track safety standards, we are seeing that through a draft code of conduct that is coming.

**Answer:**

The Greyhound Welfare & Integrity Commission has advised that:

- during 2018-19, a total of 36 greyhounds were reported to the Commission as having been humanely euthanised by a veterinary practitioner at the request of a greyhound's owner following unsuccessful attempts to rehome the greyhound.

**Question:**

The Hon. EMMA HURST: Just on that, when you mentioned the code, I noticed that has not been promoted or pushed out yet. Do you know the current status of the development of that code and when it will actually be released?

Mr KEVIN ANDERSON: It is being developed now, Ms Hurst, with the Greyhound Welfare and Integrity Commission and they are looking at that as we speak.

The Hon. EMMA HURST: Do you have an end date or a time line at all?

Mr KEVIN ANDERSON: No. I can take it on notice and come back to you.

**Answer:**

The Greyhound Welfare & Integrity Commission has advised that a draft of its proposed code of practice for the welfare of greyhounds will be released for public consultation in coming months.

**Question:**

The Hon. EMMA HURST: What profits does the New South Wales Government receive from the greyhound racing industry directly as opposed to gambling on greyhound racing? Mr

KEVIN ANDERSON: I can take those numbers on board for you, Ms Houssos, but I can tell you that—

**Answer:**

The NSW Government does not receive any funds, profit or otherwise, from Greyhound Racing NSW or the greyhound racing industry.

**Question:**

The Hon. EMMA HURST: Has GWIC investigated the relationship between doping and racetrack injuries in New South Wales and if not why not?

Mr O'BRIEN: I am not aware of any investigations in relation to that but we are happy to take it on notice and answer the question you have provided.

**Answer:**

The Greyhound Welfare & Integrity Commission has advised that it has not specifically investigated the relationship between doping and race related injuries. However, the Racing Injury Review Panel considers all factors in relation to serious and catastrophic injuries sustained during racing.

**Question:**

The Hon. EMMA HURST: And if there has not been any investigation why not? Assuming a four-year racing career for dogs, we are looking at an estimate of about 10 per cent of dogs raced will die on the track from catastrophic injuries. Do you find that an acceptable number of deaths?

Mr KEVIN ANDERSON: I am focused, as is Greyhound Racing NSW, towards a target of zero unnecessary euthanasia. Every dog that is born, I believe, is given every opportunity to thrive and survive and prosper, whether they move on to racing or whether they are rehomed as pets. The Greyhounds As Pets program, working in conjunction with a number of organisations, and Tim Cahill, the great Australian soccer player, is the ambassador for Greyhounds As Pets—

The Hon. EMMA HURST: The question was in regards to the number of deaths from catastrophic injuries rather than the rehoming rates.

Mr KEVIN ANDERSON: Can you repeat your question please?

The Hon. EMMA HURST: Assuming a four-year racing career, 10 per cent of dogs raced will die on the racetrack from catastrophic injuries. Do you find that an acceptable statistic of injury deaths?

Mr KEVIN ANDERSON: I am happy for you to bring forward those numbers. I do not believe those numbers are right. But I am happy to take them on notice and come back to you. I think it is much less than that.

The Hon. EMMA HURST: Okay.

**Answer:**

The figures quoted by the Honourable Member during the Committee hearing are inaccurate. The Greyhound Welfare & Integrity Commission has advised that in 2018-19, the rate of catastrophic injuries to a racing greyhound was 1.2 per 1,000 starts or 1.5 per cent of all individual greyhounds that raced during the year.

**Question:**

Mr KEVIN ANDERSON: The icare dust diseases care report noted there was 23 silicosis claims in the past three financial years, one of which relates to manufactured stone. They also health-tested 2,076 workers in 2017-18 and 3,563 in 2018-19 for silica dust exposure—that is across all industries—noting other medical providers can also provide service, but of the 3,563 tested in 2018-19, 22 workers were diagnosed with silicosis— 17 for manufactured stone—with 66 results pending.



The Hon. MARK BANASIAK: Sorry, I was listening but my other ear was consulting with Mr Mookhey. He said in the Treasury portfolio icare stipulated that it was 40 in the last 12 months.

The Hon. DANIEL MOOKHEY: Up from an average of eight each year.

Mr KEVIN ANDERSON: My numbers here are that there were 23 silicosis claims in the past three financial years. If you have got different numbers, we would be happy to—

The Hon. MARK BANASIAK: Would you be able to take what we have said and go back and double-check?

Mr KEVIN ANDERSON: Certainly.

**Answer:**

SafeWork NSW provided the most recent publicly-available figures, which are listed in the 2017-18 Workers Compensation (Dust Diseases) Authority (Dust Diseases Care) annual report. The report notes the 23 claims were made in the three years to 2017-18. icare is the agency that collects this information, so it is in a position to provide the most up-to-date figures; icare is under the portfolio responsibilities of the Treasurer.

**Question:**

The Hon. PETER PRIMROSE: Minister, can I ask you a couple of questions about unsafe products. On 15 August a media release was issued by your agency, indicating that Fair Trading NSW officers had identified a number of unsafe products from 40 businesses in Sydney's western suburbs. When you look at the media release, it says further information is available on Fair Trading NSW's website. If you go to the website there is no further information. I would like to, if I can, try to clarify that. Can you tell me exactly what items were seized in the raids by Fair Trading NSW consumer protection officers that were referred to in that media release?

Mr KEVIN ANDERSON: Thanks, Mr Primrose. In relation to any ongoing investigation, as you would appreciate, we are not at liberty to reveal any of those discussions. I am happy to, in relation to the products there, refer to the commissioner.

The Hon. PETER PRIMROSE: You put out a press release, Minister. Please, I would like to know, if I can, what products were regarded as being unsafe that you seized.

Mr KEVIN ANDERSON: Certainly.

**Answer:**

Identifying any specific stores that are the subject of prosecution or investigation (and therefore identifying the prospective defendants) publicly may have adverse ramifications in court proceedings. Doing so could compromise the investigation process and the court outcome.

The products subject of the Media Release of 15 August are:

- Aussie Baby Products pram – non-compliant due to no warning labels
- children's nightwear – non-compliant due to absence of compulsory fire danger warning labelling.
- unbranded yellow children's beetle toy – failed the foreseeable abuse test, smalls parts, drop test, tension test, and liberated small parts which posed a choke hazard
- 'Thomas The Tank Engine' (possibly unlicensed product) train –failed the foreseeable abuse test, small parts test, and drop test and liberated small parts which posed a choke hazard. It also failed due to the battery being easily accessible against the relevant standard.
- 'Limited edition shoot gun' – failed the drop test, tension test and small parts test
- 'Pink pig' – failed tensions test and small parts test
- 'blue police car' – failed small parts test
- 'cows driving cars' – failed the tension test and small parts test
- 'High speed train' - failed drop test and small parts test

- 'Musical instrument' failed drop test and small parts test
- 'concert drum set' failed drop test and small parts test
- Music flash drum – failed drop test and small parts test
- LOL surprise vacuum cleaner & washing machine – failed drop test and small parts test
- Music guitar – failed drop test and small parts test.

**Question:**

The Hon. PETER PRIMROSE: Are you aware how many dangerous products are actually returned to these shops?

Ms WEBB: I do not think we would have a statistic on that, but I could take that on notice. I know the Australian Competition and Consumer Commission does collect a lot of data about product safety, so we could certainly look into what we can find about that.

**Answer:**

NSW Fair Trading is not able to obtain statistics on returns to shops after public warnings or recall processes, as this is not publicly reported to either Fair Trading or the Australian Competition and Consumer Commission.

**Question:**

Ms WEBB: In addition to our physical surveillance through going out to shops, as in this case, we also conduct a lot of online surveillance of what is sold online. We also have very good relationships with online retailers, and often they are aware ahead of time about what products they should stop people putting online. But obviously there are a lot of ways in which people can sell products in New South Wales, and we are always on the lookout for any opportunity we can to make sure unsafe products are not sold.

The Hon. PETER PRIMROSE: Can you tell me how many raids like these have been conducted, say, in the last 12 months?

Ms WEBB: I would have to take the specific number on notice. We have a product safety unit; that is its regular job, so they would be doing regular raids. But the exact number I would take on notice.

**Answer:**

Fair Trading has conducted five (5) specific proactive operations on product safety matters over the last year (commencement 2018 Financial Year to 16 September 2019). The Consumer Protection Unit officers are trained to identify dangerous products. Non-compliance is also detected during routine inspections of retail spaces.

**Question:**

The Hon. PETER PRIMROSE: How many Fair Trading officers are employed in the unit? Is it a product safety unit or consumer protection unit?

Ms WEBB: I think the overall unit is the consumer protection unit. It has inspectors that do the product safety work. They also do motor vehicle and dealer inspections and a number of other inspections. So I can certainly take on notice the total numbers and then how many are specifically just doing product safety. When we do a product safety blitz we can call on all the inspectors because they are all authorised under the Fair Trading Act.

**Answer:**

The NSW Fair Trading Consumer Protection Unit (CPU) has 25 officers with a specialised Product Safety Team of 3 officers.

Product safety operations draw on all officers within the CPU across the State, and those operations are mounted and coordinated by the Product Safety Team.

**Question:**

The Hon. PETER PRIMROSE: How many apartment buildings with non-compliant fire doors have been identified by inspectors in the last year?

Mr KEVIN ANDERSON: Mr Primrose, I do not have that information, but I am happy to take it on notice for you.

The Hon. PETER PRIMROSE: Do any of your officers have that information?

Mr TANSEY: No, I do not have a figure for that. We can take that on notice.

**Answer:**

Information relating to the compliance of fire safety measures including fire doors is held by the consent authority.

**Question:**

The Hon. DANIEL MOOKHEY: I am asking how many. You said 4,000 were identified as high risk and 553 still require work. We are getting to the 3,500 gap. You said not all of them need to have it removed. I am asking you a very simple question. How many of them have had it removed? Do your research if that is what you wish to do, but it is a really straightforward question.

Mr KEVIN ANDERSON: In terms of the number above 553 that have already been rectified, we do not have that data. I am happy to take that on notice, if you wish, but I am saying that I want to congratulate the business community and owners of the buildings that had the cladding identified—regardless of what they thought about the cladding at the point in time that they were assessed.

**Answer:**

As at July 2019, all 4,019 buildings identified by the Cladding Taskforce have been inspected by Fire and Rescue NSW. Of these, 754 buildings were assessed as having cladding that does not pose a significant fire safety risk and 2,712 buildings were assessed as not at risk from cladding. 629 buildings were assessed as requiring further assessment as a high priority because they had cladding that potentially increased fire risks. 76 of these buildings have been cleared, leaving 553 buildings still requiring attention.

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Consent authorities have the responsibility and powers under the *Environmental Planning and Assessment Act* to order action including rectification of buildings. As such the Department of Customer Service does not hold data relating to rectification orders. The Cladding Taskforce is in the process of seeking detailed advice from councils, that comprise the majority of consent authorities, regarding the progress of them issuing orders.

**Question:**

The Hon. DANIEL MOOKHEY: Minister, how many people are in the special delivery unit? Are they working exclusively on cladding? What is the other one, the cladding delivery unit? How many people are in there?

Mr KEVIN ANDERSON: I am happy to take that on notice and come back to you with exact numbers, Mr Mookhey.

**Answer:**

There are 13 positions in the Department of Customer Services' Delivery Unit and 4 positions in the Cladding Support Unit.

**Question:**

The CHAIR: What proportion of GWIC is currently funded by the greyhound racing industry?

Mr KEVIN ANDERSON: I can get those numbers for you. While I do that I might ask Mr O'Brien, who has the exact numbers for you, Ms Boyd.

Mr O'BRIEN: Greyhound Racing NSW is responsible under the legislation and its operating licence to fund the costs of the Greyhound Welfare and Integrity Commission. As part of the Government's reforms of the industry there was a commitment from government to provide \$11 million over four years towards the commission's operational costs. If you are asking for—

The CHAIR: I am looking for the proportion of the GWIC budget currently funded by the racing industry, as per recommendation 48 of the Greyhound Industry Reform Panel.

Mr O'BRIEN: I could not give you the proportion.

The CHAIR: Can you take it on notice?

Mr O'BRIEN: Absolutely.

**Answer:**

The answer to this question was provided during the Hearing by the Chief Financial Officer, at pages 43-44 of the uncorrected transcript.

**Question:**

The CHAIR: When we say in this budget paper "including track upgrades", we really mean it is just for track upgrades, there is nothing else? We say \$10.4 million to improve animal welfare, including track upgrades.

Mr O'BRIEN: I think some of the money that has been committed is for things like work on kennels at tracks, so not specifically the track itself.

The CHAIR: Do you have a breakdown? Is it something you could provide on notice?

Mr KING: Yes, we can.

Mr KEVIN ANDERSON: Absolutely.

**Answer:**

Projects are funded under the Greyhound Racing Capital Grants Program on the recommendation of GRNSW and this question should be directed to them.

**Question:**

The CHAIR: Is any government funding being used for the Million Dollar Chase?

Mr KEVIN ANDERSON: No.

The CHAIR: None at all?

Mr KEVIN ANDERSON: None at all.

The CHAIR: What is that being funded by then? Is that purely by Tabcorp sponsorship? How much is Tabcorp providing?

Mr KEVIN ANDERSON: I do not know that number, Ms Boyd. I am happy to take that on notice but I do know that no government funding is going towards the Million Dollar Chase series, which is currently underway in Greyhound Racing NSW.

The CHAIR: Even indirectly?

Mr KEVIN ANDERSON: No. No.

**Answer:**

Greyhound Racing NSW has advised that its agreement with Tabcorp is commercial-in-confidence.

**Question:**

The CHAIR: In that case, I will keep going. Just turning to something a bit different, looking at renters' rights. I understand the previous Minister for Better Regulation and Innovation did not act on the strong community support for ending unfair no grounds evictions. I am interested to know how the Residential Tenancies Act is working to protect the people in New South Wales who live in private rental properties. How many people were subject to no grounds evictions in 2018 and over the past year?

Mr KEVIN ANDERSON: Ms Boyd, I do not have those numbers but I am happy to ask Ms Webb if she does have those numbers handy.

Ms WEBB: We do not have those numbers available at the moment. It has been raised with us by a number of stakeholders—that it would be very helpful to understand that situation so that we could work out how much of an issue it is for tenants in New South Wales. We are just implementing a pilot survey. When people get their rental bond back we will ask them some questions about why they have ended the tenancy. We are hoping that that will give us some better data so that our future policy considerations can be based on the data.

The CHAIR: You are saying that there is no monitoring of reasons for rental evictions at this point?

Ms WEBB: At the moment when someone ceases a tenancy they cease their tenancy and get their bond back and there is no requirement for them to tell anyone why their tenancy has ceased.

The CHAIR: Okay. No data exists on the use of the numbers of eviction notices by landlords?

Ms WEBB: I am not aware of any data. I could take that on notice just to check.

**Answer:**

Fair Trading does not currently collect data on the reasons for terminations (including evictions) and there are no alternative data sources.

**Question:**

The Hon. DANIEL MOOKHEY: Yes. Minister, why is New South Wales not establishing a register for silica, silicosis?

Mr KEVIN ANDERSON: Thanks, Mr Mookhey. I have just been advised that to establish a register for silica that would be the Department of Health.

The Hon. DANIEL MOOKHEY: But you represent the New South Wales Government on the Council of Australian Governments [COAG] in this respect, do you not—the SafeWork council?

Mr KEVIN ANDERSON: Yes, I do.

The Hon. DANIEL MOOKHEY: There is a proposition right now before that council, is there not, for establishment of a national register?

Mr KEVIN ANDERSON: I can take it on notice in particular in relation to that.

**Answer:**

On 30 April 2019, the Federal Minister for Health, the Hon Greg Hunt MP, announced the creation of a National Dust Diseases Taskforce. The NSW Member on the COAG Health Council is the Minister for Health, the Hon Brad Hazzard MP.

**Question:**

The Hon. DANIEL MOOKHEY: Going back to the question you made about the Data Analytics Centre, how many staff has that got now?

Mr KING: I will take that on notice but I think from recollection it would be around about 40 or 50

**Answer:**

This question falls under the portfolio responsibilities of the Minister for Customer Service.

**Question:**

The Hon. DANIEL MOOKHEY: Specifically the Commissioner first but then perhaps we can broaden that out to what the department is doing to support the Commissioner because I understand it is still a relatively nascent structure. The problem is that we still know that we have a lot of buildings with defects, or at least we are told that. You are in a position to either confirm that or put the public's mind at ease. So I am asking you: How many do you think we have?

Mr KING: For sure. I think there are a couple of aspects on that. Building defects range from a challenge with a door to building defects such as Mascot. We have to keep that in mind.

The Hon. DANIEL MOOKHEY: I accept that. That is why I am asking about risk triage.

Mr KING: For sure, definitely. The second aspect of it in terms of the Building Commissioner, the Building Commissioner has only been in place for four weeks. We just have to keep that in mind as well. It has only recently started. In terms of the allocation of resources I will hand over to Ms Webb, who will give you a bit more.

Ms WEBB: We get a lot of complaints about building. I am happy to take on notice the exact number. We do exactly as you mentioned, risk triage them as to how detailed or what the issue is in them. Some are able to be rectified quite quickly. Our building inspectors have the power to make rectification orders. Others are more complex. Now that the Building Commissioner has come on board, we are working with him to surface those matters to him as well so that he can consider them.

**Answer:**

There has been a downward trend in the total number of building complaints received by Fair Trading with 8,548 complaints received in 2017/18.

**Question:**

The CHAIR: I am going to ask a few questions. Mr O'Brien, I think you might be the one best placed to answer. Do let me know if this is not something that you can answer, though. Do you know how many greyhound racing tracks in New South Wales are currently prohibited by the GWIC?

Mr O'BRIEN: I am not quite sure what you mean by that.

The CHAIR: For example, where racing has been stopped on grounds of track safety.

Mr O'BRIEN: I do not think that would be because of the commission. I think it would be agreed by the club and GRNSW.

The CHAIR: Okay.

Mr O'BRIEN: I am not aware of any at the moment. I would have to take that on notice.

**Answer:**

No greyhound tracks in NSW are prohibited from operating by GWIC.

**Question:**

The CHAIR: Are you aware that Mudgee Greyhound Racing Track was prohibited from holding races?

Mr O'BRIEN: I am not aware of that, no. I can take that on notice, though, to get the current status of that.

The CHAIR: The Committee did invite the Greyhound Welfare and Integrity Commission. I am not sure if that invitation was put through by the Minister or not. We agreed as a Committee that we would hold off re-inviting them to see if we could get some of this information out of yourself.

Mr KING: We could certainly liaise on some of these points. We can take this on notice and come back with the answers.

**Answer:**

Greyhound Racing NSW and the Greyhound Welfare & Integrity Commission have advised that racing at Mudgee has not been suspended.

**Question:**

The CHAIR: That is great. I have questions and please let me know if you cannot take them on notice. I want to know if any greyhound racing tracks in New South Wales are currently prohibited by GWIC or prohibited by the racing clubs themselves; and whether GWIC is satisfied that no race meetings have been held at tracks during any time that a track was prohibited from holding races—I am particularly interested in Mudgee Greyhound Racing Track? Could you give me a list of tracks that have been prohibited from holding races or that have prohibited themselves from holding races—however it works—for any period of time since GWIC was established? That would be useful. Are you able to tell me how many welfare concerns the commission has received through its customer service hotline or its online Whispli form?

Mr KING: We would have some data on that.

Mr O'BRIEN: I do not have information on welfare concerns reported to the commission. I have some information on how many kennel inspections and how many disciplinary actions—

The CHAIR: Can we take that on notice?

Mr O'BRIEN: Yes; absolutely.

**Answer:**

As noted previously, no greyhound tracks in NSW are prohibited from operating by GWIC.

Greyhound Racing NSW has advised that race meetings are not currently being held at Armidale and Lithgow due to track repairs required at these venues.

Greyhound Racing NSW has advised that since 1 July 2018:

- racing was suspended at Tamworth and Gunnedah due to track surface issues, with racing at these venues resuming following remediation works
- one race meeting at Kempsey was cancelled by Greyhound Racing NSW due to track safety concerns.

The Greyhound Welfare & Integrity Commission advised that:

- on some occasions during 2018-19, its stewards determined that a race meeting or an individual race should not proceed because of factors such as extreme hot weather, storms or other weather event impacting the state of the racing surface

The Commission advised that between 1 July 2018 and 30 June 2019, it received, assessed and responded to 228 reports of potential or alleged wrong-doing concerning greyhound welfare.

**Question:**

The CHAIR: Do you know how many times the Race Injury Review Panel has met in the past 12 months?

Mr O'BRIEN: The Race Injury Review Panel was only established earlier this year, I believe. I do not have the number of meetings that are held. I can get that. I will take that on notice.

The CHAIR: That would be good. Can you also tell me when will it next publish its findings.

Mr O'BRIEN: The panel itself or the quarterly—

The CHAIR: The panel.

Mr O'BRIEN: Yes.

**Answer:**

The Greyhound Welfare & Integrity Commission advised that:

- its Race Injury Review Panel met on eight occasions since its establishment in February 2019, with its most recent meeting on 18 September 2019
- it anticipates producing findings of the Race Injury Review Panel twice-yearly, with the next report covering matters considered between 1 July and 31 December 2019 to be available in March 2020.

**Question:**

The CHAIR: And how many times the animal welfare committee meet in the last 12 months and on what dates. What action has GWIC taken towards implementing recommendation 64 of the Greyhound Industry Reform Panel report, including the development of a target date for achieving zero unnecessary euthanasia? Do you have any update on that?

Mr O'BRIEN: I do not have anything on that specific recommendation.

The CHAIR: Okay. Can I just get you to confirm that you are the one taking that on notice?

Mr O'BRIEN: Yes.

**Answer:**

The Greyhound Welfare & Integrity Commission advises that its Greyhound Industry Animal Welfare Committee has met 11 times in the last 12 months.

The Commission has advised Recommendation 64 is among a range of measures implemented or being considered by the Commission to minimise the incidence of greyhound euthanasia.

**Question:**

The CHAIR: Do you know how GWIC is monitoring compliance with the New South Wales Government's new rule that people who advertise puppies or dogs, including greyhounds, for sale or to give away in New South Wales will need to include an identification number such as the animals' microchip numbers in their advertisements?

Mr O'BRIEN: I will have to take that on notice. My understanding, though, is that that is not enforced through the commission. I think it is another agency that is responsible for enforcement of that.

The CHAIR: So they are doing no independent monitoring of that for greyhounds?

Mr O'BRIEN: I would need to take on notice what actions they are taking.

**Answer:**

The Greyhound Welfare & Integrity Commission advised that:



- it has provided information to greyhound racing industry participants that explains how these new laws apply to them
- its staff regularly monitor compliance with all Commission policies and the Rules of Racing that relate to greyhound custody and transfer of ownership
- as part of monitoring participants' compliance with applicable requirements, the Commission receives and acts on complaints received through its online reporting portal and other channels about greyhounds.

**Question:**

The CHAIR: Are you aware of what sort of work GWIC undertook in relation to the case of Charles Sultana?

Mr O'BRIEN: I believe that that was a matter investigated initially by both the commission and the RSPCA New South Wales. That matter was then prosecuted in court through the RSPCA and GWIC subsequently issued disciplinary action against Mr Sultana following the finalisation of that court matter.

The CHAIR: Was there any formal investigation by GWIC?

Mr O'BRIEN: I understand there was, yes.

The CHAIR: With the RSPCA?

Mr O'BRIEN: Yes.

The CHAIR: Does GWIC know which dogs were killed—perhaps using identification tags, in that case?

Mr O'BRIEN: I would imagine they would but I would need to take that on notice.

The CHAIR: Thank you.

**Answer:**

The Greyhound Welfare & Integrity Commission advised that RSPCA NSW officials attended Mr Sultana's property and were responsible for the recovery of deceased greyhounds, however were unable to confirm their identity. The Commission noted that the investigation was unable to determine the cause of death of the greyhounds located at the property, which included the possibility that the greyhounds died of natural causes. The Commission also clarified that its disciplinary action was taken in relation to greyhounds in Mr Sultana's care at the time of the visit to his property.

**Question:**

The Hon. MARK BANASIAK: These questions are directed to SafeWork NSW. Does SafeWork NSW collect data on how many workers have committed suicide due to workplace bullying and psychological injury?

Mr GAVRIELATOS: We collect data on fatalities, yes. Specifically on that, if that has occurred we would have that information if it is notified to us as a workplace fatality.

The Hon. MARK BANASIAK: That is workplace fatalities. I am asking more about identified suicides due to workplace bullying. It would not necessarily be done at the workplace but at home.

Mr GAVRIELATOS: If it actually occurred due to a workplace situation and was notified to us, we would have that information. But I am not aware of any that we have received.

The Hon. MARK BANASIAK: When you say you have not received any, are you talking about in the past 12 months?

Mr GAVRIELATOS: In the past 12 months, certainly, yes.

The Hon. MARK BANASIAK: Would you be able to go back beyond 12 months and provide some data on notice?

Mr GAVRIELATOS: Happy to take it on notice and see if we have the data.

The Hon. MARK BANASIAK: Would you be able to go back maybe three years, if possible?

Mr GAVRIELATOS: Happy to go back three years.

**Answer:**

SafeWork NSW collects data on all incidents reported to the agency. In the last three years, SafeWork NSW has received reports of 11 instances of suicide where it has been alleged work may have been a contributing factor. None of these have been instances where there was adequate evidence to the criminal standard to prove the death of the worker arose out of the conduct of the business or undertaking.

**Question:**

The Hon. MARK BANASIAK: Have you had any interventions in the past three years?

Mr GAVRIELATOS: We have. If you give me a moment, I should say that our primary intervention is raising awareness in terms of mental health. We do have a mentally healthy at work strategy. It is a three-pronged strategy at the moment where we are trying to raise awareness both in terms of employers but also employees as well. So that is the primary work that we are doing at the moment. We also, as I said—

The Hon. MARK BANASIAK: You class that as an intervention?

Mr GAVRIELATOS: It is also an intervention. Obviously if we are going in and raising awareness and training employers and employees in terms of how to manage mentally healthy workplaces, then, yes, it is an intervention. I am trying to see if I have got statistics with me in regards to specific interventions that we have had. I may have to take it on notice.

The Hon. MARK BANASIAK: I am happy for you to.

**Answer:**

SafeWork NSW conducts a range of interventions in relation to psychological health at work, including prevention and management of workplace bullying type behaviour. These include regulatory intervention, education, advice and assistance, tools, resources and third-party intervention. The Mentally Healthy Workplaces Strategy was launched in 2018 and outlines a range of interventions to prevent psychological harm to workers in the workplace.

Interventions to date have included evidence based manager training, mental health skills training and tailored expert assistance to small and medium businesses to develop a mental health action plan. In addition, SafeWork NSW Inspectors have received 2430 requests for service in relation to allegations of workplace bullying, each have been assessed and responded to in accordance with the national compliance and enforcement policy, and 249 Improvement Notices in relation to matters involving workplace bullying.

It should be noted that SafeWork NSW's role is to enforce the work health and safety legislation. Inspectors investigate potential breaches of the legislation, and make recommendations or issue directions to duty holders to take action in relation to potential breaches. Safework has no a role in arbitrating a dispute.

**Question:**

The Hon. MARK BANASIAK: Recently I went on your website to try to find some information about mental health injury but I could not find any information that was listed on your incident reporting section. Am I looking in the wrong place?

Mr GAVRIELATOS: As I said, I will take it on notice and get the information.

**Answer:**

SafeWork NSW provides information and resources about mentally healthy workplaces on its website, [www.mentalhealthatwork.nsw.gov.au](http://www.mentalhealthatwork.nsw.gov.au). Specific information about mental health injury may also be sourced from NSW Health or icare as the nominal insurer.

**Question:**

The CHAIR: At those two tracks, I am not sure how old those improvements were, but do we have data showing that they have improved animal welfare?

Mr O'BRIEN: I do not have data to hand but we can certainly take on notice whether there is any information from either the commission or GRNSW about data post those works being completed.

The CHAIR: That would be really useful to show—

Mr KING: The impact on injuries, amongst others.

The CHAIR: Exactly. Thank you very much.

**Answer:**

As works at these venues were completed less than twelve months ago, there has been insufficient time and data to accurately assess the impact of track improvement works on race related injuries at this stage.

**Question:**

The Hon. DANIEL MOOKHEY: Hence my question to you as well, Mr King. In terms of the process that you have just outlined earlier about the comprehensive response that the department is engaged in, where are you up to in terms of measuring insurance risk?

Mr KING: Again, the insurance you have just quoted before is with icare. Icare is part of the Treasury portfolio. I cannot comment on Treasury. Can I just say, insurance just generally in this industry will be one element of a stakeholder that we will be engaging with, working through. If you look at premiums, coming back to your point, the actuarial models, in terms of what is going on with cladding, what is going on with the financial services just generally, that is an area that we would be engaging in just overall from the Building Commissioner, with Fair Trading, amongst others. That all just takes time. What we just have to do though in saying that is coming back again to the definition of "building defects". When we are talking about building defects, are we talking about Mascot Towers, Opal Tower or are we just talking about building defects generally, which therefore comes back to your point about the risk model. This is all of the work that we are doing at the moment.

The Hon. DANIEL MOOKHEY: Perhaps on notice, are you able to provide a time line as to when you think this work will be complete so that we have an idea as to how you and your department are planning to actually get these answers to these questions? I accept it is a new problem and it does take time. Will you take it on notice?

Mr KING: I will take it on notice in terms of the work that we are doing and what the steps are.

**Answer:**

This question falls under the portfolio responsibilities of the Minister for Customer Service.

**Question:**

Hon. DANIEL MOOKHEY: Ms Webb, do you have that data that we were talking about in terms of rectification orders? Ms WEBB: I apologise, I do have data that there are 8,000 complaints a year approximately. We conduct about 2,000 inspections.

The Hon. DANIEL MOOKHEY: I am sorry, Ms Webb, can you put the microphone up?

Ms WEBB: Sorry, 8,000 complaints, about 2,000 building inspections a year but unfortunately rectification is not one of the things on this list, so I would have to take that back on notice.

The Hon. DANIEL MOOKHEY: Do you have trend analysis for those numbers? How many complaints were received the year previous and how many were received?

Ms WEBB: I can take all of that on notice. I think we may have given it to the other committee but in any case I can certainly get that. Overall I think we have seen a little bit of a decline in complaints but I do not want to completely say that.

The Hon. COURTNEY HOUSSOS: What time period? You did actually give this to the other committee but I just cannot remember the time period.

Ms WEBB: I think we had something over the last three years.

The Hon. COURTNEY HOUSSOS: So 8,000 over the last three years?

Ms WEBB: Sorry, 8,000 a year approximately but I can get the specifics for each year.

The Hon. DANIEL MOOKHEY: Can you provide us any information about geographically where these inspections are being undertaken and where these complaints are coming from?

Ms WEBB: Yes, we can add that in. Yes, that will be fine.

**Answer:**

There has been a downward trend in the total number of building complaints received by Fair Trading as reported in the NSW Fair Trading Roadmap 2019-2022 over the three financial years, with 9,221 received in 2015/16, 9,194 in 2016/17, and 8,548 in 2017/18.

In the last financial years, between 1 July 2015 to 30 June 2019, NSW Fair Trading issued 3108 Rectification Orders as follows:

FY 2015/16 – 933

FY 2016/17 – 848

FY 2017/18 – 643

FYI 2018/19 – 684

**Question:**

The Hon. DANIEL MOOKHEY: Do you keep data as to which builders are getting complaints?

Ms WEBB: Yes, absolutely.

The Hon. DANIEL MOOKHEY: Which builders are getting complaints?

Ms WEBB: I cannot give you that now but I can tell you for sure we take a lot of disciplinary action and we certainly match the builders we are getting complaints about with our licensing data, with our prosecution data, and we keep a risk-based intelligence system operating.

**Answer:**

In 2018/19, 22 building companies have received more than 20 complaints for the year.

**Question:**

The Hon. DANIEL MOOKHEY: Glad to hear. Do you audit certifiers?

Ms WEBB: Yes, we do.

The Hon. DANIEL MOOKHEY: How many did you do in the last year?

Ms WEBB: I have three years is 38, but I will just get it by years, sorry.

The Hon. DANIEL MOOKHEY: Thirty-eight in the last three years. That is okay. You can perhaps come back to us.

Mr KING: Yes, we have the numbers so we can get that. The Hon. DANIEL MOOKHEY: Have you withdrawn any certificate for a certifier?

Ms WEBB: Yes, we have. In the last 12 months six certifier accreditations have been cancelled.

The Hon. DANIEL MOOKHEY: Do you have the names?

Ms WEBB: The names are on a public register but I can certainly give you the link to it.

The Hon. DANIEL MOOKHEY: Have you checked the buildings that they certified and how many buildings did they certify?

Ms WEBB: We will get that data.

**Answer:**

As at 18 September 2019, Fair Trading has conducted 34 audits of accredited certifiers with 49 in progress.

Four accredited certifiers have had their individual certificates of accreditation cancelled over the previous 12 months.

The names of the four certifiers can be found at <https://www.fairtrading.nsw.gov.au/trades-and-businesses/business-essentials/building-certifiers/certifier-disciplinary-register>

**Question:**

The Hon. DANIEL MOOKHEY: Do you prosecute people for not complying with a rectification order?

Ms WEBB: The remedy for noncompliance with a rectification order is an order by the tribunal, by the NSW Civil and Administrative Tribunal [NCAT].

The Hon. DANIEL MOOKHEY: How many of them have been made in the last 12 months?

Ms WEBB: I would have to ask NCAT that.

The Hon. DANIEL MOOKHEY: On your application?

Ms WEBB: No, the person who has made the complaint makes the application to NCAT.

The Hon. DANIEL MOOKHEY: But your building inspectors issue the rectification order, is that fair?

Ms WEBB: Our building inspectors issue a rectification order. If a builder does not comply with that order then the person who has made the complaint is entitled to take that to NCAT.

The Hon. DANIEL MOOKHEY: Do you keep data as to how many of those people actually utilise that remedy?

Ms WEBB: We would have to ask NCAT for that data if we could.

The Hon. DANIEL MOOKHEY: Are you able to do that?

Ms WEBB: We can ask and see what they can give us.

The Hon. DANIEL MOOKHEY: Can you provide us some trend analysis in that respect?

Ms WEBB: Yes, for sure.

**Answer:**

This information is held by NCAT and as such this questions needs to be referred to the Attorney General.

**Question:**

Mr DAVID SHOEBRIDGE: I think this is either to you, Mr King, or Mr Gavrielatos. Recently a SafeWork employee had details of a work health and safety matter that they had raised with the organisation included on their personnel file, or P-File. When this was first raised with SafeWork, it was left on the P-File. It was only after a review was required that it was removed from the P-File. Mr Gavrielatos, do you agree that it is totally inappropriate to have work health and safety matters included on employees' personnel files?

Mr GAVRIELATOS: I am not aware of the matter that you are talking about. I am certainly happy to have a look at it before I would be able to provide a response to that.

Mr DAVID SHOEBRIDGE: I understand. Could I ask you, then, to seek a specific review of SafeWork, if this issue has arisen in SafeWork, and to review any instances when it has arisen in SafeWork, Mr King?

Mr KING: Using public interest on people's files?

Mr DAVID SHOEBRIDGE: Yes, a WHS concern or a public interest disclosure concern.

Mr KING: Regarding SafeWork, because I do not think it is just purely SafeWork, I would be saying— and I can give you the—

Mr DAVID SHOEBRIDGE: But I have told you that it has happened.

Mr KING: I understand that.

Mr DAVID SHOEBRIDGE: Will you seek a review of any instances where it has happened in the past?

Mr KING: I will seek a review if something is actually raised with me. What I can also say is reinforcing people and culture policies and the general public service policies that are consistent with the Public Service Commission. I will be reinforcing that on an ongoing basis through not just SafeWork but through the entire department and cluster.

**Answer:**

The question asked does not provide enough information to identify an individual case.

There has been one SafeWork staff member request a review of material on their P-File since the SafeWork files were digitised and came under the current DCS processes in October 2018. In that case the staff members request to remove material was considered and actioned.

**Question:**

Mr DAVID SHOEBRIDGE: Are you saying you are not aware of the case of Kovic v SafeWork NSW, where your organisation was lambasted by the Industrial Relations Commission and found to have inappropriately set aside or purportedly set aside an improvement notice without any lawful basis to do it? You are not even aware of the case?

Mr GAVRIELATOS: I am not aware of that matter.

Mr DAVID SHOEBRIDGE: It is as recent as June of this year.

Mr GAVRIELATOS: I am not aware of that matter.

Mr DAVID SHOEBRIDGE: Will you review it?

Mr GAVRIELATOS: I am happy to have a look at it. I am just saying I am not aware of that matter.

Mr DAVID SHOEBRIDGE: When you get embarrassed in the Industrial Relations Commission and your organisation is found to have acted unlawfully, do you not have a system in place where that gets reported to you?

Mr GAVRIELATOS: I am happy to review that matter.

Mr DAVID SHOEBRIDGE: No, do you have a system in place?

Mr GAVRIELATOS: As I said, I am not aware of that matter. I am happy to review that matter.

Mr DAVID SHOEBRIDGE: How many times have you lost cases in the Industrial Relations Commission since January this year?

Mr KING: I said I am not aware of that matter.

Mr DAVID SHOEBRIDGE: No, I am not asking you—

The Hon. WES FANG: Point of order—

Mr DAVID SHOEBRIDGE: How many times have you lost cases in the Industrial Relations Commission this year?

The CHAIR: I will hear the point of order.

Mr GAVRIELATOS: I will take it on notice.

**Answer:**

The Governance and Appeals Unit (GAU) sits within the Better Regulation Division (BRD) and is independent of SafeWork NSW operational decisions and reporting lines and provides impartial internal reviews of Inspector and Regulator decisions under the *Work Health and Safety Act 2011* and *Work Health and Safety Regulation 2017*, respectively.

Regrettably the SafeWork review of the Health Safety Representative (HSR) Provisional Improvement Notice (PIN) referred to was granted outside of the statutorily prescribed time for application in error. The GAU has reviewed the IRC judgment in consultation with BRD management to ensure that any future application for internal review of PINs are within the prescribed time.

**Question:**

Mr DAVID SHOEBRIDGE: Thank you, Madam Chair. How many cases has SafeWork lost in the Industrial Relations Commission this year, Mr Gavrielatos?

Mr GAVRIELATOS: I will take that on notice.

Mr DAVID SHOEBRIDGE: Do you have a system in place where you are at least advised when you lose cases in the Industrial Relations Commission?

Mr GAVRIELATOS: I have not been advised of the matter that you have mentioned today or other matters.

Mr DAVID SHOEBRIDGE: Do you have a system in place to advise you when you lose cases in the Industrial Relations Commission?

Mr GAVRIELATOS: I would have expected to have been advised, but I was not advised.

Mr DAVID SHOEBRIDGE: Don't find it surprising, to say the least, that the first time you hear about SafeWork not only losing the case but being found to have acted unlawfully in purporting to set aside an improvement notice is when I tell you in a budget estimates hearing? Here is a copy of the case, by the way.

Mr GAVRIELATOS: Thank you. I will review the matter and also look at our procedures.

**Answer:**

Nine applicants have applied for external reviews by the Industrial Relations Commission (IRC) of Inspector decisions under the *Work health and Safety Act 2011* following an internal review by the SafeWork Governance and Appeals Unit (GAU).

Of the nine matters, two decisions were revoked by the IRC in favour of the applicants (Byrne Demolition & Frank Kovic), three were discontinued or withdrawn, one was confirmed. Another applicant was found by the IRC to have no standing and the IRC has reserved judgement on another two matters.

**Question:**

Mr DAVID SHOEBRIDGE: So that is your failure, Ms Webb. What review have you done of the SafeWork Governance and Appeals Unit?

Ms WEBB: We have a continuous improvement process, as Mr Gavrielatos mentioned. I am not aware of what specific action they might have taken in relation to that specific case but I can certainly take that on notice.

Mr DAVID SHOEBRIDGE: Were you aware of the Kovic's case?

Ms WEBB: I am not sure. I am not aware of that case, I don't think. There are quite a lot of cases that come through our division so I cannot give you a categorical answer, but we certainly will take it on notice.

**Answer:**

Please see responses to the two preceding questions above.

**Question:**

The CHAIR: Thank you. What data is collected on infringement notices from local councils regarding boarding house regulation and inspections?

Mr TANSEY: I am happy to take that on notice. I think it might be the case that the register itself is purely a register of the boarding houses rather than specific enforcement action taken against, which, as you rightly identify, is a function of local councils. But I am happy to take on notice whether or not there is any other system of recording those matters.

The CHAIR: Yes. If you could let me know if the department takes that data in any way or has access to that data, that would be great. Are local councils required to report to the department on boarding house compliance or regulation infringements? From what you have just said, perhaps not.

Mr TANSEY: Again, I do not believe that they are but I am happy to take that on notice and confirm it for you.

**Answer:**

Fair Trading does not receive nor hold any data on action taken by local councils in respect of boarding houses.

**Question:**

The CHAIR: Are there any mechanisms in existence to encourage or require more affordable rents in boarding houses?

Ms WEBB: We could take that on notice. I am not aware of any current activity in that area.

**Answer:**

The *Boarding Houses Act 2012* does not contain any provisions that could be used to encourage or require particular rent levels in boarding houses.

**Question:**

The CHAIR: Okay, very good. My last question on boarding houses is: Do you collect any data regarding the number of local land tax exemptions claimed by boarding house owners?

Ms WEBB: We do not. I do not know whether Revenue NSW might be able to assist with that.

Mr KING: We will take that on notice and come back on that one.

**Answer:**

The Department of Customer Service does not collect data regarding the number of local land tax exemptions claimed by boarding house owners.

**Question:**

The CHAIR: Is there any training or support provided or mandated for strata committee members of large schemes?

Ms WEBB: I do not believe there is but I will check and take that on notice.

**Answer:**

There is no mandated training required for strata committee members. NSW Fair Trading provides information and assistance to lot owners and committee members on their rights and obligations under the *Strata Schemes Management Act 2015* and provides a mediation service for disputes.

NSW Fair Trading also conducts strata information seminars for owner occupiers and tenants.

**Question:**

The CHAIR: Is there any oversight by the department of the obligation on landlords to register new tenants on the strata roll?

Ms WEBB: We have a general obligation to ensure compliance with the strata laws and we operate a strata mediation service. On that specific issue about registrations, I am not sure that we expend a lot of effort on enforcing that. But we can certainly take that on notice and see if that is something that has come up.



**Answer:**

NSW Fair Trading conducts general compliance programs that cover all obligation holders including Strata Managers.

**Question:**

The CHAIR: Would it be the department that is responsible for ensuring that the landlord complies with the reporting requirement?

Ms WEBB: I think it would be ours, us, either under residential tenancies legislation or under the strata law, yes.

The CHAIR: But what you are saying is that there is not at the moment—

Ms WEBB: I have not been aware that we have expended a lot of effort on ensuring that happens but we can certainly take that on notice and check what happens.

**Answer:**

Penalties apply for lot owners who have failed to provide notice to the owners corporation within 14 days of a lease being entered into, including details of the managing agent. If an owners corporation is concerned that a lot owner has not complied with this requirement they can lodge a complaint with NSW Fair Trading.

**Question:**

The CHAIR: Thank you. Does the department have any details about the number of strata committees who currently have tenant representatives?

Mr KING: I do not believe so, no.

Ms WEBB: I do not think we would.

The CHAIR: If the department does not, does anyone else have that kind of data, or is that just not collected?

Mr KING: Not that I am aware of, but we can have a look and see whether anyone else does. I do not believe so.

**Answer:**

NSW Fair Trading does not hold data on the number of tenant representatives on strata committees.

**Question:**

Hon. PETER PRIMROSE: Ms Webb, can I follow up on a matter that we began this morning, about the media release of 15 August about the unsafe products? One of the issues that has been put to me is that a number of media organisations, particularly those in the Arabic press, did not receive a copy of the media release. I am not making an allegation. My question is: How do you ensure that those people from non-English speaking backgrounds, through their media and other sources, actually obtain this information because there is grave concern that this particular community—not only the Arabic speaking but a whole range of different communities from non-English speaking backgrounds—just do not have this information.

Ms WEBB: We have a permanent officer in Fair Trading whose job it is to engage with culturally and linguistically different communities. We translate a fair number of our publications. I will check on notice but I think our publications about child safety matters are translated into Arabic. We certainly do quite a lot of media with press in different languages. On this specific media release, and whether it was sent to an Arab newspaper, I could take on notice and check.

**Answer:**

NSW Fair Trading has the facility to translate all information into community languages, including Arabic. All media releases are issued to over 400 state-wide metro, non-metro and regional media outlets, including community based media organisations.

**Question:**

The Hon. PETER PRIMROSE: Thank you for that. I have a couple of questions about SafeWork NSW. One is in relation, firstly, to audiometric testing. I understand that section 58—I understand you have a copy here—of the Work Health and Safety Regulation 2017 requires that workers who wear hearing protection must have audiometric testing every two years as a mechanism to ensure that the controls on the personal protective equipment are working. Can you tell us whether that clause has commenced? Is it being enforced? What is the status of it now?

Mr TANSEY: In regard to audiometric testing I would have to take that on notice.

Mr GAVRIELATOS: We will have to take that on notice.

The Hon. PETER PRIMROSE: My concerns relate to the fact that there are concerns that while this has been there since 2017 it has not actually been enforced. If that is incorrect, how is this being monitored? How many prosecutions have there been in relation to this not occurring? I am happy for that to be taken on notice.

Mr KING: We will come back to you on that.

**Answer:**

This clause has not commenced. As of 1 January 2018, SafeWork NSW issued a further two-year exemption for the audiometric testing requirements of clause 58(2) of the Work Health and Safety Regulation 2011.

The exemption ensures NSW businesses do not incur expenses associated with audiometric testing while a national review is underway, as well as during the time while the final review report is considered by Safe Work Australia (SWA) members and work health and safety (WHS) Ministers; the model WHS legislation is revised and NSW legislation is drafted.

**Question:**

The Hon. PETER PRIMROSE: I have one other question relating to welding fumes—a category 1 carcinogen. How is SafeWork dealing with the issue of preventing welding fumes from causing workers' health concerns?

Mr GAVRIELATOS: Again, I will take that on notice and get back to you.

The Hon. PETER PRIMROSE: Could you include in that, please, not only what you are doing but what you propose should occur in relation to any Australian, COAG, or other related issues. Thank you.

**Answer:**

SafeWork NSW as the NSW work health and safety regulator provides general duty information and advice for working with the 40,000 chemicals in Australia. Welding fumes contain a variety of oxides from the metals being welded with a number of gas by-products.

When the International Agency for Research on Cancer's (IARC) change of classification for welding fumes was published, SafeWork NSW issued updated information on its website and newsletters regarding employers' duties, control measures to prevent exposure to fumes and UV radiation. The updated information included consultation with workers, workplace risk assessments, personal protective equipment (PPE), air monitoring and worker training.

Safe Work Australia has also published a Code of Practice (CoP) on Welding Processes. The CoP details how employers and workers can effectively manage welding hazards, and

includes information on control measures such as ventilation, PPE and maintenance of equipment. The CoP is also available on the SafeWork NSW website.

**Question:**

The Hon. DANIEL MOOKHEY: What is the vacancy rate, currently?

Mr GAVRIELATOS: Let's say around 20, but I will give you the exact numbers.

The Hon. DANIEL MOOKHEY: Around 20 vacancies?

Mr GAVRIELATOS: Yes.

The Hon. DANIEL MOOKHEY: How long have they been vacant?

Mr GAVRIELATOS: We have just finished a major recruitment exercise, where we brought in about 22 inspectors. We are looking to recruit again.

The Hon. DANIEL MOOKHEY: So you filled 22, and you are looking to recruit an additional 20?

Mr GAVRIELATOS: I am going to take it on notice to give you exact numbers.

**Answer:**

As at 6 September 2019 SafeWork had 331 ongoing Inspector roles, of which 33 were substantively vacant. Recruitment is underway.

**Question:**

The Hon. DANIEL MOOKHEY: In terms of the blitzes that you have undertaken, what were the major blitzes by industry?

Mr GAVRIELATOS: By industry?

The Hon. DANIEL MOOKHEY: Yes.

Mr GAVRIELATOS: We have had falls from heights. We have had transport.

The Hon. DANIEL MOOKHEY: What were you doing in transport?

Mr GAVRIELATOS: Can I take that on notice and I will give you greater detail on that?

**Answer:**

SafeWork NSW is delivering the *Transport Work Health and Safety Sector Plan*, including a compliance strategy that is not limited to the transport sector, but rather incorporates all parties in the supply chain. This is due the need to address high-risk activities (e.g. loading/unloading at a non-transport operator's site) and high-risk behaviours (e.g. failure to immobilise vehicle and driver distraction). Key compliance activities have included a focus on Falls From Trucks (completed in June 2019) and a current program on Forklift Safety.

Through an enforceable undertaking, SafeWork NSW will be delivering transport safety messages through radio and mobile billboard advertising, focusing on vehicle immobilisation, safe parking, falls from trucks, distraction and fatigue and seatbelts.

SafeWork NSW is currently conducting extensive industry consultation on revised best practice principles, revised industry guidance, and e-learning products and services with a focus on at-risk workers. This will inform future field-based advisory and compliance activities.

**Question:**

The Hon. DANIEL MOOKHEY: Have you undertaken or have you received any complaints about government infrastructure projects? Let us go through them—WestConnex?

Mr GAVRIELATOS: We have had engagement with government projects, yes. We have a specific infrastructure team to deal with government infrastructure.

The Hon. DANIEL MOOKHEY: How many people are on that infrastructure team?

Mr GAVRIELATOS: Again, I would have to take that on notice.

**Answer:**

As at September 2019, the Infrastructure Team has 9 Inspectors.

**Question:**

The Hon. DANIEL MOOKHEY: What have they proactively inspected in the past 12 months?

Mr GAVRIELATOS: Work health and safety legislation breaches.

The Hon. DANIEL MOOKHEY: Of course, but which government projects?

Mr GAVRIELATOS: Again, I will take it on notice but it has been a variety of government projects.

**Answer:**

In relation to major infrastructure projects in the Sydney region the following proactive activities have been undertaken across seven projects in the past 12 months:

- Planned visits to build relationships and familiarisation with stakeholders
- Unannounced visits
- Blitz visits with a focus on specific project, issue or area
- Joint visits with specialists or other agencies or regulators
- Verification visits that have a focus on areas of high risk of high harm.

**Question:**

The Hon. DANIEL MOOKHEY: Can we go with the major projects that are underway. What about the WestConnex?

Mr GAVRIELATOS: Yes, that would have all been included.

The Hon. DANIEL MOOKHEY: Have they been subject to any improvement notices?

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

The Hon. DANIEL MOOKHEY: Have they been subject to any prosecutions?

**Answer:**

69 improvement notices have been issued for current infrastructure projects, and there are no current prosecutions.

**Question:**

Mr GAVRIELATOS: Can I say, some of the projects they have been involved with include the Sydney Metro, WestConnex, western Sydney airport, Moorebank interchange, Parramatta Light Rail and Inland Rail.

The Hon. DANIEL MOOKHEY: Can we go one by one through what has happened in each of them. Sydney Metro?

Mr GAVRIELATOS: I will take that on notice and provide an answer.

Mr KING: You just want the names of each one slowly, is that right?

The Hon. DANIEL MOOKHEY: It is just that they have been identified as being things that you have proactive activities for.

Mr KING: That is okay. Mr Gavrielatos, do you want to go through the names?

The Hon. DANIEL MOOKHEY: What did you find at them?

Mr KING: Oh, find.

Mr GAVRIELATOS: That I will take on notice.

The Hon. DANIEL MOOKHEY: That is all in the past 12 months?

Mr GAVRIELATOS: Yes.

The Hon. DANIEL MOOKHEY: Have they been subject to improvement notices?

Mr GAVRIELATOS: I will take that on notice and provide you with detail on those.

**Answer:**

Please see previous answer above.

**Question:**

The Hon. DANIEL MOOKHEY: I appreciate the context. I am asking because they are major employers.

Mr KING: For sure and obviously it is part of understanding the different businesses involved and subcontractors as well. It is all part of it.

The Hon. DANIEL MOOKHEY: Yes, and to be fair I am asking about government projects not the Government. I am asking about the contract chains that are in them.

Mr KING: No, I get it very much.

The Hon. DANIEL MOOKHEY: Do you have any further information you can provide us in terms of what SafeWork has done there?

Mr GAVRIELATOS: I will take it no notice.

**Answer:**

The Infrastructure Team works closely with other State and Commonwealth work health and safety jurisdictions via the National Regulators Infrastructure Community of Practice Committee, which has been endorsed by the Heads of Workplace Safety Authorities (HWSA).

The Infrastructure Team has initiated a National Major Projects Consultative Committee that will work alongside the Regulators Committee to inform and support the work of that group. The representatives of this group include national level industry and worker stakeholders from all major infrastructure projects across Australia.

The Team has also initiated the NSW Major Projects Consultative Committee, which includes senior NSW representatives from all relevant regulators, joint venture partners, government and client organisations and unions. The focus of this committee is to improve work health and safety outcomes across all major Infrastructure projects in NSW and support and implement outcomes achieved through the national committees. It will also be used to consult on the NSW issues that will be raised and discussed at the national table.

**Question:**

The Hon. PETER PRIMROSE: I was wondering whether in relation to silicosis you could provide us with some incidents and prevalence figures so that we can have an idea of the trend over time?

Mr GAVRIELATOS: This morning some figures were mentioned and there was a discrepancy in terms of the figures that had been provided at the Treasury hearing. The figures that we provided were the ones that were publicly available that we were aware of. The figures mentioned in the Treasury hearing I think are the more accurate figures because they were more up to date than what we had available to us. Those are the figures as far as I am aware. I think it is 40 incidents.

The Hon. PETER PRIMROSE: No. I am interested in incidents and prevalence

Mr GAVRIELATOS: No. I have not got those sorts of figures.

The Hon. PETER PRIMROSE: Incidents and new cases, and prevalence of those that continue over time.

Mr GAVRIELATOS: I would have to seek information from icare in regards to that.

The Hon. PETER PRIMROSE: Could you do that please?

Mr GAVRIELATOS: Yes.

**Answer:**

icare has advised:

- For the three years to 2017-18 there were 23 silicosis claims.
- There were 40 claims for the year 2018-19.

icare is the agency that collects this information and can provide the most up-to-date figures; icare is under the portfolio responsibilities of the Treasurer.

**Question:**

The Hon. PETER PRIMROSE: Have there been any prosecutions in relation to any offence which involves the issuing of a notice?

Mr GAVRIELATOS: Sorry, I am just trying to clarify in terms of what is being asked. If we have issued a notice and it has not been complied with, has there been a prosecution in regards to that?

The Hon. PETER PRIMROSE: Yes.

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

**Answer:**

There have been two prosecutions under section 193 of the *Work Health Safety Act 2011* for breach of an improvement notice in the last five-year period.

**Question:**

Mr DAVID SHOEBRIDGE: But you are supporting it, so I am asking you why you are supporting 0.05 for workers in New South Wales when that is double the standard in the US, almost double the standard in Japan and is contrary to the advice of the Cancer Council?

Mr GAVRIELATOS: It is being considered later in the year by Ministers. At this stage, the evidence that we have is that with proper safety systems it can be controlled.

Mr DAVID SHOEBRIDGE: Mr Gavrielatos, is that the advice of SafeWork, that it should be 0.05 milligrams per cubic metre?

Mr GAVRIELATOS: It is the advice that we have received.

Mr DAVID SHOEBRIDGE: From whom?

Mr GAVRIELATOS: Basically from the research that we have conducted.

Mr DAVID SHOEBRIDGE: Can you table that research?

Mr GAVRIELATOS: I have not got that. I will take that on notice and provide you the information we had.

**Answer:**

The current standard in Australia is 0.1 mg/m<sup>3</sup>, which is the global average. Any change would bring Australia in line with the United States that reduced its Permissible Exposure Level (PEL) for silica to 0.05 mg/m<sup>3</sup> in 2016, as well as Italy and Finland and at a level below Bulgaria (0.07 mg/m<sup>3</sup>) and the Netherlands (0.075 mg/m<sup>3</sup>).

The NSW Government is currently investing in research to improve real-time respirable crystalline silica detection through the Centre for Work Health and Safety.

**Question:**

Mr GAVRIELATOS: Can I just clarify? We have 331 field-based inspector roles in SafeWork. Of those, 302 roles are actually occupied and there are 22 inspectors that we currently look to recruit.

Mr DAVID SHOEBRIDGE: Did you say 331 roles, 302 inspectors and 22 vacancies? So what about the other nine—

Mr GAVRIELATOS: So there are 22 vacancies, sorry.

Mr DAVID SHOEBRIDGE: What about the other—so 302 plus 22 does not get you to 331.

Mr KING: Twenty-nine does.

Mr DAVID SHOEBRIDGE: So there are seven out?

Mr GAVRIELATOS: Seven out. Okay. I will clarify those numbers and come back to you.

**Answer:**

The updated figures as at 6 September 2019 are that SafeWork had 331 ongoing Inspector roles, of which 33 were substantively vacant. Recruitment is underway.

**Question:**

Mr DAVID SHOEBRIDGE: Mr King, how long are temporary staff able to be employed under the Government Sector Employment Act 2013? Is it four years?

Ms WEBB: I understand it is four.

Mr KING: If it is not, we will come back to you on that.

Mr DAVID SHOEBRIDGE: My understanding is it is four years. I could be wrong. We could all be wrong but I think it is four years. Does Better Regulation employ temporary staff beyond four years?

Ms WEBB: There have been some circumstances arising from before the Better Regulation division existed when SafeWork was a separate entity where some people who were employed were then re-employed and there may have been some compliance with the four-year requirement.

Mr DAVID SHOEBRIDGE: I have it on advice that SafeWork has often employed temporary staff beyond four years, and indeed for periods of up to 10 years at the Gosford office. Could you take on notice the number of staff and the length that staff at SafeWork at Gosford have been on temporary employment for greater than four years?

Ms WEBB: Over which period of time?

Mr DAVID SHOEBRIDGE: Now, currently employed now.

Ms WEBB: Ones who are currently employed but have been there for more than four years? Yes, absolutely.

**Answer:**

The Government Sector Employment Rules 2014, Part 2 Rule 10 outlines the maximum period of temporary employment as 4 years in a 5 year period in the same agency, the rule also allows the temporary employee to be employed for a further 4 year period if an externally advertised comparative assessment process has been held for the role (maximum 8 year period with competitive assessment).

The Better Regulation Division has 1 temporary staff member who has been engaged for an aggregate period of over 4 years.

**Question:**

The Hon. MARK BANASIAK: Does SafeWork NSW monitor dust suppression compliance on high-density construction sites by contractors, whether it is demolition or construction?

Mr GAVRIELATOS: Could I take that on notice, please.

**Answer:**

SafeWork monitors and investigates compliance by contractors with work health and safety controls for airborne hazards, include dust, on high-density construction sites.

**Question:**

The Hon. MARK BANASIAK: What is the turnaround time between a complaint being lodged regarding dust and the inspector attending the site? You might want to take that on notice.

Mr GAVRIELATOS: I will take that on notice.

**Answer:**

Where the issues or incident are assessed as high risk an inspector will attend the workplace as soon as possible, usually within one business day. Matters assessed as moderate to high risk will receive an inspector response within three to five days in most cases.

**Question:**

The Hon. MARK BANASIAK: Are you aware of the issues surrounding the Newmarket Green development in Randwick, which bordered three public schools and three hospitals?

Mr GAVRIELATOS: I am not aware of that site.

The Hon. MARK BANASIAK: Just to give you a bit of detail, in March 2018 when Ganellen started their demolition of the Cbus site copious amounts of dust was reported blowing into all three school grounds, causing some students some serious respiratory distress and leaving a noticeable layer of dust in the grounds that the students occupy. The local P&Cs made numerous phone calls to SafeWork and it took almost two weeks for an inspector to visit that site and another three weeks for Ganellen to implement proper dust-suppression measures. Is that an average time frame for such a matter?

Mr GAVRIELATOS: I would think not but I will take it on notice and find out about that specific matter.

The Hon. MARK BANASIAK: Because you are not familiar with the answer, can you also take on notice what was the result of those investigations and whether any infringement notices or fines or whatever were—

Mr GAVRIELATOS: I will take that on notice.

**Answer:**

SafeWork NSW was first made aware of a number of concerns relating to the Cbus site (1 Young Street Randwick) on 26 February 2018. This included in relation to dust emanating from the site. In response to those concerns a letter was sent to Ganellen on 28 February 2018 outlining the issues raised and requesting the company ensure they are complying with all legislative requirements.

A subsequent complaint was received by SafeWork NSW on 1 March 2018 which raised similar concerns to those identified on 26 February 2018. As a result, a SafeWork NSW inspector undertook an initial site visit on 9 March 2018.

Based on observations made during the workplace inspection on 9 March 2018, the inspector confirmed that appropriate dust suppression methods were being employed by the company to control the risk of dust.

Continued use of appropriate dust suppression methods, including the use of spray misters on hoardings around the site to eliminate dust from the construction works, was confirmed by SafeWork NSW at later visits.

No Notices were issued in relation to this matter.

**Question:**

The Hon. PETER PRIMROSE: I have one question. An issue has been raised with me in relation to horseracing, particularly the issue of female jockeys. I understand that two women jockeys died during races in Victoria and the Northern Territory. I was wondering if you could please outline what work, if any, you have undertaken in New South Wales to address the issue of safety for women jockeys.

Mr KING: Thanks, Mr Primrose. Obviously it is a very unfortunate circumstance in Victoria and the Northern Territory. If I may ask, firstly, Mr O'Brien might want to talk a little bit about what we are doing and then Mr Gavrielatos might be able to add a little bit more from SafeWork.



Mr O'BRIEN: Racing NSW is the controlling body for thoroughbred racing in New South Wales. There are a number of measures to provide for jockeys' safety and welfare throughout their career, starting with the initial training of apprentices and continuing with ongoing supervision and skills monitoring throughout their career. Some of those initiatives include competency-based apprenticeship programs with training in areas such as physical and mental wellbeing and nutrition; workplace health and safety assessments; personal protective equipment, including helmets, safety vests, riding boots—all of that equipment is monitored and needs to be approved by stewards before they can be used. Then there is ongoing coaching and mentoring through the riding skills panel, which is comprised of senior jockeys, stewards and jockey coaches. Then, outside of that, there is also regular track maintenance and monitoring of track surface standards and enforcement of the rules of racing.

The Hon. PETER PRIMROSE: Can I ask specifically what new things have happened in, say, the last 12 months? Or what do you propose, if there is anything new, that may add to that?

Mr O'BRIEN: I would have to take that on notice and then get some information from Racing NSW about whether any of those are new initiatives. I am not aware of those initiatives themselves being new; I think it is part of the process that new jockeys go through.

Mr KING: Mr Primrose, we will take it on notice. Racing NSW obviously take the health of their jockeys very seriously and they have a range of mentoring and skills programs on an ongoing basis for jockeys. But we will take on notice is there anything new they have put in the last 12 months.

The Hon. PETER PRIMROSE: And anything proposed. Thank you.

**Answer:**

Racing NSW advised that over the last twelve months it has installed plastic running rails at Inverell, Coonamble, Tuncurry and Narrandera racecourses and by the end of 2019, intends to install plastic rails at five additional racecourses (Casino, Coonabarabran, Cootamundra, Leeton and Parkes). Racing NSW noted that plastic rails have a break-away technology, which results in the rail giving way when struck, minimizing impact injuries to jockeys and horses.

Following an audit of all barrier stalls in NSW, Racing NSW has also installed additional padding in barriers to provide a safer environment for jockeys and horses once placed into the barriers.

Racing NSW advised that it is currently aiming to promote compliance and safer riding practices by working with the NSW Jockey's Association to review of penalties for riding offences.

**Question:**

The Hon. DANIEL MOOKHEY: Does Ms Weir's contract qualify for disclosure on the eTendering website in accordance with the Government Information (Public Access) Act?

Mr KING: I will check that. I am not sure that it does, but I will check on that.

The Hon. DANIEL MOOKHEY: If it does not, it is likely because it is below the threshold for disclosure.

Mr KING: I would expect so, yes.

The Hon. DANIEL MOOKHEY: But if it is the case that it is going to be varied and extended, will it be disclosed?

Mr KING: It would have to go through all the normal process. If it has to be disclosed, it would be disclosed.

The Hon. DANIEL MOOKHEY: There is an issue with the GIPAA in that initial engagements are set at thresholds below and variations are treated as a separate contract, and therefore neither of them are disclosed. So will Ms Weir's contract be there or not?

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

**Answer:**

Ms Weir's engagement complies with approved government sector recruitment practices.

**Question:**

The Hon. DANIEL MOOKHEY: Is Ms Kathryn Greiner still the Retirement Village Ambassador?

Ms WEBB: Yes, she is.

The Hon. DANIEL MOOKHEY: Has she met this Minister?

Ms WEBB: I understand she has had a meeting with the Minister.

The Hon. DANIEL MOOKHEY: And when was that?

Ms WEBB: I would have to take that on notice and ask the Minister's office.

Mr KING: We will take that on notice.

**Answer:**

The Minister discloses all meetings as required by the DPC guidelines and copies of his disclosures are available online .

**Question:**

The Hon. DANIEL MOOKHEY: Are you monitoring whether or not this practice is still prevalent in the retirement village industry—those people being charged beyond the 42 days?

Ms WEBB: I think a lot of the submissions we received did talk about the specific instance in the specific retirement village that either the operator or the resident was talking about.

The Hon. DANIEL MOOKHEY: So, yes?

Ms WEBB: We would have some information about that. We do not monitor it as such though.

The Hon. DANIEL MOOKHEY: Is Aveo still embarking on or applying this charge to the best of your knowledge?

Ms WEBB: I would have to take that one on notice.

**Answer:**

A resident's obligation to continue paying recurrent charges after they permanently vacate their unit is:

- for non-registered interest holders: a maximum of 42 days.
- for registered interest holders: 100% of charge for 42 days. After this (from 43 days onwards), the resident is to continue paying recurrent charges in the same proportion as they share capital gain with the operator (usually 50%, where a capital gain sharing arrangement is in place).

The discussion paper, *Exit Entitlements and recurrent charges cap for former residents of retirement villages who are registered*, which was released in July 2019, proposed a 42-day cap on the length of time 'registered interest holders' must continue paying recurrent charges. Consultation on this proposal closed in August 2019.

**Question:**

The Hon. DANIEL MOOKHEY: The terms of reference say, "The New South Wales Retirement

Villages Ambassador Program terms of reference facilitate the lodgement of complaints and disputes affecting

residents with New South Wales Fair Trading."

Ms WEBB: That is absolutely one thing she does.

The Hon. DANIEL MOOKHEY: Right. So how many of them have happened?

Ms WEBB: I would have to take on notice how many retirement village complaints we have had, and

I assume you want specifically ones that have been started by the ambassador recommending it?

The Hon. DANIEL MOOKHEY: Okay.

Mr KING: Can we just get clarity: You want it in regards to the ambassador?

Ms WEBB: Do you want how many complaints we have had about retirement villages or how many

have come through the ambassador?

The Hon. DANIEL MOOKHEY: Why don't we have both? Who am I to say no?

Ms WEBB: Okay.

**Answer:**

For the past three calendar years, NSW Fair Trading has received the following number of complaints about Retirement Villages:

Year	Number	Number initiated by the Ambassador
2017	61	N/A
2018	118	NIL - Ambassador appointed December 2018
2019 (to 17 September)	123	18

**Question:**

The Hon. PETER PRIMROSE: Can I ask you how many retirement villages in New South Wales have gone into receivership in the last 12 months?

Ms WEBB: I will have to take that on notice. I cannot recall any coming to our attention. I will definitely take that on notice.

The Hon. PETER PRIMROSE: I have been advised that there is at least one and probably more. There is one in Maitland. What I am looking at is, given these villages quite often have established across State jurisdictions, legislation in one jurisdiction will obviously impact on the operation in relation to say New South Wales. So if you could please take that on notice. Secondly, what are the reasons? If a number have gone into receivership, have you identified any issues associated with legislation in other State jurisdictions that may be causing that in terms of the overall operation of that enterprise?

Mr KING: We will take that on notice.

**Answer:**

Fair Trading is aware that one retirement village at Toukley entered into administration in March 2019. The village was subsequently sold as an ongoing concern with no changes to residents' recurrent charges.

Fair Trading also understands that media have reported that a retirement village at Gilleston Heights (Maitland) entered into receivership in August 2019. Fair Trading has not received any complaints about the village entering receivership.

**Question:**

The Hon. DANIEL MOOKHEY: Does Fair Trading inspect retirement villages?

Ms WEBB: Yes, we do. We send inspectors out to make sure they are complying with the Retirement Villages Act.

The Hon. DANIEL MOOKHEY: And presumably you use a risk-based approach in terms of where you send them?

Ms WEBB: Yes. That would be right, yes.

The Hon. DANIEL MOOKHEY: How many have you inspected in the past 12 months?

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

The Hon. DANIEL MOOKHEY: Any data, any information, is fine—specifics of course if you do take it on notice.

Ms WEBB: I mean, we do run regular inspection programs. No, unfortunately I do not have any detail about it but I can definitely take that on notice.

**Answer:**

Retirement Villages are included in NSW Fair Trading's calendar of programmed inspections. Fair Trading inspected eight Retirement Villages during a targeted compliance program in April 2019.

**Question:**

The Hon. DANIEL MOOKHEY: Has the retirement industry been classified as something that would attract more interest than usual from Fair Trading right now?

Ms WEBB: There have been quite a lot of reforms this year so that is an area where we are making sure people comply with the new requirements.

The Hon. DANIEL MOOKHEY: How are we doing?

Ms WEBB: As I understand it, it is okay but again we will take that on notice. We have also started a retirement village mediation service in recent months so that would flag for us if we are seeing things come through our mediation service as well as our complaints would help us.

**Answer:**

NSW Fair Trading has received 123 complaints about Retirement Villages in 2019 (to 17 September).

**Question:**

The Hon. DANIEL MOOKHEY: Do you have data on how many have come through the mediation service?

Ms WEBB: I would be able to take that on notice as well.

**Answer:**

From October 2018 to 20 September 2019, Fair Trading conducted nine formal retirement village mediations.

**Question:**

The Hon. DANIEL MOOKHEY: Do you keep the same sort of categorisation and analysis in respect of retirement villages as you do with respect to the building industry—by retirement village and by retirement village operator?

Ms WEBB: Yes. Certainly our databases and our intelligence function would operate by the name of the retirement village and the operator of the village, and complaints.

The Hon. DANIEL MOOKHEY: How are we going in terms of Aveo? Are they getting any better or not?

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

The Hon. DANIEL MOOKHEY: Have you inspected them specifically?

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

**Answer:**

No breach of retirement village legislation was identified in relation to complaints raised against AVEO in the last three years.

In 2017, Fair Trading conducted an operation to review the contracts and operations of retirement villages to ensure compliance with retirement village laws.

**Question:**

The Hon. DANIEL MOOKHEY: What inspections has SafeWork undertaken in retirement villages?

Mr GAVRIELATOS: Not so much retirement villages but just generally in terms of—

The Hon. DANIEL MOOKHEY: Aged care?

Mr GAVRIELATOS: —aged care facilities. We do conduct inspections and we do respond to a request for service.

The Hon. DANIEL MOOKHEY: How many are you getting?

Mr GAVRIELATOS: I have not got that number. I would have to take that on notice.

**Answer:**

Between 1 July 2018 and 30 June 2019, SafeWork NSW received 56 requests for service relating to aged care providers.

**Question:**

Mr DAVID SHOEBRIDGE: But I am told that in fact you have moved from an online system to a paper-based one. You have raced back to the twentieth century when it comes to WH hazards and WH incidents.

Mr KING: I will pick that up.

Mr DAVID SHOEBRIDGE: Can you take that on notice?

Mr KING: I will.

**Answer:**

SafeWork NSW does not use a paper-based system for receiving requests for service.

Members of the public are encouraged to call 13 10 50. Incidents can be notified 24 hours a day, 7 days a week by calling 13 10 50.

**Question:**

Mr DAVID SHOEBRIDGE: Mr Gavrielatos, how much has been spent by SafeWork in legal fees for cases against other New South Wales government agencies since the government Work Health and Safety Sector Plan was endorsed by secretaries of all government agencies last year?

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

**Answer:**

Approximately \$12,200 has been paid in external disbursements in relation to cases against other government agencies since the Government Sector WHS Plan was endorsed.

**Question:**

Mr DAVID SHOEBRIDGE: Do you know if there have been cases brought by other government agencies to seek to set aside improvement notices or prohibition notices issued by SafeWork inspectors?

Mr GAVRIELATOS: Again I will take that on notice.

Mr DAVID SHOEBRIDGE: Could you also provide a breakdown of the costs by case with the name of the other government agencies in relation to any of those SafeWork notices or legal costs?

Mr GAVRIELATOS: Yes.

Mr DAVID SHOEBRIDGE: Is it true that NSW Health in particular has been challenging notices given by SafeWork? Are you aware of any of them?

Mr GAVRIELATOS: Some notices have been challenged, yes.

Mr DAVID SHOEBRIDGE: How many?

Mr GAVRIELATOS: I will take that on notice.

**Answer:**

SafeWork NSW has paid to date approximately \$29,500 in external disbursements in relation to one set of proceedings brought about by government agencies seeking to set aside an improvement or prohibition notice since the Government Sector WHS Plan was endorsed. The government entity which commenced the external review proceedings is Sydney Local Health District.

Two NSW Health entities have made 13 applications for internal review in the previous 12 months.

**Question:**

Mr DAVID SHOEBRIDGE: Was there an internal review and, if so, did you comply with the law in light of the Kovic decision?

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

**Answer:**

The Kovic matter related to a request to review a provisional improvement notice issued by a Health and Safety Representative (HSR) of the person conducting a business or undertaking, not a notice issued by a SafeWork inspector. The 13 applications for review all related to notices issued by SafeWork Inspectors, not HSRs.

**Question:**

Mr DAVID SHOEBRIDGE: Have there recently been improvement and prohibition notices issued by SafeWork in regard to Concord hospital to NSW Health?

Mr GAVRIELATOS: There have been notices issued in local health districts. I would have to take on notice which ones.

Mr DAVID SHOEBRIDGE: I am asking you specifically about Concord hospital?

Mr GAVRIELATOS: I will take that on notice and respond to that one.

**Answer:**

Between 1 July 2018 and 30 August 2019, there were 8 improvement notices and 1 prohibition notice issued by SafeWork NSW in regards to Concord Hospital (Sydney Local Health District).

**Question:**

Mr DAVID SHOEBRIDGE: Can you provide the Committee with a copy of all of the improvement notices and prohibition notices issued to all or any part of NSW Health, including the local districts?

Mr GAVRIELATOS: I will take that on notice and if we are able to I will, if no—

Mr KING: We just need to check, Mr Shoebridge, whether we can.

Mr DAVID SHOEBRIDGE: I understand that. In relation to those issued to NSW Health, can you provide any details about legal challenges that have been made and what, if any, were the results of those challenges?

Mr GAVRIELATOS: Legal challenges by those departments?

Mr DAVID SHOEBRIDGE: By those agencies?

Mr GAVRIELATOS: I will take that on notice.

**Answer:**

There have been 97 notices relating to NSW Health. There has been one legal challenge to the Industrial Relations Commission by Sydney Local Health District involving a prohibition notice. The matter has been heard and the judgement is reserved.

**Question:**

Mr GAVRIELATOS: But we also have matters which are under investigation. So where it is appropriate for us to actually intervene and consider prosecution we do.

Mr DAVID SHOEBRIDGE: But you will give us those details on notice, is that right?

Mr GAVRIELATOS: For those that I can, yes, I will.

**Answer:**

It would not be appropriate to provide copies of the Notices due to the risk that this might prejudice the effectiveness or integrity of investigations and potential compliance decisions that may be conducted by SafeWork NSW.

**Question:**

Mr DAVID SHOEBRIDGE: Where does the arson advice come from?

Mr KING: I do not have that on hand. Mr Tansey might be able to answer.

Mr TANSEY: We have received advice from Fire and Rescue NSW that they have a concern that if buildings are identified they could be targeted.

Mr DAVID SHOEBRIDGE: Will you table that advice?

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

**Answer:**

The advice regarding the arson risk that may arise from identifying buildings with combustible cladding was provided at a meeting of the Cladding Taskforce by Fire & Rescue NSW members of the Taskforce. This advice by Fire and Rescue NSW was supported by NSW Police Force who advises it would not be in the public interest for specific information of this nature to be made public.

**Question:**

The Hon. DANIEL MOOKHEY: On notice, can you come back with the data as to how many of the mediation requests related to short-term holiday letting?

Ms WEBB: Sure.

The Hon. DANIEL MOOKHEY: And also by provider or platform?

Ms WEBB: Yes.

The Hon. DANIEL MOOKHEY: It is the case, though, that you have not undertaken any specific dialogue or inspections or audits or any other available powers?

Ms WEBB: I am not aware of any, but I will take that on notice.

**Answer:**

NSW Fair Trading does not capture data on the number of strata mediations that relate to short-term letting.

**Question:**

The Hon. DANIEL MOOKHEY: Could I augment that by saying that on notice last year the Minister said, when he told the committee that he had asked the secretary to undertake the review as to why New South Wales Government clusters were not meeting the targets, he says, "I received the breakdown of cluster usage of E10 in comparison to the use of other petroleum in August 2018. I immediately asked the secretary to conduct a review of the decline in E10 usage." Where are we up to with that?

Mr KING: Ms Webb can help.

Ms WEBB: I will get them and use some of the numbers. I can say overall from the Department of Customer Service fleet usage of E10 has increased. I think Mr Gould is responsible for that expenditure and knows more detail, so we can give you some detail on notice.

Mr KING: I will take it on notice.

**Answer:**

The Department of Customer Service receives monthly updates on the percentage of E10 usage by other clusters. Usage of E10 fuel has increased or remained stable for the vast majority of clusters. DCS usage of E10 fuel has consistently increased and we are complying with the Premier's Memorandum and Travel Policy.

**Question:**

The Hon. DANIEL MOOKHEY: Ms Webb, you were saying that you have the ability to impose penalties for non-reporting?

Ms WEBB: Yes, that is correct.

The Hon. DANIEL MOOKHEY: How many have you imposed in the last 12 months?

Ms WEBB: I will have to take the specifics on notice.

The Hon. DANIEL MOOKHEY: What is the penalty that is usually applied?

Ms WEBB: It is usually a penalty infringement notice.

The Hon. DANIEL MOOKHEY: Is there a fine attached to that?

Ms WEBB: Yes, that is a penalty.

The Hon. DANIEL MOOKHEY: What is the fine?

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

The Hon. DANIEL MOOKHEY: The quantum, do we know?

Ms WEBB: I think it is around 2,200, but I would have to take it on notice.

**Answer:**

The maximum penalty for non-reporting is \$5,500. In 2018-2019, Fair Trading issued 14 warning letters for non-compliance. No penalty infringement notices were issued during 2018-2019.