



LEGISLATIVE COUNCIL

PORTFOLIO COMMITTEES

BUDGET ESTIMATES 2021-2022 Supplementary Questions

Portfolio Committee No. 4 – Customer Service and Natural Resources

SMALL BUSINESS AND FAIR TRADING

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Answers due by: 7 April 2022

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SMALL BUSINESS AND FAIR TRADING

Questions from the Hon Mark Buttigieg MLC (on behalf of the Opposition)	
Question	
Mascot Towers	
1)	<p>Why is the NSW Government not participating or a party to the litigation initiated by the Mascot Towers owners?</p> <p>a) When was this decision made?</p> <p>b) Was a briefing provided to the Minister?</p>
<p>ANSWER:</p> <p>The NSW Government is not a party to the litigation between the owners corporation of Mascot Towers and other parties as it is litigation by one private party against other private party[ies].</p>	
Project Remediate	
2)	Can you please provide a list of the suburbs that the next 16 buildings in Project Remediate are in?
3)	Can you provide a breakdown of the stage, including assessment, triage and remediation that each building registered in Project Remediate is at, as at 15 March 2022?
<p>ANSWER:</p> <p>2) Based on the current program (as at March 2022) the next 16 buildings are located within the following suburbs:</p> <ul style="list-style-type: none"> • Bankstown • Canterbury • Campsie • Chatswood • Crows Nest • Killara • Lakemba • Neutral Bay • North Ryde • Waitara • Wentworth Point <p>3) The following provides a summary of the number of buildings at relative stages of the program (as at March 2022):</p> <ul style="list-style-type: none"> • Eligibility confirmation stage - 42 • Desktop and scheduling – 147 • Triage - 52 • Design - 5 • Construction - 0 • Post-Construction - 0 	

Building Defects

- 4) How many prohibition orders have been issued since October 2021?
- 5) How many prohibition orders have been challenged in the Land and Environment Court?
- 6) What is the percentage of building defects that have been resolved by Fair Trading Rectification orders?
- 7) How many inquiries did Fair Trading receive about building defects:
 - a) In the financial year 2021-22?
 - b) In the financial year 2020-21?
 - c) In the financial year 2019-20?
- 8) How many complaints did Fair Trading receive about building defects:
 - a) In the financial year 2021-22?
 - b) In the financial year 2020-21?
 - c) In the financial year 2019-20?
- 9) How many warning letters did Fair Trading issue as a result of complaints about building defects:
 - a) In the financial year 2021-22?
 - b) In the financial year 2020-21?
 - c) In the financial year 2019-20?
- 10) How many trades licences did Fair Trading revoke as a result of complaints about building defects:
 - a) In the financial year 2021-22?
 - b) In the financial year 2020-21?
 - c) In the financial year 2019-20?
- 11) What is the average time an occupation certificate audit takes?
- 12) How many Fair Trading inspectors in NSW are enforcing licences for trades?
 - a) How many of these inspectors are licenced tradespeople in the areas they are enforcing?

ANSWER:

- 4) 18.
- 5) One.
- 6) There were 58 defects and approximately 22% of the defects have been resolved.
- 7)
 - a) 2021-2022 (to 17 March 2022): 6,900
 - b) 2020-2021: 10,333
 - c) 2019-2020: 9,052.
- 8)
 - a) 2021-2022 (to 17 March 2022): 2,240
 - b) 2020-2021: 4,639
 - c) 2019-2020: 5,407.
- 9) Under section 36A of the *Home Building Act 1989*:

	2021-22 as at 22 March 2022	2020-21	2020-19
Trader Education letters issued *	53	74	154

**Fair Trading records warning/trader education letters issued against the provision of the alleged breach of legislation as opposed to whether there may have been a "defect". These figures relate to breaches of S36 of the Home Building Act 1989 where a rectification order has been issued and not complied with.*

- 10) Below is the total number of suspensions / disqualifications / cancellations for the three financial years, issued by Fair Trading, under the *Home Building Act 1989* as a **result of complaints** about building defects:

Complaints about building defects	2021-22 as at 22 March 2022	2020-21	2019-20
Disqualifications temporary	3	1	0
Disqualifications permanent	0	1	0
Cancellations	3	2	0

Fair Trading has also taken disciplinary action under the *Home Building Act 1989* which has resulted in the combined total number of suspensions / disqualifications / cancellations for the period in the table below (including those resulting from complaints about building defects):

<i>Home Building Act 1989</i>	2021-22 as at 22 March 2022	2020-21	2019-20
Disqualifications temporary	5	17	7
Disqualifications permanent	4	1	0
Cancellations	8	18	7

- 11) An actual Occupational Certificate (OC) audit inspection on-site can take up to two days.
- 12) As at 22 March 2022, NSW Fair Trading has 88 inspectors and 25 investigators.
- a) Inspectors are employed in specialised functional areas and generally require relevant qualifications or equivalent experience as a consideration at recruitment.

Consumer Protection

- 13) How many inquiries did Fair Trading receive in relation to travel cancellations:
- a) In the financial year 2021-22?
- b) In the financial year 2020-21?
- c) In the financial year 2019-20?
- 14) How many complaints did Fair Trading receive in relation to travel cancellations:
- a) In the financial year 2021-22?
- b) In the financial year 2020-21?

<p>c) In the financial year 2019-20?</p> <p>15) Has the NSW Government considered implementing recommendations from the CHOICE travel report, 'Consumer Protection for Australian Travellers: A Plan for Clarity, Consistency and Fairness'?</p> <p>16) In the wake of the COVID pandemic, is the Government considering introducing additional legal protections for travellers?</p> <p>17) How will the dismantling of COAD affect the National Ministerial Council for Consumer Protection legislation?</p> <p>18) Has the Minister attended any meetings of the National Consumer Ministers?</p> <p>a) When is the next meeting scheduled?</p> <p>b) Are they regularly scheduled?</p>	<p>ANSWER:</p> <p>13)</p> <p>a) 2021-2022 (to 17 March 2022): 1,569</p> <p>b) 2020-2021: 3,828</p> <p>c) 2019-2020: 3,684</p> <p>14)</p> <p>a) 2021-2022 (to 17 March 2022): 679</p> <p>b) 2020-2021: 2,683</p> <p>c) 2019-2020: 2,140</p> <p>15) Yes.</p> <p>Information on the travel related restrictions can be accessed on the NSW Government website - https://www.nsw.gov.au/covid-19/travel-restrictions.</p> <p>16) The NSW Government is considering whether it is necessary to provide any further legal protections in addition to those under the Australian Consumer Law and the <i>Fair Trading Act 1987</i>.</p> <p>17) NSW Fair Trading continues to be an active participant in national reforms and inter-jurisdictional working groups, and works with the Commonwealth, States and Territories to carry out Australian Consumer Law projects and other activities that support and protect consumers and small businesses.</p> <p>18) No, as there has not been a meeting of the National Consumer Ministers this year or since the Minister was appointed. Commonwealth Treasury is responsible for the scheduling of Consumer Minister's Meetings.</p>
<p>Strata Schemes</p>	
<p>19) What timeframe does the Government have to introduce legislation to implement the recommendations from the Strata Schemes Review?</p> <p>20) What public consultation will occur prior to the introduction of the legislation to implement the recommendations from the Strata Schemes Review?</p>	<p>ANSWER:</p> <p>19) The Government intends to introduce legislation to implement the strata statutory review recommendations in phases in 2022 and 2023.</p> <p>20) Public consultation is planned on the legislation to implement the second phase recommendations in 2022.</p>

Ministerial Office	
21)	How many Ministerial staff are you entitled to have in your Ministerial Office?
22)	Can you provide a breakdown of the positions of the staff currently employed in your office?
ANSWER:	
21)	Staff employment is subject to an employment budget.
22)	There are a number of positions in each Minister's office to ensure it carries out its day to day functions and supports the Minister.
Rental Assistance	
23)	What expenditure is the Department of Fair Trading implementing to improve the visibility of the renting sector, including the rate of evictions in each year, the status of landlords, and keeping properties maintained to minimum standards of habitability and repair?
24)	What support is the Government providing to tenants unable to live in their rental properties due to the current flooding?
25)	With rents increasing at historically high rates across regional NSW and parts of Sydney, how is the Department of Fair Trading addressing the rapid increase in living costs?
26)	Tenants are reporting significantly increased personal information being required to access a new home. How is the Department of Fair Trading addressing difficulties with the application process?
ANSWER:	
23)	There is no dedicated expenditure that can be specifically attributed to these identified items.
24)	<p>NSW Fair Trading publishes information on its website about the rights and responsibilities of tenants and landlords where a property is impacted by a natural disaster, such as floods or storms (www.fairtrading.nsw.gov.au/housing-and-property/renting/during-a-tenancy/repairs,-maintenance-and-damage#naturaldisasters).</p> <p>Fair Trading provides a free complaint service for tenants, residents, landlords and agents with real estate and property related matters or disputes. Fair Trading aims to assist the parties to reach an agreement to resolve the matter. Where an agreement cannot be reached, Fair Trading will provide options for resolving the matter, such as seeking independent advice or lodging a claim with the NSW Civil and Administrative Tribunal.</p> <p>Fair Trading provides funding to Tenants' Advice and Advocacy Services via the Tenants' Advice and Advocacy Program (TAAP). TAAP funding is sourced from the Rental Bond Board Interest Account. Services funded under the TAAP deliver advocacy, information, and education services for tenants in NSW. TAAP funding for the 2021/22 financial year is \$13.34 million (plus GST). In addition, a one-off funding allocation of \$2.5 million (plus GST) was approved for the TAAP to assist tenants affected by the COVID-19 pandemic.</p> <p>Resilience NSW and Service NSW are delivering the Rental Support Program, the \$285 million Temporary Housing Support Package, and the \$112 million Back Home grants. Questions relating to these programs should be directed to the Premier or the Minister for Customer Service and Digital Government.</p>
25)	Rents under the <i>Residential Tenancies Act 2010</i> are set by the market. Recent reforms to the Act limit the ability of landlords to raise the rent for periodic leases to once every 12 months. For fixed term agreements under 2 years, rent cannot be increased during the fixed term unless specified in the agreement. For agreements longer than 2 years, the rent must not be increased more than once in any 12 month period. The Act also enables tenants to challenge excessive rent increases. Tenants may apply to the Tribunal to make an order that a rent increase is excessive under an existing or proposed residential tenancy agreement, or that the rent payable is excessive in light of any withdrawal of goods, services or facilities by the landlord.

26)	NSW Fair Trading actively monitors the operation of the residential tenancy market and is considering whether any changes are needed to regulation of the tenancy application process in the context of future law reform.
Short-Term Rental Accommodation	
27)	<p>What public education initiatives has Fair Trading undertaken to promote knowledge and compliance with the Short-Term Rental Accommodation (STRA) Code of Conduct?</p> <p>a) How much has this activity cost?</p> <p>b) How many people have they reached?</p> <p>c) Has there been any specific materials or sessions for 'hosts'?</p>
28)	<p>How many inquiries and complaints under the STRA Code of Conduct have been received?</p> <p>a) How many were accepted?</p> <p>b) How many were declined?</p> <p>c) How many were referred to another agency?</p>
29)	What is the apparatus for coordination with the Department of Planning and local councils?
30)	How is Fair Trading addressing the issue of properties being advertised that are not registered on the Short-Term Rental Accommodation register?
ANSWER:	
27)	<p>NSW Fair Trading used social media posts and webinars to provide education on the Short-Term Rental Accommodation (STRA) Code of Conduct, partly in conjunction with the then Department of Planning and Environment (DPIE), which has responsibility for the Premises Register. DPIE also issued media releases in December 2020 and April 2021 about the new STRA policy, including the Code of Conduct.</p> <p>Fair Trading also promoted the Code of Conduct through e-newsletters to property sector stakeholders including tenants, landlords, real estate agents and others in the strata sector. Four newsletter articles were distributed in October 2020 and December 2020 about commencement of the Code of Conduct. Two followed in April and May 2021.</p> <p>Fair Trading ran a social media campaign to raise public awareness about requirements for hosts, guests and other industry participants under the Short-Term Rental Accommodation (STRA) Code of Conduct, between March and May 2021.</p> <p>Fair Trading communicated directly with booking platforms and other key stakeholders to inform the sector of requirements under the Code of Conduct, providing a communication pack with newsletter and social media content to help them share information about the Code of Conduct.</p> <p>In September 2021, Fair Trading and DPIE, held a joint webinar with councils about the new STRA regulatory framework and their role. Later in 2021, Fair Trading distributed an email to licensed real estate agents and two further newsletter articles about the release of the STRA Premises Register, which also mentioned the Code of Conduct.</p> <p>a) \$6,308.</p> <p>b) The social media campaign reached 304,027 people.</p> <p>Fair Trading's subscriber base for its e-newsletters is over 99,000.</p> <p>The direct email was sent to approximately 51,000 licensed real estate agents.</p> <p>The webinar with councils was attended by 50 councils.</p> <p>c) DPIE has a range of fact sheets available for hosts to assist with registering their premises.</p> <p>In addition to the information provided above, detailed information is also available on the Fair Trading website and digital communication to reach property hosts, letting agents and</p>

other industry participants through Fair Trading's electronic newsletters. The Fair Trading website information includes host obligations under the new STRA framework.

28) NSW Fair Trading recorded 43 complaints and 190 enquiries as at 31 December 2021.

A complaint is a matter where contact has been or will be made with the other party (an intervention), whereas an enquiry is a matter where a response has been provided to the customer without an intervention. Most matters initially appear as enquiries until actioned by Fair Trading, if intervention is deemed appropriate, it will be recorded as a complaint.

a) As above.

b) As above.

c) As at 31 December 2021, three complaints were referred to another responsible authority.

29) NSW Fair Trading jointly administers the Code of Conduct for the short-term rental accommodation industry (Code) with the NSW Department of Planning, Industry and Environment (DPIE) and are collaborating on the development of the Property Register administered by DPIE and the Exclusion Register administered by Fair Trading.

30) Before advertising or offering a premises for the purposes of entering a short-term rental accommodation (STRA) arrangement (as defined by section 54A of the *Fair Trading Act 1987*), the host and the premises must be registered on the premises register. If a breach of this requirement is identified, the Commissioner for Fair Trading or their delegate may impose one of the following penalties on STRA industry participants:

- warnings or directions to take or cease certain action
- monetary penalty
- a 'strike' against a host or host's premises for serious breaches of the Code of Conduct for the short-term rental accommodation industry; or
- recording a host or host's premises on the Exclusion Register.

The Code sets out a fair process that must be followed before a penalty is imposed and provides for appeals against decisions to impose a penalty for breaches of the code.

Disability Employment

31) How many employees who identify with having a disability are employed by:

a) NSW Fair Trading

32) How many senior managers who identify with having a disability are employed by:

a) NSW Fair Trading

ANSWER:

31) and 32)

The Department of Customer Service is required to report staffing and remuneration details through Annual Reports. I refer the Member to the publicly available Annual Reports.