

## CORONERS FINDINGS AND DECISION

PLACE INQUEST HELD: Brisbane  
DATE: 09 February 2005

This is the inquest into the death and circumstances of death of **Shone Landue, Gary Reid and Stanley Doolan**. The inquest is held pursuant to section 26 of the Coroners Act 1958 and will inquire concurrently into the deaths of the three named deceased who all died in a fire at a boarding house at Sandgate on 18 August 2002.

I must deliver my findings pursuant to the provisions of the *Coroners Act 1958*. I do so, reserving the right to revise these reasons should the need or the necessity arise.

The purpose of this inquest, as of any inquest, is to establish, as far as practicable –

- The fact that a person has died;
- The identity of the deceased person; and
- Whether any person should be charged with any of those offences referred to in section 24 of the Act.
- Where, when and in what circumstances the deceased came by their death

It should be kept firmly in mind that an inquest is a fact finding exercise and not a method of apportioning guilt. The procedure and rules of evidence suitable for a criminal trial are not suitable for an inquest.

In an inquest there are no parties; there is no charge; there is no prosecution; there is no defence; there is no trial. An inquest is simply an attempt to establish facts. It is an inquisitorial process, a process of investigation: These observations were confirmed by Justice Toohey in *Anetts v McCann* ALJR at 175.

A Coroner's Inquest is an investigation by inquisition in which no one has a right to be heard. It is not inclusive of adversary litigation. Nevertheless, the rules of natural justice and procedural fairness are applicable. Application of these rules will depend on the particular circumstances of the case in question.

In making my findings I am not permitted, under the Act, to express any opinion, on any matter which is outside the scope of this Inquest, except in the form of a rider or recommendation.

The findings I make here are not to be framed in any way which may determine or influence any question or issue of liability in any other place or which might suggest that any person should be found guilty or otherwise in any other proceedings.

All proceedings before this Court are sad proceedings. At this stage I express my sympathy and condolences, and that of the Court, to the families and friends of each of the deceased in their sad loss. The deaths are a tragic loss of life and very hard for families to come to terms with losing a loved one in such circumstances.

## **Appearances:**

**Mr W Isdale** appeared to assist the coroner.

**Mr Neville Byrne**, the father and next of kin of the deceased Gary Reid appeared for his son.

**Mr M J Byrne QC**, instructed by Narayan Lawyers, appeared on behalf of Mr Dutta who was operating the boarding house at Second avenue, Sandgate.

**Mr A West**, instructed by Brisbane City Council Legal Practice appeared for the Brisbane City Council.

**Mr T Martin SC**, instructed by Queensland Fire and Rescue Service appeared for the Queensland Fire and Rescue Service.

## **Summary of Evidence**

**Detective Sergeant Eugene Waugh** was formerly stationed at the Sandgate CIB and was the principal police investigator into the deaths of the three deceased people.<sup>1</sup> He gave evidence that at about 1.30am on the morning of 19 August 2002 he received a telephone call at his home to attend the scene of a fire at the Sea Breeze Lodge at 30 Second Avenue Sandgate. He attended at about 1.30am at the scene. Second Avenue runs between Flinders Parade and Brighton Road and is situated between the foreshore and the business district at Sandgate.

Detective Waugh had attended the Sea Breeze Lodge on numerous occasions prior to the fire and was able to describe the premises prior to the fire. He said it was a large timber and tin premises occupying a very large block of land, best described as a big Queenslander made into a boarding house or guest house. It was raised from the ground approximately five feet. There was a central hallway and a number of rooms going off either side of the hallway. There were also a number of rooms in the centre of the house that did not have any external windows. There was a kitchen at the rear of the main building. Beneath the house was open and Sergeant Waugh's evidence was that there were a lot of items in this space. There were slats and palings at the front and sides but you could gain access to the space beneath the building. Detective Waugh had been under the house on a number of occasions. He recalled specifically an occasion twelve months before the fire when he had been underneath the house. He was in company with the person known to him as Mr Dutta, whom he identified as the owner of the building.

When Detective Waugh was underneath the house he observed a lot of items under the house including numerous mattresses, bed frames, a lot of timber and doors. There were tins of paint and gardening equipment.

Detective Waugh recalled a cement path that led from the front of the property on Second Avenue directly underneath the house. It was low head height to get underneath the house, but once underneath there was ample room to stand. Some of the ground was concreted and some was bare earth. There were mainly timber stumps supporting the house. It was Detective Waugh's evidence that the property next door, being number 26, was well known to the police and was managed by the same people.

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<sup>1</sup> Exhibit 170

When Detective Waugh reported for duty to the Sandgate Police Station (which is some five hundred metres away from the boarding house) there were a large number of people at the station being assisted as a result of the fire. He commenced with a briefing from Detective Sergeant Cameron Preston and then started speaking with the witnesses who had alerted the fire services. They were William and Lynette Morris and Jacob Caltabiano and his wife.

The whole building at number 30 Second Avenue was destroyed with only the stumps and the chimney remaining. The initial concern had been to locate missing persons, people who had occupied the building but were unaccounted for. A crime scene was established excluding access to the site except for fire service personnel.

Detective Waugh interviewed two couples who were in a car travelling on Second Avenue, the Caltabianos and the Morrisses. The Morris family lived at Brighton and the other family were visiting from interstate. Detective Waugh's recollection of their statements was that at about 11.30pm the group saw a small fire underneath the house at number 30 Second Avenue.

**Mrs Annette Caltabiano's** statement <sup>2</sup> contains this description;

"I saw a small fire on the left hand side of the house. The house looked like a big wooden duplex on stilts. From the street the fire looked like it was in the house on the left hand side. The fire only appeared to be quite small at this stage...I did not see anyone around the house or any activity inside. The fire had only just started, as it was still very small.....We all jumped out of the car."

Mrs Caltabiano then recounts that Bill Morris ran back to make a phone call but returned saying his phone was not working. Mrs Caltabiano then ran back to the car and used her phone. She saw her husband pushing a plastic chair away trying to get to the hose and trying to connect the hose to the tap. Water spurted from the connection at the tap and then stopped coming out of the end of the hose. The fire was getting big.

She saw Jacob, (her husband) move around the right hand side of the house as she was standing at the front on the footpath. She turned and saw a male person sitting across the road with his knees up; he was leaning against something on the grass at the front of the house. He was in between the house and the footpath. She described him as ; dark complexion, a black beard that was thin around his cheeks, wearing a red sloppy joe, boots on his feet and aged between early twenties and early thirties. She was about three metres away. She could see the person clearly with light from the fire. He was sitting there alone, motionless.

Later, she spoke with her husband and he also said he had seen the person , "the guy with the goatee." When she attended the police station she pointed out to a police officer the person she recognised as sitting across the road observing the fire.

**Mrs Robyn Morris** gave a statement and addendum. <sup>3</sup> She was in the front passenger seat of her husband's car as they proceeded along Second Avenue at about 11.45pm

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<sup>2</sup> Exhibit 83

<sup>3</sup> Exhibits 80 and 81

on 18 August 2002. She noticed a fire **under** the house on her left hand side. She told the others and they pulled over. .... The fire was “in the underneath section at the front of the property and to the left as you look at it from the street.”

When she first saw the fire it looked to her “ like a pile of rubbish on fire and by the time I got out of the car it had caught fire onto the timber of a downstairs section of the house. The fire was quite small, about two and half foot off the ground and about six foot wide. ”

She saw Jacob Caltabiano go to get a hose from the right hand side of where the fire was. He could not get any water out of the hose. Then “all of a sudden there was an explosion and this was only a matter of seconds since we got there. The fire then really took off under the house and travelled throughout the whole area really quickly.”

Mrs Morris ran along the right hand side of the house calling out to people inside that there was a fire. People from inside the house responded and she told them there was a fire. She went around the other side of house. She could still hear people calling out asking what was wrong.

By this time she described the fire as going like an inferno and taking over the right hand side of the house as well. The fire brigade arrived and she moved her car away from the heat.

Mrs Morris says she saw a light on in the middle of the house when she first approached the house with Mr Caltabiano. She thinks it was the only light on in the house and that, through a window, it looked like it was down what she thought was a hallway. After looking at a plan later with the police she was able to say the people she spoke to as she raised the alarm were people from rooms 10, 11, 20 and 19. She described the fire when she first saw it as about the height and size of a desk, (using a police desk as a reference point.)- “about five feet by two and a half wide. About two and half feet high.”

The plan shown to Mrs Morris, <sup>4</sup> shows the position of the fire beneath room number 1 or 2. The window she saw the light through was at the front of the front door looking down the central passage of the house. She says she saw the light towards the back of the house.

**Mr Caltabiano** also described the fire when he first saw it as “a small fire underneath the front left hand corner of a house. The fire was about the size of a garbage bin.”<sup>5</sup>

He described how he tried to connect a hose but was unsuccessful. The fire came at him and he had to jump back. He could not see what was on fire. **When Mr Caltabiano was taken back to the site the next day in company with Detective Williams he can be heard on the video tape saying that it was about the time**

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<sup>4</sup> part of Exhibit 81

<sup>5</sup> Exhibits 89 and 90

**when the fire jumped out at him and he had to step back that he heard a smoke alarm going off from inside the building.**

He saw a figure running away from the other side of the house. He called out to the person and he stopped outside the neighbouring house. There was nobody else around. He went up to the man who he described as looking stunned. He didn't say anything. Mr Caltabiano said he was about one hundred and seventy five centimetres tall, dark skinned with a trimmed beard and short black hair. He was wearing a red jumper, brown suede steel cap boots and grey track suit pants. Mr Caltabiano asked if he was ok and he said yes.

Mr Caltabiano then turned his attention back to the fire and to warning people to get out. People were coming out a side door. This door was facing the neighbouring house where he had seen the man stop after running from the side of the house along the driveway. People were also exiting from the back of the house. The fire got really big and started to spread next door as well.

Mr Caltabiano says he saw the man who he had seen running later in the group of people from the boarding house. He appeared to be known within the group of people who had come from the house. He later saw the same man talking with police at the police station.

**Mr Morris** gave statements.<sup>6</sup> He knew the premises to be a boarding house as he was familiar with them as he rode past each day on his way to work. When he first saw the fire it was one and half metres wide with flames climbing to the same height. It was to the left hand side of the building. Mr Morris pulled up and dialled triple 0 within seconds. After the call he got out of the car and brought a torch. His wife was running along the front and right hand side of the building warning people to get out. He dialled triple 0 again to get an ambulance to Second Avenue. The sound of the fire was deafening. He spoke with people to check on their welfare.

Mr Morris describes the fire as in the right hand corner of the alcove.

Interestingly, Mr Morris described the fire as;

“it reminded me of a gas b-b-cue gone wrong. By this I mean that there appeared to be jets of fire coming up from unidentified material on the ground. These jets of fire appeared to me as though they were reaching up some thirty centimetres in height and the whole size of the fire at first sight was about one metre square. It did not appear to me that the fire was under the house, it appeared more to be at the foot of the house.....No sooner had we arrived and got out of the car, then the fire started to spread up the sides of the wall. Within a minute the fire engulfed the building.”

When Mr Morris showed Detective Williams what he had seen the next day he also referred to “a fire smoke alarm going- I heard that quite clearly.” The video shows him indicating to the Detective that the sound was over to the left hand side from the front of the building. He also says that within a very short time when he then went to call the ambulance again on his mobile phone he could not hear anything because of the deafening roar of the fire. Mr Caltabiano also said that when he was trying to

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<sup>6</sup> Exhibit 67 and 68

connect the hose and the fire suddenly grew fiercer and came out towards him, he heard a smoke alarm going off at that time.

Detective Waugh understood from the information of the group that they saw a person, later identified as **Mr Prasad** run off towards Flinders Parade. Mr Prasad was interviewed by Detective Waugh. His clothes were seized and examined but nothing suspicious was discovered. Mr Prasad told police he had been at another former resident's place at Flinders Parade, and then returned home to go to sleep.

**Christopher Prasad** gave evidence and a statement to the inquest.<sup>7</sup> Mr M Byrne QC cross examined Mr Prasad. He said he returned to the boarding house on the evening of the fire a bit after 10.30pm. He entered via the stairs at the back between rooms 13 and 15 to go to his room number 4. When the fire had started he left via the front door which was unlocked. Mr Prasad recalled some illuminated signs in the boarding house as well as extinguishers. He also remembered a fire alarm immediately above his door. He recalled laminated plans of layout of the building specifically in the kitchen (and possibly in the lounge area.) He could also recall having been told that in the event of fire to congregate under the mango tree at the back of the premises. He moved into the building in February 2002.

Mr Prasad seemed to go to some lengths in stating that the Sea Breeze Lodge was a nice place to live, which was at odds with the tenor of other evidence. It was clarified that there was a family friendship connection between Mr Dutta and his family. Mr Prasad's assertion that it was good place to live did not really match any of the other evidence and made his evidence less reliable. His account seemed coloured by his association with the Dutta family. With reference to some of the material under the house, Mr Prasad thought there were frames there which were to be used for forming more rooms beneath the house.

Mr Prasad was another witness who confirmed that in fact the two rooms out the back were used for accommodation purposes. These were the rooms not connected to the building.<sup>8</sup> These rooms were not burnt in the fire. They were subsequently demolished after the fire. As Mr Prasad said, "it was a shed basically. It's a garage,"<sup>9</sup>

Mr Prasad said that when he realised there was a fire he ran out of the building and went back to Mr Smith's place to tell him about the fire.

The witnesses from the car described the fire as moving very rapidly in a number of minutes from near the front stairs of the dwelling up the side and into the roof. The fire exploded with thick smoke causing an obvious danger to anyone in the vicinity. These witnesses first saw the fire at the front of the building to the left and below the front stairs of the house- the southwest corner of the building. This is at the end of the front path to the building. There was no restriction for anyone to access the building from the street.

Detective Waugh's information from witness statements was that there were a number of items below the house at the time of the fire including books and magazines.

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<sup>7</sup> Exhibits 50 and 51

<sup>8</sup> Rooms 22 and 23 on Exhibit 1

<sup>9</sup> At page 296

Detective Waugh could not recall any fire detection or fire alarm systems in the premises from previous times on which he was inside the building. He recalled that many witnesses indicated the back door was quite often left open but the front door was closed at night. Residents did not have keys to the exterior doors. Detective Sergeant Waugh also recalled that the exterior front door opened inwards, rather than outwards as required. Subsequently the fire service investigated the locks from doors which had been seized by police.

It was determined from information gathered by Detective Sergeant Waugh that there were twenty three people resident at the property at the time of the fire. Three residents were not accounted for after the fire.

**Shone Landue** was the caretaker. He was a New Zealand citizen, resident in Australia for thirteen years. Other names used in the past included David Gray and his birth name, David Pierson. The name Shone Landue was registered in Australia. He was fifty eight years of age.

**Stanley Doolan** from room thirteen was seventy one years of age. He was born in Esk in Queensland. He lived apart from his family. He had previously worked as a fuel distributor and as a newsagent. He suffered from emphysema and diabetes. He had previously suffered a stroke and he was visited by nurses. It is believed he would have difficulty in escaping the fire due to restricted mobility.

**Gary Reid** from room nineteen was the youngest. He was twenty one years of age. He was a resident from time to time at the premises during periods when he was not living at home with his family, who also lived in the Sandgate area.

In their statements to Detective Waugh, residents described being alerted by the sounds of yelling and broken glass. Some thought there was a fight due to the noise but on leaving their rooms discovered there was a fire. Most exited from the rear of the building, away from the fire at the front of the building. The majority of statements collected from witnesses indicated they were unaware of any procedure to be followed in the event of fire. Some recalled a map in the large common room of the premises indicating exit points. There were conflicting accounts of whether there were fire alarms, but most said fire alarms were not working. They were not hard wired but were battery operated. Mr Dutta's statement indicated there was a hardwired system but that this had not been installed. Detective Waugh's recollection from witnesses was that batteries were sometimes stolen for personal use and that the batteries for the alarm in the kitchen were removed because cooking inevitably set off the alarm. Information was that there was a fire blanket in the kitchen and there were a number of fire extinguishers in the building. The regularity of service is detailed later<sup>10</sup> and referred to in the statement of Aaron Kumar.

There was no information about whether anyone had tried to use any of the fire extinguishers inside the premises after the blaze had started. Again, it was Detective Sergeant Waugh's opinion from the information that he received that the ferocity of

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<sup>10</sup> Exhibit 10

the fire was so intense that it was unlikely that individual fire extinguishers would have made any difference.

Sergeant Waugh's investigation could not establish the cause of the fire. There was the possibility that it had been started by an individual or individuals. (For example, there was the possibility of a fire starting from a discarded cigarette, but there was no information that this in fact had occurred.) There was the possibility of an electrical cause due to the proximity of the electrical safety box to the seat of the fire.

Arson was a possibility. Although it was possible that an accelerant may have been involved, Sergeant Waugh said that due to the extent of the fire it was impossible to discover whether or not this was the case. The cause of the fire remains unknown. The seat of the fire was to the left of the front door beneath the house behind the stumps. This was beneath the window area of rooms two and three in the plan.<sup>11</sup>

The body of Shone Landue was discovered in the lounge area in front of the fire place. Stanley Doolan was to the left of the fireplace to the west. Gary Reid was located in the kitchen dining area towards the rear exit.

The fire service received a call from the Caltabiano and Morris families at 11.33pm and two units responded within four minutes. This is highly commendable. The fire service indicated to the police that the fire was "well alight" requiring back up. They were aware of the possibility that there were people in the premises. It was not until the following day that the deceased's bodies were able to be recovered due to the heat of the site. Identification was confirmed by DNA techniques.

**Stanley Wilshire** was a resident at the boarding house. He resided in room seventeen at the very rear of the premises. His de facto at the time, Belinda Harris gave a statement to police that there had been more than one occasion when small fires had started in their room at the boarding house. She says that these had been started by Stan Wilshire. The police were unsure whether these were accidental or not. On the night of the fire Detective Waugh recalled that Belinda's statement was that Stan had left the room for a period of time. He had told her that he had been cooking in the kitchen and speaking with Damien Wildemuth. Mr Wildemuth recalled in his statement that Mr Wilshire had been speaking with him, but he recalls that this was only for a short time. He also recalled Mr Wilshire having a cigarette lighter.

There was hearsay information from a taxi driver that Stan Wilshire had made threats to burn the Sea Breeze Lodge down in the past. There was also information that he suffered from a mental illness and made many bizarre and odd statements from time to time.

A resident from premises at number 26, a Mr Norman Greer commenced to give a statement to police which would have provided an alibi for Mr Wilshire but he recanted. He stated he was afraid of Mr Wilshire. **However there was no evidence discovered to implicate Mr Wilshire in relation to the fire.**

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<sup>11</sup> Exhibit 1

The police also made inquiries regarding Mr Christopher Prasad. **No evidence was discovered to implicate Mr Prasad. Likewise, inquiries concerning John Lucas did not reveal any evidence of criminal activity concerning the fire.** Mr Lucas also apparently suffered from a mental illness (as did several of the residents from the Sea Breeze Lodge.)

The police obtained a video from Channel Ten. The media had obtained the video from an amateur who had taken the footage recording the progress of the fire, (Exhibit 29.)

Cross examination by Mr Gary Reid's father, Mr Neville Byrne.

Detective Sergeant Waugh agreed that the area out the back which was a detached garage / games room had been converted to rooms and was occupied by residents. It is noted that Mr Dutta's statement confirms this information.

Detective Waugh confirmed that once a person was underneath the house it would be very obvious the amount of material that was stored under that space.

He confirmed that the investigation discovered that the last person known to be downstairs (and therefore theoretically closest to the seat of the fire) was Belinda Hall, who was the partner of Stanley Wilshire. She had told police she went downstairs to access the toilet in the hour or so prior to the fire erupting.

Cross examination by Mr M Byrne QC, counsel for Mr Dutta.

Detective Sergeant Waugh confirmed that Mr Dutta had been co-operative with police inquiries.

He confirmed there were conflicting reports from witnesses concerning smoke alarms but that the independent witnesses Mr Caltabiano and Mr Morris, both made reference to hearing a smoke alarm. (This evidence was not included in their written statements, but fortunately it was captured in some of the sound recording when these witnesses were videoed showing Detective Waugh the site. Mr Morris indicated the area of the house where he heard the smoke alarm was at the left hand side as he stood at the front of the house.) This was also consistent with evidence from Christopher Prasad who said he heard the smoke alarm outside his room went off and that there were several fire extinguishers in the building. Mr Prasad also said that exterior doors were not locked at the time of the fire. Detective Waugh also confirmed that Prasad had said there was an evacuation plan in existence for the house, although after clarification the plan appears to be a schematic plan of the layout of the building with exits marked, **(as distinct from a comprehensive plan detailing information, responsibilities and actions in the event of a fire.)**

Mr Byrne confirmed through the witness Detective Waugh that **exhibit 10 related to the inspection of three fire extinguishers at the property at 30, Second Avenue, Sandgate. That exhibit was dated 16 June 2000 and the more legible copy supplied by Mr Byrne recorded that three fire extinguishers were inspected on 16 June 2000. The next inspection due was scheduled for 2005. I refer later to the evidence of Mr Kumar who inspected and serviced some fire extinguishers.**

Mr Byrne confirmed with Detective Waugh that another detective named Belinda Cush took a statement from Mr Peter Jongeling from the Brisbane City Council. That statement indicated that on 30 November 1999 Mr Jongeling went to the premises at Sea Breeze Lodge, and as result of that visit, the council was satisfied that the

premises displayed a satisfactory level of health and safety operation. Detective Waugh confirmed that this was what the record indicated.

Mr Byrne confirmed with Detective Waugh that Mr Jongeling's statement was that he re-visited the premises on 23 November 2000 and recorded notes indicating that evacuation plans were attached to walls in the common room, halls and at exit doors. **There was then a subsequent visit on 9 July 2002, about one month before the fire. At this time Mr Jongeling recorded that the premises at 30 Second Avenue were of a satisfactory standard and met council requirements in relation to health and safety.**

Mr Byrne then referred to the statement of **Michael Frawley from the Fire Service who inspected the premises at 30 Second Avenue Sandgate. That fire officer said in his statement he was quite happy with the alarm system, and that the items that were required were being maintained to an adequate standard.** After assistance from Mr Martin SC, counsel representing the Queensland Fire and Rescue Service, it was then clarified **that the fire officer's statement related to an inspection in June 2001, not June 2002.**

Exhibit 204 was referred to Detective Waugh. **A series of four inspections were carried out commencing on 9 July 2000. At the first inspection there were matters that needed attention and so notes were made to that effect. There were six smoke detectors but batteries were missing. Two exit signs were inoperable. There was a fire extinguisher in the kitchen. The matters for attention were not remedied until Mr Frawley's third visit on 21 October 2000. The exit lighting had been repaired. A fire blanket had been installed in the kitchen. Some detectors were still not working and the manager had not been present for the inspection, so Mr Frawley decided to send the report to his area director. There was no evacuation plan at the time and there had been no access to extinguisher maintenance records or to staff training records by Mr Frawley**

**Mr Frawley's final inspection was on 25 June 2001. His statement describes that this was "just a visual inspection to check on the smoke detectors and emergency lighting and to check the date on the extinguisher. It was not a full inspection. Mr Frawley stated, (as put by Mr Byrne, QC), that he was "quite happy with the state of the premises on the fourth inspection." He did not make any further arrangements for inspection of the premises because he had sent copies of his paperwork into the Area Director and Community Safety officer and expected that any further action would come from them.**

#### Cross examination by Mr West, for Brisbane City Council

Detective Waugh confirmed that when he had been under the house, (which it is understood was some twelve months prior to the fire) he had seen lawn mowers and other garden tools and fuel stored there.) There were also tins of paint, mattresses, doors and surplus furniture. The information was that items were moved and removed from time to time, and that the exterior of the premises had been painted in the preceding twelve months. It was indicated that some items might belong to residents and some items might belong to Mr Dutta and be stored there.

Detective Waugh had visited the premises between ten and twenty times between June 1999 and up to the time of the fire. He confirmed in that period he had seen the back detached rooms (formerly a garage) used as rooms occupied by residents.

Sergeant Waugh also agreed with Mr West that the seat of the fire seemed to be on the ground beneath the house in the vicinity of rooms two and three, (rather than in higher position where the electrical switch box was situated.) Detective Waugh of course was not a witness of the fire so this does not really assist.

Mr Caltabiano described it initially as a metre in diameter on the ground. Mr Ah Siu was the boarder in room two. Mr West referred to a statement from Mr Ah Siu that had been given to fire investigators. Detective Waugh confirmed that this statement included a reference to a mattress on the ground in the area outside his room in the set back area (which was identified as the seat of the fire.) This information was not recorded in his statement to police.

This area was between room two and room fourteen.

Mr West also inquired of Detective Waugh what the police had discovered about complaints made to council about the premises either by calls to the call centre or to the local member Mr Nuttall. There was significant and continuing number of complaints about the premises both at Number 30 and Number 26 Second Avenue.

#### Cross examination by Mr Martin SC for Fire Service

Mr Martin explored the history of checks on the premises by the fire service commencing in 1997 with a report from Mr Hope. That report included a requirement made to and sent to Mr Dutta detailing the need for **an actual evacuation plan in the event of fire (as distinct from a map on the wall.) It was required that occupants were trained in respect of this plan and that the knowledge of this plan (for evacuation) was to be maintained for persons working or residing in the building.**

Mr Martin then confirmed that Mr Frawley from the Fire Service inspected **in July 2000 and again reported that staff training and an evacuation plan remained outstanding. He re-attended in August and then in October 2000 there was a visual inspection indicating that matters had been attended to, (but this did not refer to the evacuation plan or training of workers. )**

Finally in June 2001 he called in again for a visual inspection. The difficulty with that inspection was that neither the manager nor owner was present to ask these questions regarding training and an evacuation plan.

**In November 2001 Mr Jongeling from the Brisbane City Council attended and set out requirements to be complied with to liaise with Queensland Fire Service community safety officer. A report was to be sent to the Brisbane City Council once complied with. Six months was allowed for this to occur. Mr Dutta was left with the responsibility to contact the Fire Service and have them inspect the premises in full. Detective Waugh confirmed there was no information to indicate that this was done.**

**In July 2002 Mr Jongeling returned to the premises and performed a visual inspection. A plan was referred to at that inspection (but this referred to identifying points of exit, rather than an evacuation plan.) This inspection was only of common areas, not of resident's rooms. No action was taken regarding the report still outstanding from the Queensland Fire Service Community Safety Office.**

The next witness called was **Dr Guy Lampe**. He gave evidence that he was the pathologist who performed autopsies on the bodies of each of the deceased persons recovered from the Sea Breeze Lodge.

**He attributed the cause of death of Shone Landue to smoke inhalation which causes asphyxia.**

**The death of Stanley Doolan was also attributable to smoke inhalation.**

The cause of death for Mr Gary Reid was a little more debateable. Dr Lampe again was of the view that smoke inhalation was the cause of death although Mr Reid's carbon monoxide reading was a lot lower than the other two people who died in the fire. Dr Lampe was satisfied that smoke inhalation was the significant factor in Mr Reid's death because he observed soot particles well out into the lung tissue indicating that Mr Reid was breathing in smoke whilst alive. However Dr Lampe said that it was not inconsistent to say the cause of death was smoke inhalation simply because the reading was lower as the reading is only for carbon monoxide. There are many other toxic chemicals inhaled if a person is caught in a house fire in an environment full of man made articles. Testing does not detect these other toxic chemicals. **Dr Lampe agreed with Mr Reid's father (Mr N Byrne,) that it was possible that Mr Reid's death had been caused or been contributed to by actual burning. He could not be more specific than that and opted for the cause of death as smoke inhalation because he could see soot particles in the lung, despite the low carbon monoxide reading.**

**Sergeant Remedios** gave evidence as a qualified forensic scientist. He attended the scene of the fire at about 8.00 am on the morning after the fire. By this stage the scene had been secured and fire brigade officers had removed a lot of material in an attempt to locate any bodies and to check for the possibility of any survivors. This made the forensic examination a little more difficult, but Sergeant Remedios said that the amount of damage caused by the fire meant that interference in the scene was not that critical. He stated that the fuel load was large (meaning the quantity of fire consumable material at the site.) The wooden and cement stilts that formerly held up the building were the major remaining structures for examination. **The most significant damage to the wooden stumps was to those stumps at the end of the cement path to the front of the building. The most significant charring was of a stump to the right hand side of the end of the path leading to the front of the building.** Sergeant Remedios stated his examination confirmed the building had reached "flash over point", namely the fire had reached between 320 and 370 degrees centigrade when all consumable material spontaneously ignites together and is consumed by fire.

**Sergeant Remedios confirmed that the area identified as the likely seat of the fire**

**(at the end of the cement path in the vicinity of the stump to the right hand side,) was also the area where electrical power came into the house.** There was nothing remaining of a power box, but examination of the porcelain fuse holders was undertaken by Sergeant Remedios. He stated the porcelain fuse holders did not appear to be too badly damaged. Some fuse wires had been broken but he could not determine whether this was as a result of the fire. He contacted Mr Des Ede, the Electrical Inspector for further review of this issue.

Sergeant Remedios saw that the porcelain fuse housing was on top of debris he examined. **This indicated that the fire had started below the level where the fuses were located. But Sergeant Remedios did not observe anything to indicate unusual or suspicious fuel loading (for example if remnants of wooden furniture were found on top of a bed.)**

Test sampling from three sites around the most charred stump was taken. **There were no residues of any flammable fluids from these three samples. This cannot be interpreted as evidence that there were no accelerants involved in the fire. It only means that there was no evidence of this in the three areas from which samples were taken.**

**The evidence from the witness was that the seat of the fire was “around that area” (of where the power fuses were.) The deepest charring was probably thirty centimetres from the ground. He had explained that the hottest part of a fire is the plume of smoke immediately above the flames. Mr West put the specific scenario to Sergeant Remedios as described by the eye witness who attempted to connect a hose and put out the fire. The scenario was that this witness saw a fire about a metre in diameter, low down and close to the timber stump identified as the one with the deepest charring. By the time it took the witness (Mr Caltabiano) to locate and unsuccessfully try to connect a hose, the fire had flared up and outwards. Sergeant Remedios stated that this would suggest something in the immediate area of the fire that was highly flammable.**

At the time of giving his evidence Sergeant Remedios had not had access to the video footage of the fire which had been taken by an individual and then accessed by the media. After accessing the video Mr Isdale read into the record the contents of an e- mail from Sergeant Remedios sent to the investigating police officer.

Sergeant Remedios interpreted the video and informed the inquest that at the time the video commenced it showed the fire had already progressed to flash over and so it was impossible to ascertain the propagation of the fire or its origin. He confirmed that the appearance was of an **“inordinate amount of heat developing and escaping from under the house which is unusual as opposed to viewing other Queensland type premises on fire.”** Sergeant Remedios then said; **“There must have been a large fuel load under the house for this to happen. I don’t believe it is a result of drop down as the upper portions of the house don’t show the same intensity as would be expected if drop down had occurred.”**

*I accept the evidence and explanation of Sergeant Remedios that there must have been a large fuel load under the house at the time of the fire.*

**Mr Gregory Reynolds** gave evidence. He was the Area Director of the Queensland Fire and Rescue Service and was requested by the Queensland Fire Services Commissioner to do an investigation into this fire. He did so commencing from the night of the fire on the 18 August 2002 through to the 20 August 2002. He was on the scene by about 2.00am on the morning of the fire when the fire was still smouldering. **He confirmed the intensity of the fire which had totally destroyed the building resulting in the whole building being consumed and the debris falling to ground level from its elevated position.**

**His conclusion was that it was more likely than not that the fire had originated in the area also indicated by Sergeant Remedios, namely near the base of the stump to the right hand side of the concrete path leading into the building from the front of the property.** Previously the path had led to stairs, but there were no stairs at the end of the path at the time of the fire.

**Mr Reynolds referred to there being a “huge amount of materials beneath the house” including mattresses, boxes, plastics, paints, thinners, mowers, a huge amount of combustible items that impacted that impacted on the ferocity of the fire.” On cross examination by Mr Reid’s father, Mr Byrne, Mr Reynolds confirmed that he had seen the remnants of the items previously stored beneath the house. He said; “a huge amount of debris as in mattresses, steel frames, tins of paint, like, thinners or whatever they were. Big rolls of like plastic, I think they were some sort of spools of plastic tape.”<sup>12</sup> He was relying on his own observations at the scene and his photographs from the scene. His photos form part of exhibit 205. He explained that he was satisfied the mattresses were stored beneath the house because there remains were at dirt level with flooring on top rather than the other way around.**

*I accept the evidence of Mr Reynolds that there was a huge quantity of combustible material beneath the house at the time of the fire, including tins of paint, thinners, mattresses and cardboard boxes.*

He also clarified that at the time of the arrival of the fire service some three or four minutes after the report of the fire, “the building was starting to become well involved on their arrival.”

**Mr Reynolds commented that the fire had not remained “compartmentalised” in an upper area of the house because of the many divided rooms, (which he would have expected if the fire had started in the upstairs occupied area.) What he found was that the whole structure had been consumed by fire. He explained this was consistent with there being a quantity of combustible material beneath the house which was where the fire started. There was free flow of ventilation from beneath the house to oxygenate the fire beneath the house which then burnt up into the structure itself. Once the fire had grown up through the walls of the dwelling it then consumed the upper living areas and fell into itself.**

Mr Reynolds said it was impossible to be more specific about where and what precisely caused the fire.

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<sup>12</sup> At page 96 of transcript

It is noted that there was confusion in the evidence between Mr Reynolds and Sergeant Remedios about what the temperature range is before “flash over” occurs. The witnesses were agreed that flashover is the phenomenon of spontaneous combustion of all combustible material in a confined space once a certain temperature is reached. There was confusion about the temperature expressed variously in Fahrenheit and Centigrade measurements. But there was unanimity that flash over did occur, and within a very short time after 11.30 pm.

Mr Reynold’s examination suggested it was more likely than not that there was only one seat of the fire (near the identified stump at the end of the cement path.) He could not totally discount others, but there was no evidence of other seats of the fire. (It is noted that this was also consistent with what the Morris and Caltabiano families observed when they first saw the fire.)

He referred to a mattress or a spring that looked like it contained some sort of mattress in the vicinity of the seat of the fire. Somewhat surprisingly he was also able to say there were signs of cardboard boxes in this area. He explained that the thinnest of residues of the cardboard can be evident even after a fire where they have settled onto the ground and no air is beneath it to totally consume the layer in the fire.

**No other sources of ignition were discovered. (There were no lighters or cigarette butts.)**

**Mr Reynolds could not exclude accidental cause of ignition of the fire. Nor could he exclude an incendiary ignition source. The cause of the fire remains unknown. Evidence of arcing between electrical wiring does not prove an electrical cause of the fire because this may simply have occurred after fire impacted the wiring.**

Mr Reynolds then provided information concerning the inspection of the premises prior to the fire regarding fire safety issues. He identified the Community Safety Department as a separate entity, but then clarified them as part of the Queensland Fire and Rescue. He understood that entity to have responsibility for inspection and enforcement of regulations. He was unclear about specific requirements under the regulations regarding safety, for example whether there was any restriction of storing items under the premises. He could not inform the court whether his officers had authority to specifically visit the boarding house and give directions about any issues concerning fire safety.

He was aware there was a general fire safety level two inspection procedure. He described this as tick and flick inspection where checks were made that such items as fire exit signs were working or not. **Mr Reynolds described the system. He said if a problem was detected then there would be a requirement to remedy the situation followed up by a second visit. If there was no satisfactory outcome then the report would be sent to the local area director and it is passed onto Community Safety for further action.**

A notice of compliance can then be issued. A fine could be issued. Further workplace healthy and safety reports could be made. Mr Reynolds could not assist the inquest with details in relation to the premises or the system for follow up. He referred to the Community Safety Department Brisbane North Zone. He referred the inquest to a Mr Graham Hanlon and a Graeme Thom for further information.

Mr Martin, Senior Counsel for the Qld Fire Service then indicated that he had made inquiry and that the Assistant Commissioner, Community Safety and Training would be the most appropriate witness to provide this information.

**Mr Anthony Dunn**, the Acting Area Director attached to the State Community Safety Unit was the next witness to give evidence. The unit oversees community safety units in the regions and is part of the Queensland Fire and Rescue Service. The units inspect buildings, certify and pass new buildings when plans are produced from the Council. The State Unit coordinates the regional units. The enabling legislation is the Building Act for inspection of new buildings and the Fire and Rescues Services Act for older buildings. Since the Childers backpackers fire tragedy the State unit assists officers out in the field when a building is non compliant and there are difficulties in obtaining compliance. The state unit co-ordinates and administers and all fines issued go through the State office. It assists officers in the field to prepare summonses and compile briefs for prosecution.

Mr Dunn confirmed that the Brisbane North Unit inspected the Sea Breeze Lodge. He stated that inspections were usually initiated as a result of complaints, random inspections or drive by assessments of properties. He referred to a Mr Neil Reid, Area Director as the appropriate person to inform the inquest about inspections of the Sea Breeze property.

Mr Dunn did play a part in investigations after the fire to determine if any breaches against the Fire and Rescue Services Act. Through Mr Dunn, information was tendered about conversations with Mr Dutta, the person described in this inquest as the owner of the Sea Breeze property. There were tape recordings and transcripts of those recordings made from those tapes which were tendered as exhibit 206.

Mr Reid's father, Mr Byrne then asked questions of Mr Dunn. **Mr Dunn confirmed that the inspection of premises such as boarding houses was based upon complaint, request or random basis. There is no routine and regular inspection of premises. He stated that it was common practice for inspecting officers to send out a notice advising of the intention to inspect.** This enables the appropriate person to be present at the inspection and to produce records required for inspection. These records include maintenance and training documents and records for the installation of fire safety equipment.

Of course that system has both advantages and disadvantages. Mr Dunn agreed with Mr Dunn that it may give a "sanitised version" of what is happening at the premises. The other side of the argument would be that the notice would at least bring the owners' attention to the issue and be likely to influence a response of remedial work being undertaken prior to inspection.

Mr Dunn's evidence was that he would expect that Qld Fire Services would allow a maximum of twenty eight days for compliance with a notice requiring remedial attention to the building. Other time frames he would expect to be a lot tighter than that because of the risk to human life if allowed to continue unaddressed.

**Mr Dun confirmed that the room occupied by Mr Byrne's son, Gary Reid was unusual. It had been divided off from an existing lounge room. The door**

**installed into that room had been recycled from other use. It may previously have been a “fire door” with a grill in the bottom of it. But when installed on Mr Reid’s room it had been rotated and fitted upside down so that to operate the closing / locking device one had to push the handle up, rather than down. This was room number 19. It was to be expected that this made it more likely that a person would have difficulty in exiting the room because of the wrong positioning of the lock, up side down.**

Mr Dunn stated the unit did not inspect private dwellings. Mr Byrne was inquiring about the status of the adjoining property at number 26. There was some evidence that it too was used as boarding house.

Mr Dunn also confirmed to Mr Byrne that he was aware of a joint inspection process with the Brisbane City Council and the Community Safety Unit. This was prior to the implementation of the Building and Other Legislation Amendment Act.

**Mr Byrne referred to an inspection of the premises on 23 November 2001 when he said the premises were licensed, subject to conditions. These included liaising with a Mr Bill Williams of Qld Fire and Rescue. Mr Dunn agreed that he had seen a council report indicating six months had been provided for the premises to get a report. The time frame was set by the Brisbane City Council and required that the premises obtain a report from the Queensland Fire Service confirming the premises were fire safe.**

Mr Byrne inferred therefore that this period expired on 23 May 2002 and that Brisbane City Council employee, Mr Peter Jongeling attended the premises and stated that on 9 July 2002 everything was satisfactory, irrespective of the outstanding fire safety report.

**However, Mr Dunn stated that it was his understanding that the Fire Service had not been contacted to inspect the building regarding fire safety and installations. Mr Dunn said it was Mr Bill Williams’s main task to respond to these requests and he did so within days of such a request.**

**Mr Dunn agreed that it was strictly incorrect for Mr Jongeling to have said the building came up to scratch on 9 July 2002 when an inspection had not been conducted by the Fire Service.**

Irrespective of the issue of Mr Jongeling and his role, **Mr Dunn’s evidence was that as a result of the investigations he carried out, the building was clearly non compliant at the time of the fire, and would have been non compliant for some period prior to the fire.** It was clarified that charges were pending as a result but at the time of the inquest there were no findings against Mr Dutta in this respect.

Mr Byrne also raised the issue of smoke detectors with Mr Dunn. He wanted to clarify the number of single point smoke detectors that were in the building and whether or not they were functioning at the time of the fire.

On the topic of smoke detectors Mr Dunn confirmed that there was no hard wired system for smoke detection installed at the time of the fire but he did not add any further information concerning the number or functionality of smoke detectors.

He also confirmed that in previous visits to the premises he had been in the garage area and that this had been divided into two rooms.

Mr M Byrne, QC, representing the building owner, Mr Dutta then cross examined Mr Dunn. He elicited that Mr Dunn was unaware of witness accounts that they heard sounds of smoke alarms operating at the time of the fire. Mr Byrne QC clarified that Mr Dutta's evidence was that there were glass louvres in Mr Reid's room number 13. Mr Dunn could not confirm or refute this.

Mr Dunn confirmed that there were legislative changes made to the Building and Other Legislation Amendment Act 2001 as a result of the fire at the Childers backpackers, and that these changes were not in effect when the Sandgate fire occurred. Mr Byrne read into the transcript some of the introductory and explanatory notes for the new legislation including the section;

“Current building and fire safety legislation does not require older buildings to comply with contemporary fire safety standards unless an owner wants to renovate, alter a building, change a building use, et cetera.”

***Mr Byrne QC also confirmed via Mr Dunn's evidence that at the time of the fire there was no current requirement for budget accommodation buildings to have fire management safety plans. Exhibit 207 assisted the inquest in this regard.***

It was in December 2001, after the Childers tragedy that Hansard records the introduction of new legislation introduced to lift the standards of fire safety in budget accommodation. The Premier, Mr P Beattie's statements in Hansard, as read into the transcript by Mr Byrne QC, confirmed the requirements for upgrading of smoke detectors and emergency lighting but those operators will be given twelve months to install these items. A further two year period was to be allowed for further upgrades, including a fire safety management plan. (Thus this requirement was not in force at the time of the Sandgate fire.) **In conclusion Mr Byrne QC clarified from the record of Hansard that from the 1 July 2003 all boarding houses and accommodation will have to have emergency lighting, hard wired fire systems and a fire safety management plan.**

However, **Mr Martin SC for the Fire Service then clarified that the Fire Rescue and Service Act at the time of the fire included requirements that the occupier of a building must maintain at all times free from obstruction adequate means of escape in the event of fire threatening part of the building. As well, there was requirement that the occupier must maintain a plan of action to be taken by persons within the building in the event of fire threatening the building to ensure their own, and other persons' safety.**

Details of the requirements that were in effect at the time included that exit doors either swing outward or be fixed in the open position. There was a requirement for an evacuation plan (as distinct from a schematic plan of the building under these same regulations- (Fire Rescue Services Act and regulations.)

Mr Dunn did however state that even though there was no legislative requirement enforcing these requirements at the time of the fire, **the Fire Service could have**

**placed an order upon a building to close it down if there was a decision that it was an unsafe risk for occupants, pursuant to section 69 of their legislation.**

Mr Martin SC then took Mr Dunn to exhibit 209 which was Fire Office Frawley's document recording an inspection of the premises. There are two columns to be ticked off. If an item was non complaint at the first inspection it would require a second inspection within a certain time period. Staff training, a building evacuation plan and records of security were initially non complying items on the list. There were notes indicating that the emergency lighting needed repair, and levelling was required of an exit passageway. A fire blanket was recommended for the kitchen. As well, thermal detectors were recommended. (Again these not could be insisted upon at the time.) This recommendation was made in preference to smoke detectors given the number of people who habitually smoked in their rooms. As well, the suggested hard wired thermal detection system would have the advantage of not being disabled by the removal of batteries.

The white copy of the form is given to the occupant of the building, so that on the second inspection the green copy is given to the owner / occupier. If further back up is required then the yellow copy is sent to the area director and the blue copy goes to the community safety unit. The pink copy remains on the inspection book.

Mr Dunn's view was that since the fire at the back packer establishment in Childers, Queensland now has strong legislation and that all budget accommodation is required to have hard wired smoke detection in place. He did not see any further need for legislative change to increase safety.

On questioning regarding inspection strategies to check for continuing compliance, Mr Dunn said that the service had not changed its practices. So inspection is still performed upon complaint, upon request and randomly. **Mr Dunn's evidence was that the Fire Service could require inspection of boarding houses (irrespective of the issue of them being residential premises for people.) It was only private residential premises that required consent to enter.**

**Mr Desmond Ede** has worked in the Electrical Safety Office for six years and gave evidence about his inspection of the site. Exhibit 165 refers to his report. His task was to try to determine whether electricity was involved in the ignition of the fire, **but because of the destruction caused by the fire it was very difficult to do so. He was unable to state categorically whether or not electricity was involved in the ignition of the fire.** The fuse wire was of the correct size. A couple of fuses had blown and close examination confirmed that the fuses had blown (rather than it being damage caused from the fire.) However Mr Ede expected that the reason the fuses went would have been due to fire damage caused somewhere in the building to the wiring. It was also consistent with other evidence from residents that some lights went out **There was no evidence of damage behind the switchboard which would have been expected if there had been an initial problem in the switchboard itself.**

**Mr James Carr** is a petroleum and gas inspector for the department of Natural Resources Mines and Energy.<sup>13</sup> He confirmed that the premises were connected to

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<sup>13</sup> Exhibit 169

natural reticulated gas and that he was called to attend while the fire was still burning. When Mr Carr arrived, a contractor from the supplier, Origin Energy was in the process of “squeezing” the gas supply to the building. The gas supply pipes are polyethylene, like plastic, and the quickest method of cutting supply is to squeeze the pipe shut.

Because of the level of destruction it was impossible for Mr Carr to inspect anything to determine whether there had been a problem with installation or the gas supply or any interference. The continuing high temperature also prevented close inspection even a day after the fire. There was no follow up. Mr Carr was advised that if further investigation of the gas supply issue was required his service would be advised by the fire investigators. No request was received.

He said that if a gas pipe was ruptured and was burning it would burn with a yellow flame with no added aeration.

Mr Carr’s evidence (at page 159) was that he was **“quite sure that what I (saw) was a flame coming out of a vertical service pipe coming up out of the ground and we could see it being diminished as they squeezed it off.”**

From Mr Carr’s memory he recalls that pipe being at the left hand front corner of the building as you looked at it. He indicated the pipe would be typically screwed to the front of the building. **He described the position as in the area of the white stump at the end of the concrete path.** The pipe would have been  $\frac{3}{4}$  to one inch diameter. The pipe he could see was what appeared to be a steel pipe. **The flame was coming out of it, “maybe three metres from where it comes out of the pipe and where it ended.”** (Page 160.)- **“like a V shape vertical flame,”** quite distinctive in Mr Carr’s view. It was about one metre above the ground. **This was in the vicinity of rooms two and three. A marker was placed on exhibit 201 to indicate the vicinity. This position was consistent with the area where Mr & Mrs Morris and Mr & Mrs Caltabiano first saw the fire.**

Mr Carr says the Sandgate area does not have high pressure gas, typically it is low pressure. There was no particular noise or smell associated with that flame as observed by Mr Carr. Mr Carr explained that there was nothing remaining after the fire of the gas metre which would have been attached to the end of the vertical stand pipe. The gas metre would have been of alloy or plastic with a low melting point.

There is no safety mechanism to cut supply in the event that a fire or mechanical application burns or removes the gas metre. **I hasten to add there is no evidence of whether the gas metre was burnt by the fire and then the pipe emitted gas or whether there was interference with or malfunction of the gas metre prior to the fire. However, what is striking in Mr Carr’s evidence is the coincidence of his description with Mr Caltabiano’s description of where he first saw the fire, and that it was above ground level, but close to the ground.**

**Mr Stanley Wilshire** was the first resident of the premises to give evidence. He was a person of interest to the police in their inquiries. He had lived at Sea Breeze Lodge for about three years prior to the fire. He lived with Belinda Hall in room seventeen (17) at the time of the fire. Mr Wilshire said they had some visitors to their room during

the evening. Then later, he got his cigarettes and lighter and took a saucepan of tomato soup and milk to the kitchen to heat up. He went back to his room and another resident, Norman Greer was standing outside his room. Belinda had not let him into the room. Norman then came into the room and obtained a cigarette from Mr Wilshire. Mr Wilshire said Norma stayed long enough to have several more cigarettes before leaving to play his x- box in his room.

He says he was on the bed and Belinda went to the toilet down the bottom of the stairs. She returned after a couple of minutes and they were then both lying together underneath the blankets on the bed. He says the lights and television in his room went off, which happened often. He could not state the time this happened in his evidence. They remained in the bed until someone banged on the door. They found some clothes and dressed. He opened the door and saw fire towards the other exit at the back of the building near rooms thirteen and fifteen . There were flames coming from the windows and the doorway between rooms thirteen and fifteen, (which is an exit.) He saw Belinda try to use the phone but it was dead. He grabbed Belinda by the hand and they left via the back stairs. He said he did not hear anything (when asked about smoke alarms.) At the time he and Belinda left via the back stairs he said there was no smoke in his room, but there was smoke coming out of the kitchen.

Other people were outside at the back near the mango tree. Mr Wilshire says he left Belinda with another person and then ran back into the building and his room to try to salvage property. By this time there was smoke and the heat was unbearable. After Mr Wilshire came out of the building the second time he says he saw Shone Landue on the bottom step heading up the stairs. Mr Wilshire says he saw one other person come out of the building via these stairs after Mr Landue had re-entered the building. He says this was the person next door to him but he could not name him. He did not see Shone Landue again. He did not see Stanley Doolan at any time during the fire.

He said he saw the young fellow, Gary Reid sitting in the television room that night. He said he had a conversation about Gary wanting to go to college. He did not see him during the fire but he believes he heard him.

Mr Wilshire describes activity centred on moving cars to save them from the fire. There was no evidence of any immediate response to check for the whereabouts of all of the occupants of the boarding house, although the evidence about the intensity of the fire would suggest there was very little opportunity for any such effort to be made. Mr Wilshire says he had been involved moving cars and then he, Belinda and Norman Greer were standing there when he heard screaming coming from the left hand drive way side of the boarding house. He says the fireman had just come around the side of the house. The group was yelling at the fireman that there was someone inside but Mr Wilshire says **the fireman responded saying “we’ve got no water pressure, can’t do anything about it.”** Mr Wilshire says he believed it was a young person’s screams and that he believed it to be Mr Gary Reid. Mr Wilshire estimated the fire service would only have been there about five minutes. Mr Wilshire says he does not recall anyone from the fire brigade or police asking if there was anyone inside.

Mr Wilshire denied any knowledge or involvement in the commencement of the fire. He acknowledged past history of involvement in fires. He was warned about his right to claim privilege.

He explained that he had oil burners in his room: a candle burns to heat aromatic oil. He says there was an occasion when he had the wrong crystals and it caught fire, which was a couple of weeks before the fire.

When asked about his conversations with police officers after the fire Mr Wilshire was unable to recall the contents, but then confirmed there were conversations about him being in breach of bail conditions. He was taken into custody. He denied ringing Belinda Hall from prison. But he recalls ringing some other person to ask for a solicitor to be arranged for him.

He recalled a tape record of interview with Detective Waugh at the Sandgate Police Station.

Another occasion a few days prior to the fire was also put to Mr Wilshire when he had been in a taxi with Belinda Harris. He agreed that he had become verbally aggressive about Belinda's former partner in the context of that person's behaviour to a child. Mr Wilshire says he was yelling a bit but he does not recall making threats. It was suggested to him that he said, "if I have to then I'll torch them." He stated he could not remember this, but after further discussion agreed that he could have said this.

He was referred to being in the Arthur Gorrie Correctional Centre in August 2002. After refreshing his memory Mr Wilshire did remember ringing Belinda Hall from prison but could not remember details.

Further questions were put by Gary Reid's father, Mr N Byrne. **Mr Wilshire says that in the month before the fire, he helped to move mattresses, beds, bedside cabinets and other stuff beneath the building. He saw some paint locked away under his room. Mr Wilshire made it plain that he thought the overall conditions of the building were, in his language, "atrocious".** His evidence was there were no smoke detectors or fire alarms, (although there is contrary evidence to this.) He said he had made complaint about the premises to his local councillor (Victoria Newton) on numerous occasions.

Mr Wilshire gave evidence that he had seen a previous manager of the premises (Pat Hannah) smash the smoke detector in the kitchen because it would go off. Mr Wilshire clearly had an issue about the standards and conditions with the boarding house that affected his credibility adversely in this area.

**Ms Belinda Hall** was, at the time of the fire, sharing room number 17 with Mr Wilshire as his partner. When she gave evidence to the inquest she said she still had a relationship with Mr Wilshire.

Ms Hall remembers being in bed with Mr Wilshire when there was a loud sound outside the door. She thought there was a fight because of the sound of breaking glass. Ms Hall says she rang the fire brigade twice before going downstairs. (It is noted that this is different to what Mr Wilshire stated.) She was taken to the police station and knows that she had an epileptic seizure.

She was then shown her statement to the police dated 19 and 20 August 2002. She thinks the first statement could be more reliable as she believes this happened before she had a seizure.

She confirmed a conversation with Mr Wilshire in a taxi as previously outlined to Mr Wilshire by Mr Isdale.

Ms Hall agreed with the evidence of Mr Wilshire that the premises were in poor condition with frequent electrical problems. She also said she had seen mattresses, wooden table and other stuff underneath the building. Ms Hall was not very sure of her evidence and referred to what she had heard from Mr Wilshire.

**Mr Scott Hambly** lived in the premises for only a week prior to the fire.<sup>14</sup> Mr Hambly had been out fishing and when he returned to the boarding house Gary Reid was still up watching television. There was a short conversation and then he went to bed. Gary told him he had lost money on the pokies that day. It was between nine and ten at night. He heard Gary go to bed. He had gone to sleep and was awoken by a woman running around the house yelling fire. He had never seen this woman before but remembers her yelling out when the fire was still small. He saw the front part of the lodge in flames. He escaped out the side stairs.

**Mr Hambly described things under the house at the time of the fire as rubbish. There were old beds, paint tins, gas bottles, cupboards, mattresses and lots of other things.**

**Mr Peter Jongeling** was the **environmental Health officer, subsequently known as the development officer, health, with the Brisbane City Council.** He had held this position for ten years.<sup>15</sup>

Mr Jongeling's statement was that on 9 July 2002 (just over a month prior to the fire) he went to the premises and noted that a requisition had been completed satisfactorily. There was no visit after 9 July. Mr Jongeling went to the premises to inspect the health and safety issues regulated under local laws. Some of these visits were initiated after complaints about the premises.

The premises are licensed by council as a multiple dwelling for a calendar year at a time. The licence was held by Rompine Pty Limited.

**On 21 November 2001 there was an accommodation standards audit completed.** This is a document used by council to assist in inspecting premises for standards of accommodation. There were some matters needing rectifications. Stairs were to be replaced on the eastern side of the premises. The premises were in process of refurbishment with painting and carpeting happening. There were notes made about layout plans which were displayed in various parts of the building. **On that date Mr Jongeling noted that there was no rubbish stored under the premises.** (The reference is to the word "satisfactory" against the heading "waste management.") **He recalls there was some material stored underneath at the time but it was relevant**

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<sup>14</sup> Exhibit 74

<sup>15</sup> Exhibit 110

**to the activity happening at the premises by way of refurbishment. (Paint, trestles and some material.) He said there were no other items (like mattresses), because otherwise he would have required it to be moved.** I comment later on this particular evidence of Mr Jongeling.

After that inspection Mr Jongeling sent a letter dated 23 November 2001 with an attached condition of approval.

**The first condition was to liaise with the fire service, namely Mr Bill Williams, the community safety officer from Qld Fire Services.**

**The second condition was to replace the stairs within thirty days.**

**The third condition was refurbishment of the bathrooms, kitchen, laundry and external surfaces and fixtures within six months.**

Mr Jongeling's document given to the Sea Breeze Lodge requested a current report of all fire safety aspects of the premises. Six months was allowed for this to be provided to Council, indicating it was assessed as a low priority. Mr Dutta had produced a building inspection report carried out by fire services. (Mr Jongeling was referring to the tick and flick report- he thinks from 2000.)

Mr Jongeling explained that this was at a time of transition to the new Building and other Legislation Amendment Act and when council had a grant system operating to encourage operators to upgrade fire safety management.

Mr Jongeling admitted that he was unclear about the validity of the document given to him from Mr Dutta. He said he selected a six month period partly because he was shown the document from Mr Dutta.

**In July 2002 Mr Jongeling returned. The condition concerning replacement of stairs had been complied with. His report for that visit notes in his handwriting "number two, above satisfactorily completed." But the next notation was "Waiting for other issues, example number one." This was underlined twice, and yet Mr Jongeling dismissed this emphasis as a "Stroke of the pen", with "no relevance."**

Mr Jongeling had to concede that although he had given Mr Dutta thirty days to comply with replacing the stairs he had not followed this up at all until July 2002, eight months later. He dismissed this as pressure of workload and priority of work.

**At the inspection in July 2002 neither the report from the fire community safety officer, nor the refurbishments had been completed. Mr Jongeling admitted he did not do a complete inspection of the premises. He did not enter the premises.**

**Mr Jongeling** said that he went and checked off the condition number two, the stairs, simply by an external look. He agreed with Mr Isdale, assisting the inquest, that he **had not received any report as he had previously required of Mr Dutta from the Community Fire Safety officer. The time (of six months) had expired two months prior.** He informed the inquest he had an informal unrecorded discussion with Mr Bill

Williams to arrange to inspect the premises jointly. Mr Jongeling cannot be precise about the time of this conversation over the phone but thinks it was about the same time as he cleared the requisition regarding the stairs.

The conversation happened but there was no arrangement put in place to undertake the inspection. Mr Jongeling simply felt confident that once Mr William had finished his holidays that the inspection would happen.

**Mr Jongeling said at the time there was no system to automatically bring these requisitions back to his attention.**

Mr Jongeling could only explain that the next scheduled inspection would have occurred at the twelve monthly interval. When a matter was brought back to the attention of the requisition writer it could still take months before an inspection was arranged as it might require the presence of the owner.

Mr Reid's father then asked some questions. Mr Jongeling explained that the premises were compliant subject to the requisitions listed. He was unconvincing in trying to explain how to reconcile having doubts about the validity of the tick and flick fire document given to him by Mr Dutta, with his decision to allow six months to receive the community fire safety report.

Mr Byrne astutely noted that Mr Jongeling's own document listed the priority as high (because it was a boarding house classification) and still Mr Jongeling referred to workloads and priority as explanation for allowing a six month time frame to expire without inspection.

To be fair to Mr Jongeling it must be taken in the context that the legislation was in a state of transition and the higher standards were not in effect until June 2003. Mr Jongeling was working towards getting all the boarding houses to that new, higher standard. *The requisition was not something that, if ignored, could lead to a prosecution at the time. However clarification later revealed that even at that time the council could have taken steps and decisions to force the issue with the boarding house operator.*

Mr N Byrne then drew Mr Jongeling's attention to complaints lodged with the Brisbane City Council via the office of Mr Nuttall, State Member of Parliament. He referred to a document dated 29 June 2001. Mr Jongeling confirmed the document referred to a joint inspection process between fire services and the council in relation to this premise. It was a part of a program to jointly inspect boarding houses to lead up to compliance with the new standards to operate from June 2003. Mr Jongeling confirmed, however, that no joint inspection ever occurred of these premises.

**Mr Jongeling stated that he had never given a direction requiring cleaning up of items under the building. He assessed these items as whether they were rubbish, or useable items being stored. If there was a vermin problem apparent, he would have directed a clean up.**

**Mr Byrne, QC, representing Mr Dutta questioned Mr Jongeling. At the time of his last inspection ( in November 2001) Mr Jongeling said that he did not have a**

**concern that material stored under the house created a safety risk, and that it was relevant to the refurbishment being undertaken. He confirmed that Mr Dutta had been co-operative with Mr Jongeling in his dealing with him.**

He confirmed his first inspection of the property was in May 1999. The council found the premises to be satisfactory. Then in April 2000 an unannounced inspection was made. The next inspection was November 2001 when Mr Dutta was present. Refurbishments were underway. An audit report was written out. Schematic plans of the layout of the building and indicating exits were present in common rooms at that time. Mr Jongeling's recollection was that he inspected the building and that each room had a room number. A notation was made about material that was stored below the building (but Mr Jongeling was satisfied this was related to the renovations.)

Of the three matters listed in the audit and followed up by letter dated 23 November 2001 Mr Jongeling regarded the replacement of stairs as high priority. Mr Dutta dealt with this.

In answer to Mr Byrne's proposition that the other two matters were considered low priority, Mr Jongeling agreed. It is noted that this is a contradiction of his response to Mr N Byrne on the same topic where he acknowledged that boarding house accommodation necessarily imputes a category of high priority in relation to any fire safety issues.

It was suggested that the lower priority was because Mr Jongeling was aware that there had been fire service inspection in June 2001. Mr Jongeling agreed with this proposition. He confirmed that he had spoken with Mr Bill Williams of the fire service sometime later but could not say when. Mr Jongeling says he was waiting on information (a copy of the fire services report safety report to be forwarded to him.) He expected that it would be forwarded to his form fire safety as a matter of course.

Mr Jongeling could not recall a conversation with Mr Dutta about changing the front door so that it opened outwards.

The emphasis at this transition period was to assist the owner with upgrading and improving premises towards compliance with the higher standards which were to be introduced.

Mr West, representing the Brisbane City Council then cross examined Mr Jongeling. Mr Jongeling explained that the different categories of buildings or businesses are grouped according to a risk category. Boarding houses are categorised as high risk requiring inspection every twelve months. Mr Jongeling does not inspect specifically for fire purposes but in the broader field of environmental health purposes. Qld Fire Services manages fire inspections.

Mr West took Mr Jongeling through the council records relating to the premises at 30 Second Avenue Sandgate. (Mr Jongeling was in the position from 1998.) An example was a complaint from a resident about general hygiene in the building. This was followed up by Mr Jongeling in April 1999 with a letter to attend and inspect. An inspection occurred in May 1999.

It is not proposed to repeat all of this evidence which is in the transcript. The council was working through the transition period to ensure upgrading of premises towards the new standards that were being introduced for accommodation

From previous inspections of then premises Mr Jongeling could recall battery operated smoke alarms.

A complaint closer in time to the fire was registered through Councillor Victoria Newton's office. It came from the office of Mr Gordon Nuttall, state Member of Parliament from a person who stated he lived in the boarding house. He did not wish to reveal his true identity. Maintenance, cleaning, and whether or not electrical items were in working order were the basis for complaint. This complaint was made on 8 October 2001. **The complaint was logged but not actioned because of council's policy not to do so where a complainant does not identify themselves. However, the content of such a complaint is included in the next scheduled inspection.**

On 19 October 2001 Mr Jongeling wrote to Mr Dutta advising he wanted to inspect the premises on 5 November 2001. The inspections was rescheduled for 21 November 2001 and documented on an accommodation standards audit form.

At the inspection Mr Jongeling recalls Mr Dutta being present. He was shown a document from the Queensland Fire and Rescue Authority titled Building Inspection report. This was exhibit number 209 and was dated 9 July 2000. It was an unfamiliar document to Mr Jongeling. It was white page with the column for the first inspection only completed.

The exercise from Mr Jongeling's perspective was simply an effort to work towards building owners becoming compliant with the new legislation which was coming into force in 2003. There was no legal requirement or method by which Mr Jongeling could require the enforcement of higher standards of fire prevention prior to that legislation coming into effect. Mr Jongeling saw it as a positive aspect that Mr Dutta could produce the fire building inspection report from Mr Frawley dated 9 July 2000.

**Mr Jongeling left it to Mr Dutta to contact Mr Bill Williams from fire safety. In answer to Mr West's question Mr Jongeling agreed that he had not contacted Mr Williams, but left it to Mr Dutta to do this. He did not contact the fire service to let them know that he had asked Mr Dutta to follow up with a fire safety report.**

(I remark that it is in this area that the liaison between the various authorities seems to need reviewing.)

**Mr Jongeling went back to the premises 9 July 2002, but his description of the visits to Mr West was "I was in the vicinity and I viewed the rectification of one of the requirements, yes." (at page 270.) Mr Jongeling's evidence was that he did not raise with Mr Dutta the fact that Mr Dutta had not been in contact with Mr Bill Williams.**

**Mr Jongeling advises that his first day back from annual leave was on the day of the fire.**

Mr Jongeling says he did not raise with Mr Dutta that he had not proceeded with the fire safety report, he merely recorded it in his notes. He does not recall at exactly what time had had a conversation with Mr Williams of Qld Fire and Rescue Services but it was at some time after 9 July and before he went on leave, which was during August and returning to work on the day of the fire, the 18 August 2002.)

Apparently Mr Williams' focus of interest was on the other premises (at number 28 Second Avenue.) Mr Jongeling raised the issue of going to inspect the premises in Second Avenue with Mr Williams. Mr Williams was also on leave at about the time Mr Jongeling took leave. Mr West clarified with the witness that it is not his role or area of expertise to inspect premises for fire safety

Mr N Byrne, father of Gary Reid asked some further questions. He suggested (from the bar table) that he was present when a Mr Sands made complaint to Mr Nuttal's office. Mr Sands gave a statement to the inquest contained in exhibit 100.

Mr Jongeling acknowledged there had been numerous complaints that rooms above the garage were being used for accommodation, but on every occasion of inspection Mr Jongeling said this was not evident. Of course it remains the case that inspections that entailed entry into people's rooms were always advised in advance.

Clarification was made that the Building and Other Legislation Amendment Act commenced in July 2003, after this fire had occurred.

Mr Isdale then clarified some issues;

Mr Jongeling confirmed the letter to Mr Dutta on 23 November 2001 which required compliance was referring to the Local Law Accommodation Standards. 1999. **If no compliance was obtained a show cause letter could issue.<sup>16</sup> The conditions of approval page were sent with the letter.**

In relation to the condition requiring a community fire safety report, if this was not complied with and it was an application for a new building, then approval would be denied. But for premises already licensed, (as Sea Breeze Lodge was,) then council were assisting the owners to bring the premises up to the new standards which would come into force under the new Building and Other Legislation Act

So it was suggested that although the document stated that the fire safety report was to be supplied within six months (and it was not provided), there was nothing in fact that council could do to legally pursue the issue in June or August 2002. Mr Jongeling would have waited for the full twelve months to elapse before the next inspection before this would have been pursued further.

Mr Isdale pointed out with the witness that the legislation in effect at the time (the Local Law Accommodation standard, 1999 commenced on 1 April 2000. **In its terms an owner of premises for which a permit had been issued, must comply with every condition of that permit. There was a penalty of a maximum of fifty penalty points able to be imposed if breached and prosecuted.**

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<sup>16</sup> Exhibit 207

**Mr Isdale pointed out and put to the witness that council could revoke a permit at any time for any reason which, in the opinion of council, justifies revocation. Notice was required to be given allowing for review before revocation.** Mr Isdale was referring to clauses 13 and 19.

However, although Mr Jongeling acknowledged this authority was there, he said the office policy was, where there were a number of minor non compliances, these would be followed up at the next scheduled inspection. This guideline was an internal office document available to staff on their computers.

Clause 23 B authorised an officer to give a compliance notice where an owner contravened a permit condition. So Mr Jongeling conceded it was within his authority in, say June 2002, to issue a compliance notice. There was a standard book available for use to issue these compliance notices.

Section 12 of the local accommodation Standard (as prompted by Mr West) allowed for variation of permits.

**When pressed by Mr Isdale it was established that on 9 July when Mr Jongeling happened to visit the premises (as he was in the area) he could have issued a compliance notice under clause 23, but there was the difficulty that Mr Dutta was not present on that date. The notice could have been sent by registered mail. Mr Jongeling was away for (perhaps) four weeks leave in the July /August period.**

**There was also scope under the local law, if a compliance notice was not complied with , to order that the premises not be used for accommodation purposes.** (See number 26.) Mr Jongeling said the time for compliance depended on the seriousness of the situation requiring attention. The time frame might be anything from twenty four to forty eight hours for a serious matter. Under Section 27 the council ultimately had power to stop premises being used for accommodation.

Mr Jongeling explained that “more than likely I would have pursued Queensland Fire Services to get in there with me and inspect and report on the premises.” Mr Jongeling said that the decision to proceed to prosecute was a judgment issue of the officer. He would refer to office guidelines in making that decision. It was these guidelines that automatically stipulated boarding accommodation as a high risk category. The context of the decision making process was that council was in a transition phase where the attitude was to try to get the boarding house operators to comply with the new legislation. It was Mr Jongeling’s decision that the issue of pursuing the fire safety report was not serious and thus six months was allowed initially (which expired in May 2002). Flowing from that assessment, Mr Jongeling did not escalate the issue by issuing a compliance notice. He left it for follow up until after his leave.

Final questions were then put by Mr West (representing the Council.) All that this achieved was to establish that council had perhaps not followed the processes available to it to enable it to launch a prosecution. The power to do so was available.

**Anthony Croke** was a team leader in the licensing and compliance section of the development and regulatory services department of the Brisbane City Council. He searched council records for complaints relating to the premises at 30 Second Avenue Sandgate. He also checked with the office of Councillor Newton. The results of these searches were tendered.<sup>17</sup>

**Stephen Lucas** gave evidence and had also supplied a statement to police.<sup>18</sup> Due to the apparent unreliability of his testimony (which was probably due to illness or disability,) I cannot rely on that information. He acknowledged he had been in hospital on a number of occasions for mental health issues. He believed the fire had been started to destroy some of his personal property and ideas.

**Robert Wilson** was a fire officer who gave evidence to the inquest.<sup>19</sup> He was in charge of a fire pumper, and at the time of the inquest, was based from Hendra Station. He was the first pumper (fire engine) to arrive at the fire scene at Seabreeze Lodge on 18 August 2002. His crew came from Sandgate Station very close by. **On entering the street Mr Wilson said; “there was not a lot of flame, but on arrival, in the short space of time, the building had suffered flash over and was engulfed in flames, at least three quarters.”**

He saw a person on the front lawn with burns on his legs. He was passed over to the care of a neighbour so that he could attend to the fire. “The flames were licking onto the structure next door. You worry about the people in there. And you’ve got to worry about anyone that was in- could have been in the building which is alight.”

When asked whether he found out some information about whether there was anyone in the building that was alight, Mr Wilson responded; “Not off any of the bystanders originally. Of course everything was going at about a million miles an hour....once we get men into action as an officer, you’ve got to do a 360 degree of the premises So you’ve got to run around and check ‘cos something else could be happening at the back. You don’t know what’s happening at the front. And whilst I was around the back there was a group of people standing there, the residents, I would presume, saying there were people trapped inside.”

At this time he says other fire engines were on their way to the scene and police were already there, but he was the only one out the back at the time.

When asked by Mr Isdale if the premises were saveable Mr Wilson said, **“Oh no no, the premises were gone. They were three quarter involved. The heat was immense. You couldn’t get near the building, burnt the side of the fire truck. Some of my men suffered burns to their hands trying to get close to the fire.”**

**It is clear from this evidence that there was no opportunity to attempt to enter the building and find or rescue anyone still inside after the fire brigade arrived. The evidence was that they arrived in a very short time after the phone from the Caltabiano and Morris families.**

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<sup>17</sup> Exhibit 212

<sup>18</sup> Exhibit 104

<sup>19</sup> Exhibit 213

Mr Wilson explained that you attach your hoses to the fire engine itself, to the pump. The pump takes the water from the street into the pump.....energises it and pushes it out through the fire hose.

Mr Wilson's immediate concern was the premises to the left from the front of the building. The flames were licking onto that. He put a line on that area and then did his 360 degree reconnoitre and brought a hose down the right hand side of the building.

Mr Wilson said there was no problem in accessing the water from the main at the front of the residence, but he said the quantity of the water was very very poor. He explained that the pump provides the pressure, but he needed a volume of water that was not available. The mains were, (9 he thought) eighty or ninety years old and he expected them to be corroded internally. He said they had enough water for one weak line initially to supply their "case three (big) line" and then one weak line to supply their "case one high pressure which is the smallest line." The case three is a 63 millimetre flexible hose and the case one is a thirty eight millimetre diameter. There was insufficient water for two case three lines.

Mr Wilson gave some indication of the size and ferocity of the blaze when he postulated that even five case three lines would not have been sufficient to put out the fire. **"The water evaporates before it gets to the fire...because the heat is so intense."**

**The house in his view was a right off as they drove up towards the house and witnessed "flashover" when the whole structure became engulfed.**

The fire officer said the water supply was a matter of taking what you can get. Only if access could have been gained to an independent main could the volume of water have been increased. The fire officers did tap into another water source, which was right down the end of the street towards the esplanade but by that time the house was gone. It of course would take time and man power to roll out hoses over the estimated one hundred and fifty metres. Mr Wilson said this did not help much as this source was part of the system that was already there.

Mr Wilson clarified that he heard screams from the house and he tried to enter via the set of rear iron stairs, a short little set of steps at the rear. "The heat was that intense it just drove me back. I could not get up there and that's when I ran back and got the man with the case one hose to come up that side of the building to get some water into that area for life saving purposes, and the heat was so intense it burnt all his hands, even though he had gloves on."

Mr West, representing the Brisbane City Council then asked some questions. Mr Wilson confirmed that the fire service could call for a water cock to be turned to allow more water to be directed to the particular area of the fire. This is done by closing down other areas of supply but Mr Wilson said it is very time consuming. **The fire was called in to emergency services at twenty six minutes to midnight (23:43:33). Mr Wilson's station acknowledged the callout to the fire within a minute and a half and was at the scene at twenty three minutes to midnight (23:37:21.) This was an extraordinary response time.**

At seventeen minutes to midnight (23:43:41) the communication centre records “914 MP5 unable to gain water. Need more pumps for water.”

This indicated that Mr Wilson had advised that there was a need for five pumps and that they were unable to gain enough water.

**The watch room section of the fire service advised Brisbane Water at fourteen minutes before midnight (23:46:41)**

Mr Wilson explained that the concern was the risk of the fire spreading along the street. There were therefore connections made into Second Avenue, Third Avenue, Brighton Avenue, and Flinders Parade. He was clearly fully engaged in fighting the fire as best he could and was not immediately aware when **the Brisbane Water turn cock person arrived at the scene (at twelve minutes past midnight.)**

What became apparent during the course of Mr Wilson’s evidence was that he was the senior fire officer at the fire, but he was not aware of all of the information and communication as it occurred and was monitored through the emergency services.

Mr **Marshall Trethewey** was an elderly resident at the Seabreeze Lodge at the time of the fire. When he gave evidence at the inquest it was also quite apparent that he suffered from deafness.<sup>20</sup> He said the place was in complete darkness and was thick with smoke at the time of his escape from the fire. He did not see any of the three people who died in the fire at the time. He says he awoke and his room was full of smoke. He walked out and saw flames ten to twelve feet high coming up the front stairs. He went across the hallway and belted on the door of the resident there and then headed out towards the back where a mate’s room next to the kitchen was, banging on doors as he went.

Mr Trethewey’s evidence was that there were no smoke alarms. (However this is contrary to other evidence. It is possible that Mr Trethewey’s deafness and the noise of the fire itself could explain this. It is also possible that when Mr Trethewey came out of his room, the smoke detector had been damaged by fire and was no longer operating. He says the fire started down at the bottom right hand side of the steps, which is where he saw it burning. [It is noted that this is broadly consistent with the witnesses Morris and Caltabiano.] Mr Trethewey remembers the fire on the right hand side if you were leaving the house via the front steps (which would be the left hand side of the stairs if you were looking at the stairs.) **However, when shown exhibit 201 which was the photograph of the ruins, Mr Trethewey clarified that where he saw the fire was to the right hand side of the front steps (looking at the building.)**

Mr Trethewey said (to his memory) the gas main was up to the right hand side of the building from where the steps were.

Interestingly, when asked what was burning Mr Trethewey said, “No, there was nothing there to burn. Obviously the battens must have been on fire, but between the battens and the steps there was an old chair, a couple of paint tins and that was all that was there.”

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<sup>20</sup> Exhibits 45 and 46

.... “The flames seemed to be coming out from where the battens were to the side of the steps. They were just starting to come- hit the side of the steps as I saw them.”  
“My room was completely full of smoke and the whole hallway.”

Mr N Byrne (father of Gary Reid) confirmed with Mr Trethewey that he had lived in the boarding house for two and a half months. He was concerned that there was fire risk in the building because;

- (1) The age of the timber, including softwood weatherboards.
- (2) There were only a few fire extinguishers, but no fire hose.
- (3) Poor water pressure.

Mr Trethewey’s evidence was that there were no alarm system to wake people up. (This was contrary to other evidence and it was plain that Mr Trethewey suffered a hearing deficit.) Certainly the evidence was consistent from various sources that from time to time the batteries in the individual smoke alarms were removed and thus disabled.

When Mr Trethewey moved in he said there were no room numbers on the doors and he had to be directed with instructions how to find it because there was no number.

Mr Trethewey had also been underneath the building. He described it as plenty of rubbish being under there. There were a lot of goods left behind by residents, a lot of half empty paint tins, old bits of timber and bed frames. There were lots of old doors. There were mattresses in a couple of places and a couple of old chairs and an old lounge chair, a couple of tables. There were some old wardrobes- it looked like it had been left by old tenants.

He also confirmed that the garage at the back of the building, but separate to it, was divided into two rooms and occupied by two boarders at the time of the fire.

Mr Trethewey saw the fire fighter with a hose up the side of the house. He confirmed there was barely any water coming from the hose.

**Mr Neil Reid** then gave evidence. He was the area Director for City West Command for the Brisbane region. He was the manager of Community Safety for Brisbane North region (which includes Sandgate.) He prepared a briefing document for the inquest.<sup>21</sup>

Most importantly for the inquest, Mr Reid was asked whether there are still issues that could be improved regarding fire safety in boarding houses. He said that the most significant changes had been implemented via the Building and Other Legislation Act. He said there was now the ability to issue on the spot fines and other regulatory functions. He hoped for better training of his people who had the responsibility of inspections of premises.

Since the Childers backpackers fire all boarding houses were inspected to ensure compliance with the Fire and Rescue Service Act and the building Fire Safety Regulations 1991. These premises were inspected and no prosecutions were brought.

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<sup>21</sup> Exhibit 214

Mr West (representing the council) clarified that the fire service was to provide experts in the area of fire safety for the council in their efforts to upgrade fire safety in boarding houses. There was a concerted effort to try to educate and encourage boarding house owners to upgrade, rather than an authoritarian approach directing this to happen.

The fire service was gradually working through the boarding houses (in accordance with their resource ability to inspect each premise. Prior to the new legislation coming into effect, they could not force older building owners to install hard wire smoke alarm systems. The fire service could negotiate agreements with building owners to improve fire safety (before the new legislation came into effect.) Typically it would phase in improvements over a one to two year period. Manuals were provided which incorporated any agreement as well as fire safety plans and maintenance schedules for equipment inspection and servicing. The plan had the support of the Brisbane City Council with a scheme to assist the funding of the upgrade work on a dollar for dollar basis. Exhibit 215 is an example of the manual.

This scheme had not yet been offered or the process gone through by the time of the Sandgate Boarding House fire.

What had occurred for the Sandgate premises was an inspection by Mr Frawley. A copy of the tick and flick report was to be sent to the Area Director, and this would then be followed up. **The evidence from Mr Reid was that the yellow copy that had been sent from Mr Frawley to the Area Director inexplicably went missing, and could not be found. The outcome was that there was no follow up from the Area Director, (and at the time) there was no way for Mr Frawley to know whether or not the Area Director had received or actioned that report.)**

**The inquest was informed that this situation has been remedied and there is now in place a system of acknowledgment of receipt by the Area Director to the reporting officer. Accordingly, no further comment is necessary in this inquest.**

**Mr Craig Vogler** gave evidence. He was formerly employed as a building inspector at the Brisbane City Council. He had provided a statement to the police.<sup>22</sup> He was a development compliance officer at the time a complaint was received from Mr Miller in June 2001. There was a complaint on 25 June 2001 (via Councillor Newman's office.) The complaint was about the adjacent premises at number 26 Second Avenue and whether or not they were properly authorised boarding premises. (Mr Jongeling had previously tried to investigate the same issue but could not get any clear answers from occupants.)

The proposed inspection via access with a resident came to nothing after the resident was evicted. Kerbside inspection was inconclusive.

The relevance and effect of this evidence is limited- it relates to the premises next door and Mr N Byrne seemed to be pursuing the issue to establish whether or not that premise was operating without authority as a boarding house. That is not a proper subject for this inquest.

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<sup>22</sup> Exhibit 123

**Mr Michael Frawley** gave evidence. He was a fire station officer at Sandgate Fire Station and his statement was contained in exhibit 204. He was referred to exhibits 209 and 210 (the tick and flick inspection sheets.) Mr Frawley had attended the premises at 30 Second Avenue Sandgate commencing in July 2000. He said he would have expected that Fire Community Safety to have attended since that time. At the time of his first inspection (which he could no longer accurately recall) he had indicated on the tick form that the issue of fuel load was satisfactory. **None of the smoke detectors at the time were operable. Some of them had their lids open and batteries were missing. So as far as he could recollect there were approximately six smoke detectors.** Mr Hannah (the manager at the time) indicated that resident took the batteries out to stop the detectors going off when they were smoking in their rooms. Or they would be taken to use for other purposes. The recommendation was made to switch to 240 volt smoke detector protection, ( - by law they were not required at that time.)

**Some emergency exit signs were not working at inspection. Mr Frawley did not observe any fire evacuation plans. There was no record on maintenance on fire extinguishers. There were no records of any training in relation to fire issues.**

Mr Frawley's last visit to the premises was on 25 June 2001. With reference to that visit Mr Frawley's statement says;

**"I was quite happy with the state of the premises on the fourth inspection. If I had not been I would have done something about it."**

Mr Frawley also confirmed there were five copies of the document. The top one went to the occupier. The bottom one stayed in the book. The second copy (green) is handed to the manager / owner after a subsequent visit (in this case the third visit). The blue copy (number three) goes to the Community Safety and a yellow copy (number four) goes to the Area Director.

Mr Frawley explained that after the Childers backpacker fire there was a big push to inspect all similar boarding house establishments. The aim was to check for compliance with the Fire and Rescue Act and the Building Fire Safety Regulation. It was to check to see that the equipment they had was working.

Mr Frawley arranged to contact the manager for the inspection, (Mr Pat Hannah.) He acknowledged that he would not have looked into bedrooms due to privacy legislation. Mr Hannah was not initially very receptive or welcoming. On one visit he even discovered that the exterior door on the ocean side of the premises was locked and could not be opened from the inside.

He indicated he would be back in a month to inspect again and expected improvement. On that visit (August 2000) there were still outstanding issues and so Mr Frawley said he would come back a third time. (This was consistent with the approach to try to encourage owners to improve prior to the new legislation coming into effect.

The third inspection occurred in October 2000.<sup>23</sup> By that time, there was a fire blanket available and faulty emergency lighting had been replaced with a plastic sign. The exit had been repaired and two landings had been fixed up. **The detectors were still not all operable. Mr Frawley said in evidence he “ wasn’t happy with it all so I decided to send it on”, meaning the yellow copy of the form to his area director.**

**The final visit in June 2001 was unannounced. This was primarily to check the smoke detectors. On this occasion, they were in working order, hence the notation that the premises were satisfactory, but he added it was not a full inspection.**

Mr Frawley clarified (via Mr Martin SC) that after the first inspection he had sent off a copy and an accompanying data sheet

Mr West arranged for **Mr Peter Marron** to be available to give evidence.<sup>24</sup> He is the water network manger with Brisbane City Council. He has responsibility for maintaining the water supply between the treatment plants and the private properties throughout Brisbane.

In February 2003 a procedure was implemented between Brisbane City Council and Queensland Fire through their fire communication centre. In the event of a structural fire there is a dedicated phone line into the Brisbane Water network’s control centre. On ringing this number, the turncock, (the area operator with local knowledge of the water supply system), is immediately despatched to the site of the fire. As well, there is dialogue between the fire communication centre and Brisbane Waters network controller who works on twenty four hour seven day a week availability. This means decisions can be taken to enhance water supply to that particular site, if possible.

It was explained that there is some scope for adjustment where there are different pressures in adjacent zones.

With reference to the fire at the barding house, Mr Marron said, that there was nothing the turncock could do to assist in increasing the water supply. When he arrived the fire service had already located the most advantageous point in drawing supply. Response time typically was under thirty minutes. In the specific case, the request for the turncock was logged at five minutes before midnight and he arrived on site at twelve minutes past midnight. He remained on site until after 1.00am.

The water mains for this location were situated in the middle of the road- there was no problem with access. Generally, the larger the water main is, the larger its capacity to deliver water. The main in Second Avenue was confirmed by Mr Marron to be 80 millimetres in diameter and of cast iron concrete. It was constructed in 1922. (This is one of the oldest fifteen per cent of mains in the council area- the oldest being constructed in the 1870’s.) In Brighton Avenue there was a 150 millimetre diameter main halfway between Second Avenue and Third Avenue. There were three hydrants along Second Avenue.

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<sup>23</sup> Exhibit 210

<sup>24</sup> Exhibit 216

Subsequent to the fire, in 2003 Council constructed a 150 millimetre main in Third Avenue. This was in line with ongoing main replacement. **Decisions for replacement take into account the hydraulic impact on the overall system in replacing one section.** Information about the water network is shared with the fire service by the council.

**Ms Claire Rowland** gave evidence by phone. She is the environmental health officer with Brisbane City Council and was responsible for the preparation of Report on Development and Implementation of the Local Law Accommodation Standards 1999 and its relationship with the Building and Other Legislation Amendment Act 2002.

Mr West asked some questions of Ms Rowland. She confirmed that boarding house owners must provide some storage facility for residents in accordance with these local laws enacted in 2002. This was to free up rooms which in the past had been cluttered inappropriately. Boarding houses varied- some had very stable occupation whereas other had very transient residents. In boarding houses with a more transient population there was typically more property left behind. The landlord has an obligation to keep that property for a period of time and then proceed according to the law with its disposal.

In 1994 the Local Government Act introduced more stringent requirements for council to explain and arrange entry onto property rather than having an automatic right of entry. The Residential Tenancies Act also protected tenants (and boarders) with the right of notice prior to entry into their rooms.

A co-regulatory approach was adopted by the Brisbane City Council and Fire Service. to work together with boarding house operators toward improvements in these premises. The enactment of the Building and Other Legislation Amendment Act, that came into force in 2002 brought legislative back up to this co-regulatory approach. Local Government still had responsibility for licensing boarding houses but it is in transition to moving this to the Office of Fair Trading. From August 2004 a permit will be required from that office.

The council will retain responsibility for fire safety in the context of the Building Act.

It must be appreciated that a balance must be struck between making vulnerable people homeless (if there is a sudden closure of premises due to safety concerns) and ensuring adequate safety standards in budget accommodation.

Grants were available upon application by the boarding house owner if they had a fire safety management plan in place. It was required that they go through a process with the Qld Fire and Rescue Service and commit to improvements for fire safety prior to this grant being available.

Boarding house operators had to undertake the work and submit the receipts to Council who would then reimburse fifty per cent up to a certain amount.

**Mr Turbot Bargwan Dutta** the operator of the Seabreeze Lodge at the time of the fire appeared before the inquest. His counsel, Mr Byrne QC informed the inquest that he was still subject to charges arising from the fire. Accordingly he claimed privilege

from answering any questions at the inquest. Statements made by Mr Dutta to police and fire officers were available to the inquest. (Exhibits 37 and 38.)

In Mr Dutta's statement of 19 August 2002 he says he is the owner of the boarding house at 30 Second Avenue Sandgate. "Rompine" was the name of the company which was the owner but effectively, control of the premises vested in Mr Dutta. He also used to own the premises at 26 Second Avenue but sold them to his brother-in-law. He sublets them back and again was the person effectively with control. He describes himself as a retired accountant.

Mr Dutta said there were four fire extinguishers at Seabreeze Lodge and there were battery smoke alarms in hallways, lounge and bedrooms, but not all rooms. He said there was a problem with tenants removing batteries from the alarms, but these were replaced as required. There was a tap at the front and the rear of the property but no hose fitted because these also would be stolen.

Mr Dutta said the fire brigade inspected "about a year ago" and there were no fire hazards to report from them.

He gave a second statement on 20 August 2002. He confirmed the property was bought as a boarding house in 1988 and he had continued to run it as a boarding house. It was licensed annually by the Brisbane City Council for twenty three occupants. He had converted the back shed into two rooms.

Mr Dutta stated he had not done any renovations on the property since he had owned it but he had done maintenance including replacing and repairing toilets, showers, kitchen sinks, doors and walls. The front, side and rear steps have been replaced as well as re-painting the property.

In relation to electrical matters he said he had the property rewired four or five years ago. **I remark that this may be an area that should have been checked up upon by the relevant authorities as Mr Dutta's statement is as follows:**

**"A boarder, who was an electrician, did this. I can't remember his name. He told me he was an electrical engineer. I didn't check it but he seemed to know what he was doing. I didn't pay him to do it he just got free rent. I did the rewiring as preventative maintenance. I didn't report this rewiring to SEQUEB or the council. I think it took five or six months. He was just doing it slowly. I bought the material for him to do it. He would tell me what he needed and I would go and buy it. I couldn't say where I've bought the electrical supplies from. I went to whichever was cheaper. I had also done my boarding house at Windsor so I can't remember. I would have paid for the supplies by cheque or cash. The guy who did the rewiring for me basically just followed what was there before. He was basically just replacing it. I was with him ninety percent of the time when he did the work. I know all the old black coloured electrical wires were replaced. There was some newer wiring that wasn't replaced. If the wire had plastic covering instead of rubber we didn't replace it. The switches and power points that were older were replaced. The power board didn't get replaced. I have a new one ready to go in. "**

**The same nameless person, whose qualifications were not checked by Mr Dutta rewired the other boarding house then owned by Mr Dutta at 39 Northy Street Windsor. I am inferring that Mr Dutta also did not inform the council or electrical authorities about the electrical rewiring work performed on this property either. Mr Dutta bought that property in 1990 and sold it two or three years ago. As a matter of caution I raise this issue for the attention of authorities to ensure proper standards of electrical safety have been adhered to.**

In considering all of the other evidence to the contrary it is impossible to accept the truthfulness of Mr Dutta's statement that "there have not been any electrical problems at the boarding house at number 30 or number 26 since I have owned it." Mr Dutta asserted he was at the property making sure everything was alright a number of times every week, but that no one told him there was a problem with electrical matters. Again, it is impossible to accept this evidence in the face of the weight of evidence from the residents. The most recent caretaker was Shone Landue. He died in the fire. His son, David Wells, who assisted his father, was not complimentary about fire and general maintenance issues.

On the issue of fire safety Mr Dutta acknowledged that council attended on 23 November 2001. He was ( in his language, );

**"required to rectify a few things with the property. One of the things was to liaise with the fire service. I did that and they came out. I was required to get a current report of all fire safety aspects of the premises and supply it to council within six months.**

**I had an old report but I wasn't going to be issued with a new one until I had complied with the things outlined in the letter sent to me by the council and then liaise with Bill Williams. I haven't done that yet. The thing that was holding the report up was that I had to replace the missing stairs on the east wing. The stairs were replaced in December; I just haven't had Bill Williams back. I was away three months.**

I haven't sent anything in reply to the Brisbane city council about the notice sent to me on 23 November."

Concerning the smoke alarms, Mr Dutta confirmed none were hard wired at the time of the fire. He had the control panel ready for the hard wiring to be done. He said was waiting to receive further information about availability of grants from the council to do this. (I note council's evidence was that the scheme operated on the basis of reimbursement of expenses rather than an upfront payment to perform the work.

At paragraph 54 of Mr Dutta's second statement he says;

"When the house burnt down at number 30 there was one chemical extinguisher, which was in the kitchen. It was in a glass case. There was also a fire blanket. There was a normal water fire extinguisher in the lounge room and a water one in the hall way. The two water ones were nine litres, which was what as recommended to me by council. The water ones were not in glass cases.

Mr Dutta stated he employed London Fire Services to inspect extinguishers in both properties at 26 and 30 Second Avenue one a year. Because there was a problem over

payment Mr Dutta said the company had not come back even though he maintained he had sorted out the problem.

Mr Dutta said he drew up fire evacuation plans which showed the floor layout, the position of extinguishers and green arrows to show the way out on the plan. There were two meeting spots indicated at the back and front of the property. He said he physically tacked these up in every room and the hallway, kitchen and lounge rooms. He told tenants he came across as he did this. He recalls the plans still being present in the common areas at the time of the fire.

He said there was a special illuminated exit sign at the front entry which was designed to come on if the power was cut off. It had battery back up and a test button.

**The overall impression from Mr Dutta's evidence in his statements (when looked at with information from the residents) is that everything was done on the cheap and informally.**

Apart from the witnesses called to give evidence in this inquest there were numerous statements taken by investigating officers and tendered to the inquest. Some will be remarked upon here;

**Peter Brown** had lived at both 30 Second Avenue and also 26 Second Avenue. He described it as the one operation being run and owned by the person he knew as Burt. He was scathing about fire safety issues in both buildings.<sup>25</sup>

**Peter Hynd** also had lived in both premises.<sup>26</sup> He acted as caretaker between Pat Hanna and Shone Landue. He commenced painting to improve the premises, which he described as "shocking". He was there for about eighteen months and could only recall one smoke alarm in the kitchen, they went off frequently. He recalled two fire hydrants. He recalled the council inspection at the end of 2001 and that Bert was supposed to do some ore repairs. He confirmed electrical problems and exposed wiring.

**Michael Arnold** lived opposite number 30 Second Avenue.<sup>27</sup> He heard a woman yelling and got out of bed to look. He saw the front left of the house at the bottom of the stairs was on fire. The flames were about one metre up the fibro wall on the outside. It looked like the flames were coming from under the house, but coming from the floor area. He did not see the fire on the ground underneath. This area is partially obscured by the stairs at the front of the house.

**Frank Andersson** was another previous caretaker of the premises.<sup>28</sup> While he was at number thirty he says the fire extinguishers were empty. He was highly critical of fire and electrical safety.

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<sup>25</sup> Exhibit 98 and 99

<sup>26</sup> Exhibit 101

<sup>27</sup> exhibit 115

<sup>28</sup> Exhibit 125

**Aaron Kumar** worked for London Fire and Safe.<sup>29</sup> He attended and serviced three fire extinguishers at 30 Second Avenue on 1 November 2001. He confirmed one extinguisher was at the front of the building, hanging on the wall. It was a 9 litre water extinguisher. The second was in the lounge room, also 9 litre water filled. The third was a 4.5kg dry chemical powder extinguisher in the kitchen.

There were other extinguishers on the premises but Mr Dutta declined having them serviced due to cost. In accordance with the company policy, Mr Kurma returned in six months in May 2002 and spoke with the caretaker. However, the six monthly servicing did not occur because the caretaker required authorisation from Mr Dutta first. An inspection did occur of the premises next door ( at number 26) and it was recommended that this premises required at least three extinguishers. Mr Kurma made several attempts to contact Mr Dutta in the weeks that followed but without success. There was no follow up from Mr Dutta.

**Martin Fitzpatrick** lived in room 20 since the beginning of August 2002.<sup>30</sup> On 6 August he noticed a smell of gas coming from the front left hand side of the house as you looked at the house. He told Shone Landue, the caretaker, and his son, David. The response was that there was no gas leak. Martin said he could detect the smell for the time that he remained at the premises. On 9 August he was taken to hospital due to health problems and remained there up to and including the date of the fire.

The overwhelming impression from the evidence of people who had lived in both number 26 and number 30 Second Avenues was that;

- There was no explanation of any fire safety procedures given to new tenants,**
- Battery powered smoke detectors frequently did not work and frequently did not have batteries in them;**
- There were frequent electrical problems with fuses blowing and the power supply being interrupted. Repairs were undertaken by tenants or caretakers of the day, but there was no information suggesting that licensed tradespeople were employed to repair, maintain or improve electrical supply at the premises.**

### **Submissions to assist coroner in making recommendations**

**Mr Isdale, counsel assisting this inquest** suggested three recommendations;

(1) That Brisbane City Council ensures that water supplies for fire fighting from its mains are adequate to immediately fight fires in the areas serviced by those mains.

(2) That Brisbane City Council operate an effective system to ensure that safety related requirements made by it are complied with within the time stipulated, or, if not, that effective follow up procedures are actually taken.

(3) That Qld Fire Service and the Brisbane City Council conduct formal liaison procedures to ensure that they perform their fire safety functions in a way so that their effectiveness is maximised.

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<sup>29</sup> Exhibit 127

<sup>30</sup> Exhibit 148

**Mr N Byrne, father of Gary Reid** made some verbal submissions later followed by written submissions. I do not list his overall criticisms, which I have noted and are as recorded from page 399 of the transcript. In summary;

- (1) To review the systems in place for inspection of safety issues of boarding houses and ensure proper systems were maintained, reviewed, acted upon and enforced within strict time limits.
- (2) Liaison between relevant government departments and local authorities.

Further written submissions are broadly summarised as follows :

- (3) Involvement of Qld Advocacy Incorporated in any co-regulatory approaches between local government, the fire service and boarding house operators and tenants.
- (4) Recognition of effort by investigating officer, Detective Waugh.
- (5) Removal of any element of discretion with council or fire officers in enforcing compliance with safety and fire standards
- (6) Full review of council's system of inspection and follow up of safety standards and inter-relationship with other relevant bodies, ensuring that there is a system of automatic review and full accountability and transparency of that system.
- (7) Review of legislation to consider including dwellings with six or less people as also subject to boarding house licensing provisions

**Mr Byrne, QC**, provided written suggestions summarised as follows;

- (1) Investigation of possibility of implementation of an automatic cut off system for gas lines in the event of fire.
- (2) Upgrading water mains in the areas of multiple dwellings to ensure adequate supply for fire fighting

**Mr West** also provided written submissions summarised as follows;

- (1) The legislation be reviewed to consider empowering an appropriate authority to conduct spot audits of multiple dwellings in relation to safety issues, (noting that existing legislation requires notice to tenants and owners/ operators.
- (2) That legislation be reviewed to balance the requirements of providing storage facilities for boarding house tenants with safety requirements to keep premises clear of unacceptable levels of material capable of adding to the fuel load of a fire.
- (3) Fire protection aimed specifically at the under floor areas of "Queenslander" style buildings.
- (4) Clarification of areas of responsibility between the Fire Service and local government for fire and safety issues and inspection

(5) Review and improve communication methods for fire fighters at the scene of a fire so that they can immediately access via radio information about water supply or other issues relevant to fire fighting

(6) Self closing valves for gas lines (in the event of fire / damage) and consideration of metal enclosure for gas outlet

(7) That appropriate authorities consider commendations for bravery for Mr & Mrs Caltabiano, Mr & Mrs Morris, Fire Officer Wilson and other fire officers.

**Mr Martin SC** provided written submissions summarised as follows;

(1) The most significant preventative measure to ensure safety is a hard wired smoke detection system giving early warning of a fire to residents and giving them the opportunity to escape the premises. Subsequent to this tragic fire the Building and Other Legislation Amendment Act 2002 has come into effect from 1 July 2003 and now requires those higher safety standards to be complied with.

**I am satisfied on the balance of probability and find accordingly that:**

1 On 18 August 2002 shortly before 11.30pm a fire started at a boarding house known as Sea Breeze Lodge at 30 Second Avenue Sandgate. The premises were an older style “Queenslander” timber and iron construction elevated on stumps. There were some internal rooms with louvred or skylight ventilation only. There were four points of egress on each side of the house.

2 The premises were owned by a company called “Rompine”, with the chief company officer being Mr Turbot Dutta. He continued to operate the premises as a boarding house, which had been the long standing use of the premises.

3 The premises were licensed as a boarding house by the Brisbane City Council. On the night of the fire twenty three people were resident at Sea Breeze Lodge.

4 Mr Dutta also effectively had control of the adjacent premises at 26 Second Avenue via a lease back arrangement from his brother- in- law to whom he had sold the building. These premises were also tenanted but not apparently licensed as a boarding house due to a smaller number of residents.

5 Mr Dutta operated the two properties with the assistance of a succession of live in caretakers who had responsibility for managing boarder’s behaviour, the cleaning of the premises and payment of board. Mr Shone Landue was the resident caretaker at the time of the fire.

6 The fire started beneath the boarding house at about 11.30pm. The evidence was that it started in the vicinity of the area to the right hand side of the concrete pathway looking from Second Avenue at the building.

7 The fire in its earliest stages was witnessed by Mr & Mrs Caltabiano and Mr & Mrs Morris as they drove past the premises. The fire was first observed by Mrs Morris who told the others. The vehicle stopped and both couples were involved in notifying the authorities, attempting to connect a hose and put out the fire and alerting the occupants of the house to the fire. They then assisted residents who escaped the premises. Their efforts must have saved lives as many residents refer to being awoken from sleep to hear people yelling out a warning to get out of the building.

8 Residents were alerted from outside the building, or awoke to the sounds of the fire. Some battery operated smoke alarms sounded. As residents escaped they banged on doors to alert other residents. There was conflicting evidence about smoke alarms. I rely in particular upon the evidence of Mr Caltabiano and Mr Morris who were walked through the site the day after the fire and the process video recorded. Both said they heard a smoke alarm at the front left hand side of the house at the time the fire flared up and started to take hold of the building.

9 I do not recall the evidence of any residents (apart from Mr Prasad) indicating they had been woken or alerted by the sound of smoke alarms. In accordance with the evidence of Mr Frawley from Fire Services (amongst others), I find there were about six battery powered smoke detectors in the common areas of the house. I am unable to make any finding to say whether or not these smoke alarms were working at the time, but I note that the history from Mr Frawley was that on three occasions of inspection commencing in 2000, batteries were missing or detectors were otherwise not working. On his last visit in June 2001 he said the smoke detectors were operating

10 I do not rely on Mr Prasad's evidence as he appeared to be partisan to the owner, Mr Turbot Dutta, known as Burt.

11 It is remarked that the ferocity of this fire and the noise from it are likely to have made it difficult to hear anything once the fire took hold.

12 A description from a resident, **Mr Arthur Byrne** gave a graphic account. Mr Byrne was aged thirty seven and was living in room sixteen at the back of the house. (The fire moved from the front left hand side of the house towards the rear.) Mr Byrne said;

"I was alerted to the fire by the sound of something as if it was frying. I tried to open my door handle however the handle was too hot, and this burnt my hand. As I pulled back from burning my hand the door opened. I could see the flames.... striking at the walls and doors....The flames were about six feet high. I slammed the door shut, and I saw the centre of the door had a hole in it. There was quite a bit of smoke about. I tried to get out of the window however the windows were jammed as if they were welded. They were hopper style windows that you push out. I then picked up a chair so that I could throw it through the window. I missed the window because I could not see due to the smoke. I got a blanket from my bed and put it over my mouth because I started to have trouble breathing because of the smoke. I found a window and smashed it. I looked out. It was pitch black. I flopped myself out of the window because I did not know where I was going to land. Luckily I landed on the balcony. I thought to myself at that stage that if there was anyone in there I knew they would be gone. I eventually found the stairs and noticed that the fire had not got to the rear of

the house yet.....The fire fighters were in the driveway, they were having trouble with the water because they did not seem to be getting enough through their hoses.”

13 Another resident was **Mr Marshall Trethewey** aged sixty five. He was living in room eight at the front of the house to the right of the front door. It was quite apparent when he gave his evidence that he suffered from deafness. He was adamant there was no smoke alarm that sounded. He said the place was in complete darkness and was thick with smoke at the time of his escape from the fire. He did not see any of the three people who died in the fire at the time. He says he awoke and his room was full of smoke. He walked out and saw flames ten to twelve feet high coming up the front stairs. He went across the hallway and belted on the door of the resident there and then headed out towards the back where a mate’s room next to the kitchen was, banging on doors as he went.

14 Mr Trethewey said the fire started down at the bottom right hand side of the steps, which is where he saw it burning. [This is consistent with the witnesses Mr & Mrs Morris and Mr & Mrs Caltabiano.] When shown a photograph of the ruins Mr Trethewey clarified that where he saw the fire was to the right hand side of the front steps (looking at the building.) Mr Trethewey said (to his memory) the gas main was up to the right hand side of the building from where the steps were.

15 Interestingly, when asked what was burning Mr Trethewey said, “No, there was nothing there to burn. Obviously the battens must have been on fire, but between the battens and the steps there was an old chair, a couple of paint tins and that was all that was there.”  
.... “The flames seemed to be coming out from where the battens were to the side of the steps. They were just starting to come- hit the side of the steps as I saw them.”  
“My room was completely full of smoke and the whole hallway.”

16 Mr Trethewey’s evidence was that there was no alarm system to wake people up. This was contrary to other evidence and it was plain that Mr Trethewey suffered a hearing deficit. Certainly the evidence was consistent from various sources that from time to time the batteries in the individual smoke alarms were removed and thus disabled.

17 When Mr Trethewey moved in he said there were no room numbers on the doors when he moved in and he had to be directed with instructions how to find it because there was no number.

18 Mr Trethewey saw the fire fighter with a hose up the side of the house. He confirmed there was barely any water coming from the hose.

19 Another resident whose account of the fire I will refer to is the resident in room two, **Mr Seti Ah Siu**, aged sixty one. This is the room directly above where the independent witnesses observed the first sign of fire. His evidence was contained in exhibits 65 and 66. Mr Ah Siu was asleep in his room. He said;  
“I heard the sound of people running and yelling. I looked out the window on the side of the house. I could see flames. I grabbed the bag with my passport, opened the door and turned right to the front door. The front door was locked and I could not see to be able to unlock it. I turned and ran down the hall to the back door. Other people were

going out the back door too.....and then to the mango tree. Three people came after me.”

20 In his addendum statement he said;  
“I saw flames coming up through the window- red and orange. I felt the heat, definitely from under the house, directly below me and the room. The light would not turn on. I got my bag and got out. Someone banged on the door. I went to the front, but I forgot how to open the door and I panicked- (it was a sliding bolt,) so I ran to the back.”

21 Mr Ah Siu stated he had not been a smoker for the last fifteen years. He said;  
“Two weeks ago I could smell gas. I think it might have come from underneath the house. I don’t know where it came from. The smell just went away on its own.”

22 In his addendum statement the next day he said;  
“I recall smelling gas several weeks prior to the house burning down. I recall that it was during the day and I was in my room when I smelled it. The smell stayed for about ten minutes and I closed my bedroom window to try and make the smell go away. I also turned the fan on because it was starting to irritate my nose. The house had gas connected and the kitchen had a gas stove in it.....The smell went away and I thought nothing further of it. I did not tell anyone at the time.”

23 In relation to the area of the house beneath him he said;  
“They had blocked off the front of the house by putting up wooden salts. (This ) stopped access under the house unless they came from the back. I recall seeing a lot of stuff stored under my room. I am not able to say specifically what the stuff stored under my room was but I do remember seeing timber stored there. The area under room one (which was at the front of the house) was not blocked off and there was a chair placed there. I recall seeing people sitting on the chair on occasions and talking to other people. I think that people sitting here would also smoke.”

24 **Martin Fitzpatrick** lived in room 20 since the beginning of August 2002. His statement was exhibit 148. On 6 August he noticed a smell of gas coming from the front left hand side of the house as you looked at the house. He told Shone Landue, the caretaker, and his son, David. The response was that there was no gas leak. Martin said he could detect the smell for the time that he remained at the premises. On 9 August he was taken to hospital due to health problems and remained there up to and including the date of the fire.

#### **Possible ignition from electrical or gas supply point to the premises.**

25 The place where witnesses saw the fire in its early stages was also in the immediate vicinity of the gas stand pipe and the electrical supply power board.

26 Sergeant Remedios who investigated the fire for the police service confirmed that the area identified as the likely seat of the fire (at the end of the cement path in the vicinity of the stump to the right hand side,) was also the area where electrical power came into the house. There was nothing remaining of a power box, but Sergeant Remedios examined the porcelain fuse holders. He stated they did not

appear to be too badly damaged. Some fuse wires had been broken but he could not determine whether this was as a result of the fire. Sergeant Remedios saw that the porcelain fuse housing was on top of debris he examined. This indicated that the fire had started below the level where the fuses were located. The evidence from the witness was that the seat of the fire was “around that area” (of where the power fuses were.) The deepest charring was probably thirty centimetres from the ground. He explained that the hottest part of a fire is the plume of smoke immediately above the flames. Sergeant Remedios stated that the way the fire suddenly flared when Mr Caltabiano was trying to connect a hose would suggest something in the immediate area of the fire that was highly flammable.

He contacted Mr Des Ede, the Electrical Inspector for further review of this issue.

**27 Mr Gregory Reynolds** was the Area Director of the Queensland Fire and Rescue Service and was requested by the Queensland Fire Services Commissioner to do an investigation into this fire. He confirmed the intensity of the fire which had totally destroyed the building resulting in the whole building being consumed and the debris falling to ground level from its elevated position.

28 His conclusion was that it was more likely than not that the fire had originated in the area also indicated by Sergeant Remedios, namely near the base of the stump to the right hand side of the concrete path leading into the building from the front of the property. Previously the path had led to stairs, but there were no stairs at the end of the path at the time of the fire.

**29 Mr Reynolds could not exclude accidental cause of ignition of the fire. Nor could he exclude an incendiary ignition source. The cause of the fire remains unknown.** Evidence of arcing between electrical wiring does not prove an electrical cause of the fire because this may simply have occurred after fire impacted the wiring.

**30 Mr Desmond Ede** worked in the Electrical Safety Office. He tried to determine whether electricity was involved in the ignition of the fire, **but because of the destruction caused by the fire it was very difficult to do so. He was unable to state categorically whether or not electricity was involved in the ignition of the fire.** The fuse wire was of the correct size. A couple of fuses had blown and close examination confirmed that the fuses had blown (rather than it being damage caused from the fire.). However Mr Ede expected that the reason the fuses went would have been due to fire damage caused somewhere in the building to the wiring. It was also consistent with other evidence from residents that some lights went out **There was no evidence of damage behind the switchboard which would have been expected if there had been an initial problem in the switchboard itself.**

**31 Mr James Carr** was the petroleum and gas inspector for the department of Natural Resources Mines and Energy. His evidence related to exhibit number 169. He confirmed that the premises were connected to natural reticulated gas and that he was called to attend while the fire was still burning. When Mr Carr arrived, a contractor from the supplier, Origin Energy was in the process of “squeezing” the gas supply to the building. The gas supply pipes are polyethylene, like plastic, and the quickest method of cutting supply is to squeeze the pipe shut.

32 Because of the level of destruction it was impossible for Mr Carr to inspect anything to determine whether there had been a problem with installation of the gas supply or any interference. The continuing high temperature also prevented close inspection even a day after the fire. There was no follow up. Mr Carr was advised that if further investigation of the gas supply issue was required his service would be advised by the fire investigators. No request was received.

33 He said that if a gas pipe was ruptured and was burning it would burn with a yellow flame with no added aeration. Mr Carr's evidence (at page 159) was that he was **"quite sure that what he saw was a flame coming out of a vertical service pipe coming up out of the ground and we could see it being diminished as they squeezed it off."**

34 From Mr Carr's memory he recalls that pipe being at the left hand front corner of the building as you looked at it. He indicated the pipe would be typically screwed to the front of the building. **He described the position as in the area of the white stump at the end of the concrete path.** The pipe would have been  $\frac{3}{4}$  to one inch diameter. The pipe he could see was what appeared to be a steel pipe. **The flame was coming out of it, "maybe three metres from where it comes out of the pipe and where it ended."** (Page 160.)- **"like a V shape vertical flame,"** quite distinctive in Mr Carr's view. It was about one metre above the ground. **This was in the vicinity of rooms two and three. A marker was placed on exhibit 201 to indicate the vicinity. This position was consistent with the area where Mr & Mrs Morris and Mr & Mrs Caltabiano first saw the fire.**

35 Mr Carr explained that there was nothing remaining after the fire of the gas metre which would have been attached to the end of the vertical stand pipe. The gas metre would have been of alloy or plastic with a low melting point.

36 There was no safety mechanism to cut supply in the event that a fire or mechanical application burns or removes the gas metre. **There is no evidence of whether the gas metre was burnt by the fire and then the pipe emitted gas or whether there was interference with or malfunction of the gas metre prior to the fire.** However, what is striking in Mr Carr's evidence is the coincidence of his description with Mr Caltabiano's description of where he first saw the fire, and that it was above ground level, but close to the ground. **It would at least suggest that the gas metre was damaged and gas fuelling the fire very early in the progress of the fire.**

#### **Fuel Load beneath the house**

37 **I find there was significant "fire load" of items stored beneath the premises at Sea Breeze Lodge immediately before the fire started. The evidence from the residents of Seabreeze Lodge was overwhelming on this issue. It was backed up by the professional opinion of the fire investigator Sergeant Remedios when he observed the media video of the fire in progress. He observed the way in which the fire was moving and behaving.**

I refer to the evidence of residents;

**38 Marshall Trethewey**, who has previously been referred to as the resident from room 8 at the front of the house, said: “There was an enclosed locked area below the house where mowers, petrol and garden equipment was stored. There was also open storage area with old mattresses, beds, timber, ladders, a whole variety of stuff. Under rooms sixteen and seventeen (at the back of the building) were twenty tins half full of paint.”

**39 Christopher Prasad**, from room number four was aged twenty six. He said under the house there were building materials, wooden beams, painting trestles, old mattresses that had been there a couple of months.

**40 Bruce Holme**, aged forty eight lived in room eighteen for the month before the fire. He was more descriptive. He said, “I saw heaps of rubbish under the house- it’s a good place to start a fire- there’s that much junk under there..... I would describe under the house as a brothel, there were bits of carpet, bits of paints, old furniture and basically it was like a tip.”

**41 Norman Greer**, who was aged twenty six, lived in the premises next door at number twenty six Second Avenue. He had been there four years on and off and knew the premises well. He said;

“Underneath the house was an absolute mess. There was everything you could possibly name and it was really cluttered. There were paint tins, lawnmowers, petrol tins, wood, shower pieces, building materials, trestles for painting, an old lathe, spare mattresses and lots of other stuff.”

**42 Raymond Stephens**, also lived next door at number twenty six also and had lived at number thirty previously . He said;

“There were timber and paints ready for renovation. There were junk wooden cupboards, washing machines, timber, paint pots. The owner, Bert, used to be a bit of a hoarder. If he could salvage anything he would keep it and then re-use it at a later time. All of this stuff was under the house at number thirty- there was so much stuff I wouldn’t be able to remember it all.”

**43 Ian Law**, aged forty three had lived at number thirty for three years. He merely said, “ there was a lot of junk underneath.”

**44 Daren Webb** was also a resident for three years and lived in room fourteen. In exhibit 78 he described it as ;

“There were a lot of items stored underneath this area, like old washing machines, bits of wood, steel, rags. The area was packed with so much stuff that you could not walk freely under there. .... The owner, Bert was a bit of a bower bird- if he could salvage anything and then re-use it at a later time. All of this stuff under the house at number thirty all belonged to Bert. There was so much stuff I wouldn’t be able to remember it all.”

**45 Jim McCarthy**, who was aged sixty six and lived in room 3 said:

“There was a lot of junk stored underneath the house. There was timber and paint, I don’t know how many. There were also mattresses, lawnmowers and petrol tins under the house, I couldn’t say how much of each. ..Directly under my room there was room that was being built. It was started a few months ago and then it stopped.”

46 Finally, there was the statement of **David Wells**, the step son of the caretaker, Shone Landue who died in the fire. He lived at number thirty Second Avenue in room twenty until three weeks before the fire . After he moved out he continued to come to the property daily to help Mr Landue, do the cleaning. He recalled the door handle to room twenty was placed incorrectly so that you had to turn it upwards to open the door. In relation to what was underneath the house he said;  
“Under the house appeared to be used as a storage area for carpets, lino, doors, windows, old furniture, paint, an old diesel steam cleaner, thirty cartons of bathroom accessories. There were two rooms under the house full of clothing and other property from persons who left the hostel and left it behind.”

**47 I find there was a significant amount of material underneath house, I reject Mr Jongeling’s evidence to the contrary.**

48 In addition I find there were items that could specifically be described as fuels or were flammable beneath the house. Numerous residents referred to lawn mowers and fuel as well as paints and thinners and a diesel powered steam cleaner. There was a gas stand pipe. In particular, there was evidence from Mr Ah Siu, the resident in room two closest to the gas stand pipe, that he had smelled gas coming from beneath the house two weeks prior to the fire. Mr Fitzgerald gave similar evidence.

**49 Relying upon the evidence of the residents about the items and the evidence of Sergeant Remedios, fire investigator about his observations of the fire, I find that this fuel load was significant in fuelling the fire and adding to its intensity.**

#### **Fire fighting response and related issues**

**50 Robert Wilson** was a fire officer who gave evidence to the inquest. He was in charge of a fire pumper, and was the first pumper, (fire engine,) to arrive at the fire scene at Seabreeze Lodge on 18 August 2002. His crew came from Sandgate Station very close by. The Sandgate fire truck was the first to respond to the fire and arrived at the scene at Second Avenue within four minutes of the phone call- which I find to be an exceptionally good response time

**51 On entering the street Mr Wilson said; “there was not a lot of flame, but on arrival, in the short space of time, the building had suffered flash over and was engulfed in flames, at least three quarters.”**

Mr Wilson explained that it was apparent that fire was threatening number 26 next door- “The flames were licking onto the structure next door. You worry about the people in there. And you’ve got to worry about anyone that was in- could have been in the building which is alight.”

52 He said;

“ Of course everything was going at about a million miles an hour...once we get men into action as an officer, you’ve got to do a 360 degree of the premises So you’ve got to run around and check ‘cos something else could be happening at the back. You don’t know what’s happening at the front. And whilst I was around the back there was a group of people standing there, the residents, I would presume, saying there were people trapped inside.”

53 At this time he says other fire engines were on their way to the scene and police were already there, but he was the only one out the back at the time. When asked if the premises were saveable Mr Wilson said, **“Oh no, no, the premises were gone. They were three quarter involved. The heat was immense. You couldn’t get near the building, burnt the side of the fire truck. Some of my men suffered burns to their hands trying to get close to the fire.”**

54 **It is clear from this evidence that there was no opportunity to attempt to enter the building and find or rescue anyone still inside after the fire brigade arrived. The evidence was that they arrived in a very short time after the phone alert from the Caltabiano and Morris families.**

55 Mr Wilson explained that you attach your hoses to the fire engine itself, to the pump. The pump takes the water from the street into the pump.....energises it and pushes it out through the fire hose.

56 Mr Wilson said there was no problem in accessing the water form the main at the front of the residence, but he said the quantity of the water was very very poor. He explained that the pump provides the pressure, but he needed a volume of water that was not available. The mains were, (he thought) eighty or ninety years old and he expected them to be corroded internally. He said they had enough water for one weak line initially to supply their “case three (big) line” and then one weak line to supply their “case one high pressure which is the smallest line.” The case three is a 63 millimetre flexible hose and the case one is a thirty eight millimetre diameter. There was insufficient water for two case three lines.

57 Mr Wilson gave some indication of the size and ferocity of the blaze when he postulated that even five case three lines would not have been sufficient to put out the fire. **“The water evaporates before it gets to the fire...because the heat is so intense.”**

**The house in his view was a right off as they drove up towards the house and witnessed “flashover” when the whole structure became engulfed.**

58 The fire officer said the water supply was a matter of taking what you can get. Only if access could have been gained to an independent main could the volume of water have been increased. The fire officers did tap into another water source, which was right down the end of the street towards the esplanade but by that time the house was gone. It of course would take time and man power to roll out hoses over the estimated one hundred and fifty metres. Mr Wilson said this did not help much as this source was part of the system that was already there.

59 Mr Wilson clarified that he heard screams form the house and he tried to enter via the set of rear iron stairs, a short little set of steps at the rear. “The heat was that intense it just drove me back. I could not get up there and that’s when I ran back and got the man with the case one hose to come up that side of the building to get some water into that area for life saving purposes, and the heat was so intense it burnt all his hands, even though he had gloves on.”

60 Mr Wilson confirmed that the fire service could call for a water cock to be turned to allow more water to be directed to the particular area of the fire. This is done by closing down other areas of supply but Mr Wilson said it is very time consuming. At seventeen minutes to midnight (23:43:41) the communication centre records “914 MP5 unable to gain water. Need more pumps for water.” This indicated that Mr Wilson had advised that there was a need for five pumps and that they were unable to gain enough water.

61 Mr Wilson explained that the concern was the risk of the fire spreading along the street. There were therefore connections made into Second Avenue, Third Avenue, Brighton Avenue, and Flinders Parade. He was clearly fully engaged in fighting the fire as best he could and was not immediately aware when the Brisbane Water turn cock person arrived at the scene (at twelve minutes past midnight.)

62 What became apparent during the course of Mr Wilson’s evidence was that he was the senior fire officer at the fire, but he was not aware of all of the information and communication as it occurred and was monitored through the emergency services.

63 The fire was extremely hot, intense and rapid in its destruction of the premises due to the age and construction of the building (timber) as well as the high fuel load beneath the house which burnt up into the structure above.

64 The evidence was clear that there was no hardwired smoke alarm system operating in the building at the time, although a system had been purchased but was not installed. There was no evidence about whether any person attempted to use fire extinguishers within the building although the inference is that there was no opportunity to do so due to the speed and intensity of the fire.

65 I find the fire service was unable to bring the fire under control due to a number of factors;

- (1) the ferocity and rapidity of the fire due to the structure and age of the building as well as the fuel load of that structure, its contents and the contents beneath the building.**
- (2) the fact that the fire had engulfed three quarters of the building and “flash over” had been reached when the fire service arrived**
- (3) water sprayed onto the fire was vaporising before contacting the building due to the intensity of the fire**
- (4) the limitation of water supply to fight the fire**

66 The immediate water supply to the area was via cast iron pipes laid in 1922 . These were of smaller diameter than those installed today and could be expected to be corroded to some extent. There was evidence of the progressive review and replacement of older pipes taking into account the hydraulic impact of such replacement on water supply. Since this fire a larger diameter new main has been installed in the immediate vicinity.

67 When the fire had abated and the premises were safe and cool enough to enter upon, the remains of three people were discovered; They were:

**Shone Landue,**

- (a) whose identity was established by DNA testing.
- (b) His date of birth was 2 August 1944
- (c) His last known address was Seabreeze Lodge Second Avenue Sandgate
- (d) At the time of death his occupation was caretaker.
- (e) The date of death was 18 August 2002
- (f) The place of death was Seabreeze Lodge, Second Avenue Sandgate
- (g) The formal cause of death was smoke inhalation

68 The second victim was **Stanley Doolan ;**

- (a) whose identity was established by DNA testing.
- (b) His date of birth was 26 April 1931.
- (c) His last known address was Seabreeze Lodge, 30 Second Avenue Sandgate
- (d) At the time of death his occupation was pensioner.
- (e) The date of death was 18 August 2002
- (f) The place of death was Seabreeze Lodge, 30 Second Avenue Sandgate
- (g) The formal cause of death was smoke inhalation.

69 The third and youngest victim was **Gary Reid.**

- (a) His identity was established by DNA testing.
- (b) His date of birth was 20 July 1981.
- (c) His last known address was Seabreeze Lodge, 30 Second Avenue Sandgate.
- (d) At the time of death Mr Reid was unemployed.
- (e) The date of death was 18 August 2002.
- (f) The place of death was Seabreeze Lodge, 30 Second Avenue Sandgate
- (g) The formal cause of death was smoke inhalation and the effects of burning.

70 The cause of the fire was investigated by police and fire services officers. Due to the circumstances of the fire itself (its ferocity and intensity and the immediate concern to recover remains) there was disruption to the site before the police forensic specialist were on the scene.

**71 No cause of the fire has been established either by the police, the fire service or this inquest.** The fire commenced at about 11.30 pm on an average temperature August night. Some source of ignition was required. There is the possibility of either ignition due to electrical or gas source but there is no proof of either. Human intervention was possible but unable to be established. It is possible that an unknown person could have initiated the fire underneath the premises but there is no legally admissible evidence to charge or implicate any person.

## **72 Prevention and inspections**

In the aftermath of such a tragedy there is understandably a desire to identify any failings which could have contributed or caused the fire. This fire occurred after the tragedy of the fire that killed so many young people in Childers at the Palace backpacker establishment. There have been major legislative changes in response to that fire. Sadly what was clear from this inquest was that the changes were not legally in effect in August 2002 when this fire started. The new provisions of the Building and Other Legislation Amendments Act 2002 commenced in July 2002 but allowed operators of boarding premises twelve months to install early warning and emergency lighting.

73 The premises at 30 Second Avenue were licensed as a boarding house and subject to inspection by both the Brisbane City Council and the Qld Fire Service.<sup>31</sup> Both the Brisbane City Council and Queensland Fire Services had inspected the premises on several occasions over a number of years. I will not detail the inspections in this summary, except to say they concluded with what appeared to be a somewhat impromptu and cursory inspection by Mr Jongeling from the Brisbane City Council on 9 July 2002. He said,

**“I was in the vicinity and I viewed the rectification of one of the requirements, yes.” (at page 270.) Mr Jongeling’s evidence was that he did not raise with Mr Dutta the fact that Mr Dutta had not been in contact with Mr Bill Williams of Community Fire Safety. This was despite that fact that a (generous) time of six months had been allowed to do this and had elapsed in May 2002. Both officers from the council and the fire service were then on leave with an informal contact having been made to work towards a combined inspection of the premises. Mr Jongeling advised that his first day back from annual leave was on the day of the fire.**

75 What was apparent was that;  
-There was a concerted effort by council and fire authorities to persuade and encourage boarding house establishments to gradually upgrade their premises to the newer more stringent fire safety standards over time. This was in preparation for the new legislative requirements that would come into effect in 2003. At the time of the

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<sup>31</sup> See pages 10-11, 23-29, 35-36 of findings

fire a co-regulatory approach between the Brisbane City Council and the Queensland Fire Service was in effect. This approach was aimed to encourage and assist boarding house operators to upgrade the fire safety in their premises prior to the commencement of the new regime under the Building and Other Legislation Amendment Act

**76** However, there were clear indicators that both the fire service and council could, and should have taken more directive action to instigate immediate improvements in safety. Sea Breeze Lodge was clearly a high risk property;

- (a)- there was habitually too much flammable material stored beneath a multiple occupancy dwelling of aged, seasoned timber construction.**
- (b)- it was apparent that management of the premises did not sufficiently inspect and maintain battery powered smoke detectors**
- (c)- the premises were occupied by a transient population of mainly men who almost universally smoked both in their rooms and common areas**
- (d)- there were continuing electrical “problems” with the premises most probably associated with overloading**
- (e)- the lay – out of the boarding house was ad hoc with internal rooms and the building required ongoing maintenance**

77 Irrespective of the new legislation which council and the fire service were working towards, the authorities had power to be more pro-active (and less conciliatory) to insist on improvements. (I refer to the detail in Mr Isdale’s questioning summarised at page 29 of these reasons.) **There was scope even to take the drastic step of withdrawing the accommodation licence. Certainly there was a much harder bargaining position that council and the fire service could have adopted. Time frames for improvement could have been much shorter. Proper and systematic review of inspections and communication between the agencies must be improved. The premises had a well known history of complaints about maintenance and safety issues. It is not acceptable to permit a lowering of standards on the basis that lower cost accommodation establishments might close if pressure is brought to bear to improve standards.**

78 An inquest occurs against a background of grief and loss of a family member. The inquest is the opportunity at which family members can raise issues with witnesses which are of concern to them. However, the latitude in permitting these sorts of questions does not enlarge the proper jurisdiction of the coroner which is limited to inquiring into the circumstances leading up to the death of a person or people. Thus, although there has been information in this inquest about various issues concerning this boarding house and the associated property and some concerns about standards, these are not matters on which the coroner should be making findings unless they are intrinsically connected with the circumstance leading up to the death, namely risk of fire.

79 I do not make any finding as such on the issue of whether adjacent premises at 26 Second Avenue Sandgate were being operated as a boarding establishment at the time of the fire. That is not an issue appropriate for this inquest.

80 Nor is it appropriate for a coroner to remark upon any matter to suggest any person is guilty of any offence, civil or criminal. The Coroners Act 1958 specifically

prohibits a coroner from doing this. [Coroners Act 1958 Section 43 (6).] These are matters to be properly assessed as to whether anyone should be brought to court in whatever is the appropriate jurisdiction and then dealt with according to law.

81 The only scope for a coroner is to consider whether there is sufficient legally admissible evidence to require a person to stand trial pursuant to section 41 (1) (b) of the Coroners Act 1958. This reads;

“If in the opinion of the coroner holding the inquest the evidence taken at the inquest is sufficient to put a person upon the person’s trial-

(b) Where a fire has occurred- for any indictable offence punishable on indictment in connection with the fire;

the coroner may order that person to be committed to take the person’s trial for the offence before some court of competent jurisdiction and may issue the coroner’s warrant for the apprehension and commitment of that person if no such warrant has already been executed.”

82 The evidence is not sufficient to put any person or persons upon any trial. Therefore no person will be committed for trial.

**83 I note that it remains open to the police to continue their inquiries and follow up any information from the public about the cause of the fire, which remains undetermined. The investigating officer, Detective Sergeant Eugene Waugh can be contacted with any further information.**

#### **RECOMMENDATIONS:**

Pursuant to section 43 of the Act, the following recommendations are made by way of rider to the formal findings.

#### **I recommend:**

- 1 Brisbane City Council review its water management practices for replacement of water mains having regard to the capacity of those mains to deliver sufficient volume of water to effectively fight fires.
- 2 That Brisbane City Council review their systems of monitoring premises to ensure that safety related requirements made by it are complied with within the time stipulated, or, if not, that effective follow up procedures are actually taken.
- 3 That Qld Fire Service and the Brisbane City Council conduct formal liaison procedures to ensure that they perform their respective fire safety functions in a way so that their effectiveness is maximised and responsibilities of each authority are clearly recognised.
- 4 That Qld Advocacy Incorporated be involved in any co-regulatory approaches between local government, the fire service and boarding house operators and tenants.

- 5 Local council authorities and Queensland Fire Service review their procedures relating to any element of discretion with council or fire officers in enforcing compliance with safety and fire standards
- 6 Review of legislation to consider including dwellings with six or less people as also being subject to boarding house licensing provisions.
- 7 Investigation of possibility of implementation of an automatic cut off system for gas lines in the event of fire as well as metal enclosures for the meter.
- 8 Review of legislation to consider empowering an appropriate authority to conduct spot audits of multiple dwellings in relation to safety issues
- 9 Review of legislation to elevate fire safety requirements above competing interests of privacy or other tenancy based interest where there is a conflict in relation to multiple occupancy dwellings.
- 10 Fire protection be reviewed specifically focusing on under floor areas of “Queenslander” style buildings.
- 11 Review and improve communication methods for fire fighters at the scene of a fire so that they can immediately access via radio information about water supply or other issues relevant to fire fighting.
- 12 That appropriate authorities consider commendations for bravery for Mr & Mrs Caltabiano, Mr & Mrs Morris, and any other people including fire and police officers and residents of Sea Breeze Lodge ( including the possibility of posthumous awards).
- 13 Electrical and fire safety review of premises at 39 Northy Street Windsor where the evidence indicates there may have been unlicensed electrical work performed.
- 14 Finally, the most significant preventative measure to ensure fire safety is a hard wired smoke detection system giving early warning of a fire to residents and giving them the opportunity to escape the premises. It is urged that all levels of government and fire authorities concertedlly act to ensure the efficacy of these new provisions to avert the repetition of such a tragedy.

Copies of the recommendations including reference to evidence given to this inquest are to be forwarded to;

Brisbane City Council

Queensland Fire Service

Queensland Advocacy Incorporated

Office of Fair Trading

Ministers and Departmental Director Generals of Relevant Departments.

Finally I acknowledge in particular the efforts of the investigating officer, Detective Waugh as well as the various investigating officers and many witnesses who have contributed to this inquest. Instructing solicitors and counsel appearing before the inquest have helped to elucidate both the facts and the legislative framework governing fire safety in this area. Your assistance is greatly appreciated.

In particular I acknowledge the dedicated and determined input from Mr Neville Byrne, father of Gary Reid. He has pursued the issue of inquiry into the circumstances of the fire and recommendations for improved boarding house standards since his son's death in a forthright way. Mr Byrne supplied a copy of Queensland Advocacy Incorporated's Executive Summary titled "Legislation and Life Report" prepared in 2003. This report highlighted the issues for many vulnerable people suffering disabilities, both physical and mental, who are placed in boarding houses.

It is to be hoped that the family's efforts in pursuing recommendations for change will help to avert another tragedy, particularly where these establishments are often inappropriately housing the most vulnerable members of our community.

The inquest is closed.

Chris Clements

Deputy State Coroner