



Operational Risk Management in the Lacrosse Aftermath – A Fire Engineer's Perspective

Dr Amer Magrabi

Director

Lote Consulting - Fire | Risk | Security



Presentation Outline

- I. The Why - Lacrosse Judgement
- II. The What – Key Lacrosse Findings
- III. The How – Operational Risk Management



Part 1 - The Why Lacrosse Judgement

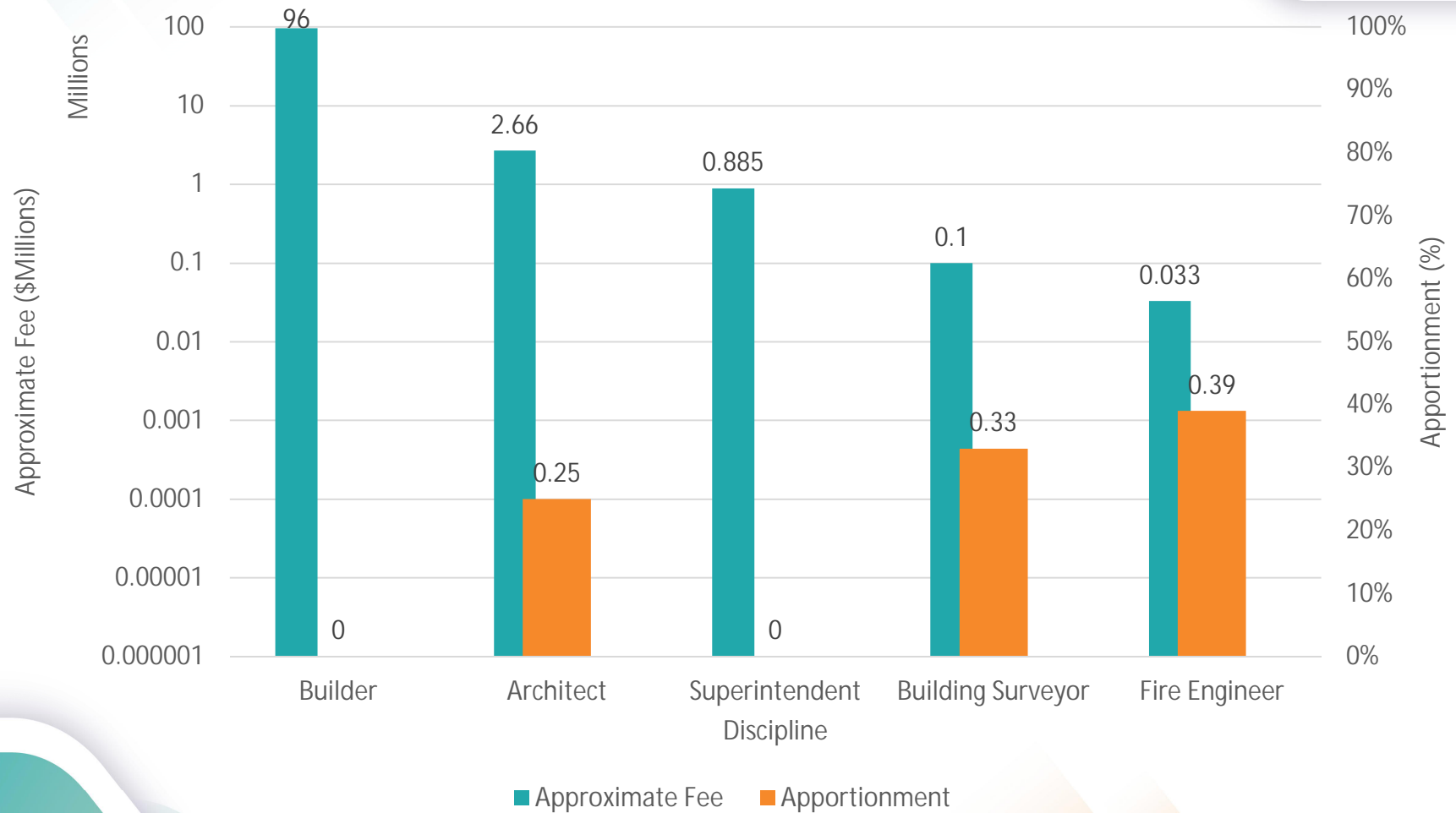


The Lacrosse Judgement

Discipline	Approximate fee	Apportionment	Statutory Insurance
Builder	\$96M	0%	No
Architect	\$2.66M	25%	Yes (PI)
Superintendent	\$885K	0%	No
Building Surveyor	\$100K	33%	Yes (PI)
Fire Engineer	\$33K	39%	Yes (PI)

- ~\$5.7M damages awarded (damages sought ~\$12 M)
- FSE received the highest apportionment of damages at 39%.
- FSE negligent and engaged in misleading and deceptive conduct
- FSE engineers to undertake an assessment of the building as a whole

The Judgement Graph



Part 2 - The What Key Lacrosse Findings



Key Lacrosse Findings - 1

- FSE aware of ACP but argued 'it was not his role to question the use of ACP'.
- Judge noted IFEG not followed.
- IFEG required the evaluation of the structure and construction materials early to establish potential fire hazards for the building



- Bronwyn Weir, 2 March 2019, Lacrosse Decision - What does this all mean? Ref: <https://www.linkedin.com/pulse/lacrosse-decision-what-does-all-mean-bronwyn-weir>

Key Lacrosse Findings - 2

- Judge noted:

“My impression generally of Thomas Nicolas’s approach to the FERs and other documents, was that there were a number of instances of the use of template or “boilerplate” language (as well as reference to out-of-date guidelines), without much attention being given to what the words actually meant or required. Thomas Nicolas is, of course, not alone in this. It is often the case that diligent and competent professionals blithely reuse standard documents that have served them well over the years, focusing only on those parts that need to be tailored to each job. It is only when something goes wrong and the lawyers become involved, that any real attention is given to how that boilerplate language informs potential liability”

Ref: Bronwyn Weir, 2 March 2019, Lacrosse Decision - What does this all mean? Ref: <https://www.linkedin.com/pulse/lacrosse-decision-what-does-all-mean-bronwyn-weir>

Key Lacrosse Findings - 3

- FSE argued that notwithstanding the terms of his consultancy agreement that required him to undertake a 'full engineering assessment', this was not his actual role.
- Thomas Nicolas opened its case on the basis that “it was never expected that the fire engineer would have the role of going through architectural drawings and identifying possible non-compliances”. Rather, the role of the fire engineer was limited to responding to the alternative solutions or “deviations from the DTS provisions” identified by the “Authority Having Jurisdiction” (namely, in this case, Gardner Group).
- The Judge said the FSE’s understanding of his role was at odds with the services agreed to provided under his consultancy agreement.
- The Judge note ‘The obligation may not have extended to undertaking “never ending searches...for non-compliances”. But it at least required some proactive investigation and assessment of the principal building materials.

Ref: Bronwyn Weir, 2 March 2019, Lacrosse Decision - What does this all mean? Ref: <https://www.linkedin.com/pulse/lacrosse-decision-what-does-all-mean-bronwyn-weir>

Part 3 - The How

FSE Operational Risk Management





ENGINEERS
AUSTRALIA
SOCIETY OF
FIRE SAFETY
NSW CHAPTER

**Practice Note
For
Fire & Life Safety in Existing
Buildings During Construction**

Version 1.0, dated 08.03.12

Prepared by
Society of Fire Safety
NSW Chapter
Engineers Australia

THE SOCIETY OF FIRE SAFETY, ENGINEERS AUSTRALIA AND THEIR
MEMBERS ACCEPT NO LIABILITY FROM ANY DAMAGES, LOSS OR
INJURY RESULTING FROM THE USE OF THIS DOCUMENT

Society of Fire Safety NSW Chapter
c/- Society of Fire Safety
PO Box 2466, Warrabee, VIC, 3030
Tel: + 61 3 9865 8666 • Fax: +61 3 9865 8615
Email: info@sfs.nsw.com.au • Website: www.sfs.nsw.com.au

Industry Guidelines - 1

- International Fire Engineering Guidelines (IFEG)
- SFS Practice Notes
 - Fire Safety Design & Certification
 - Design Fires
 - Fire Safety during Construction
 - Tenability Criteria
 - Clause 153 Inspection Reports
- Fire Brigade Guidelines

Industry Guidelines - 2

Fire Safety Engineering

Regulation, Control
and Accreditation
Report

Fire Safety Engineering

Education Report

Fire Safety Engineering

The Methods Report

- The Warren Centre
- Engineers Australia Code Of Ethics

Operational Matters - 1

- FSE role clarification
- Learning to say 'NO'
- Don't be the 'rubber stamp' Fire Engineer
- Beware of the 'Overnight' Alternative Solution
- Independent Peer Review
- Pricing in the risk and effort
 - Site inspections
 - Modelling
 - Quantitative analysis



Operational Matters - 2

- Due Diligence
 - Scope review
 - Contract review
 - Architecturals & services review
 - BCA compliance check
 - Progress inspections
 - Final inspections
- Holistic Fire Engineering
 - Systems Approach



Thank You

- Dr Amer Magrabi
- Lote Consulting
 - Ph: 1300 761 744
 - www.loteconsulting.com
 - amer@loteconsulting.com



BE THE CHANGE YOU SEEK

MAHATMA GANDHI