

# **PUBLIC ACCOUNTS COMMITTEE**

## **INQUIRY INTO THE MANAGEMENT AND OVERSIGHT OF THE PERTH CHILDREN'S HOSPITAL PROJECT**



**TRANSCRIPT OF EVIDENCE  
TAKEN AT PERTH  
WEDNESDAY, 6 SEPTEMBER 2017**

**SESSION ONE**

### **Members**

**Dr A.D. Buti (Chair)  
Mr D.C. Nalder (Deputy Chair)  
Mr V.A. Catania  
Mr S.A. Millman  
Mr B. Urban**

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**Hearing commenced at 8.47 am**

**Mr PETER GOW**

**Building Commissioner, Department of Mines, Industry Regulation and Safety, examined:**

**Mr LEX McCULLOCH**

**WorkSafe WA Commissioner, Department of Mines, Industry Regulation and Safety, examined:**

**Mr CHRISTOPHER KIRWIN**

**Director, Industrial and Regional, WorkSafe WA, Department of Mines, Industry Regulation and Safety, examined:**

**Ms SALLY NORTH**

**Acting Director, Service Industries and Specialist Directorate, WorkSafe WA, Department of Mines, Industry Regulation and Safety, examined:**

**The CHAIR:** On behalf of the Public Accounts Committee, I would like to thank you for appearing today to provide evidence relating to the committee's inquiry into the management and oversight of the Perth Children's Hospital project. My name is Tony Buti; I am the chair of the committee and the member for Armadale. With me today on my left is Dean Nalder, the committee's deputy chair and member for Bateman. To his left is Vince Catania, the member for North West Central. To my right is Simon Millman, the member for Mount Lawley; and to his right is Barry Urban, the member for Darling Range. It is important that you understand that any deliberate misleading of this committee may be regarded as a contempt of Parliament. Your evidence is protected by parliamentary privilege; however, this privilege does not apply to anything that you might say outside today's proceedings. Would you please introduce yourself for the record.

**Mr GOW:** Peter Gow from the Department of Mines, Industry Regulation and Safety. I am the Building Commissioner but also currently acting as deputy director general for the industry regulation section of that department.

**Mr McCULLOCH:** Lex McCulloch, also from the Department of Mines, Industry Regulation and Safety. I am substantively the WorkSafe Commissioner but at the moment I am acting as the deputy director general, safety, in the new department.

**Mr KIRWIN:** My name is Chris Kirwin and I am the director for the industrial and regional directorate with WorkSafe.

**Ms NORTH:** Sally North, I am the acting director of the service industries and specialist directorate at WorkSafe within the Department of Mines, Industry Regulation and Safety.

**The CHAIR:** Thank you for that. Do you have any questions in regard to today's proceedings before we commence?

**The WITNESSES:** No.

**The CHAIR:** Mr Gow and Mr McCulloch, do you have an opening statement that you would like to make before we ask you some questions?

**Mr McCULLOCH:** I do not, no. We are here to help you.

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**The CHAIR:** Thank you very much. I will start with a couple of questions. Mr Gow, obviously you were the Building Commissioner until recently, so you were the author of these two reports—the final report and the interim report into the Perth Children’s Hospital audit. I assume that they go out under your authority and that you agree with the contents of those reports?

**Mr GOW:** That is correct.

**The CHAIR:** In regard to both of those reports, you would have had draft reports, obviously. In regard to those draft reports, who would you have shown them to? Who do you get feedback from in regard to those draft reports?

[8.50 am]

**Mr GOW:** The general approach that we took was within the Building Commission, and in some cases the broader departments, so with our WorkSafe colleagues on the asbestos matters we produced a draft to a status that we were happy with. We then provided a copy of that draft to the key people who would be named in the report or whose actions were discussed in the report, and we gave them the opportunity to give us feedback on the draft. That typically would have been John Holland, the contractor; Strategic Projects; in the case of some of the certification matters, Philip Chun and Associates; and in the case of some of the plumbing matters, Christopher Contracting, the plumbing contractor. On the basis of that feedback we would then update our report, deal with some issues and then prepare the final report.

**The CHAIR:** With regard to the final report, the draft was prepared and sent out to the parties you mentioned, when?

**Mr GOW:** Bearing in mind that we are talking of two reports, it would be in the order of two to four weeks before we produced the final report.

**The CHAIR:** And the final report was in April, so sometime in February?

**Mr GOW:** Yes. If you wanted the exact dates I could find them, but from memory for the two reports it was around two to four weeks before we finalised them.

**The CHAIR:** When you say Strategic Projects, you gave the draft to Strategic Projects?

**Mr GOW:** Yes.

**The CHAIR:** Will you be able to provide details of who in Strategic Projects you gave the report to and who made any comments?

**Mr GOW:** I can get that information in detail for you, but quickly off the top of my head, it was provided to the project team who was managing Perth Children’s Hospital.

**The CHAIR:** On notice, can you come back to us with regard to both—the interim report and the final report? With regard to the draft of both of those reports, when it was completed, who you showed it to and when feedback was received.

**Mr GOW:** Yes.

**The CHAIR:** One final question for now: in preparation of either of those audit reports, the interim or the final, did you speak to anyone at a ministerial level or their advisers?

**Mr GOW:** I kept the minister of the day —

**The CHAIR:** Which minister was that?

**Mr GOW:** — Michael Mischin up until the election, and then Bill Johnston since the election—aware of the progress of the reports, but they did not normally get a copy of the draft report or anything.

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When we had the final report, a copy of that was also provided to the minister at the same time as we were putting it out publicly.

**The CHAIR:** When you say that you provided them with the progress of the reports, did that include content of the reports?

**Mr GOW:** Only at a very high level.

**The CHAIR:** What do you mean?

**Mr GOW:** In the sense of—take the asbestos interim report, for example. Again, I would have to look at the detailed briefing notes to be absolutely precise, but it was of the order of, “We have gone this far through. We have found evidence of where the asbestos has been coming from” et cetera, so that he had some idea of how we were progressing through the report. But the minister of the day was not intimately involved in the detail of it or our findings until they were produced.

**The CHAIR:** What about any of his advisers or staff in the ministerial office?

**Mr GOW:** Briefings were provided in written form from time to time and verbal updates were given as part of the normal regular meetings between the department and the minister; for example, “We expect to finish the report at the end of next week.” It was that sort of keeping them up to speed with where we were at. But as it was a Building Commission statutory report, we did not discuss the details of the report with the minister or the minister’s office.

**The CHAIR:** With regard to the various briefing notes that you drafted for the minister—I think we may have some of those—are you able to provide us a copy of those briefing notes?

**Mr GOW:** Subject to any considerations that there may be of confidentiality that I am not aware of. I am happy to make available whatever we have in terms of the written briefings.

**Mr S.A. MILLMAN:** Just for the purposes of the transcript, with regard to potential conflict—although I do not think there is any conflict—in my previous life as a lawyer I used to act as a lawyer in respect of industrial matters, and that meant that I acted for a number of trade unions, including the CFMEU, firstly. Secondly, I also used to act as an advocate on behalf of the Asbestos Diseases Society of Australia. So other than being passionate about just terms for victims of asbestos, I do not think there is any conflict there either. I just wanted to put that on the record.

Mr Gow, in respect of your answer to the chair, the reports that you provided to the then Attorney General and Minister for Commerce, Mr Mischin, that was because he was the minister responsible for your portfolio? You did not provide the reports to, for example, the Treasurer, or the Minister for Health for their roles in Strategic Projects? All right. When you provided the reports to the minister’s office, did anyone ask you to share the draft report with John Holland?

**Mr GOW:** I cannot recall that, but in any event John Holland got a copy of our draft report to comment on.

**Mr S.A. MILLMAN:** Why was that?

**Mr GOW:** Because they were clearly the party we were inquiring into and it was both natural justice to give them an opportunity to comment on what we were going to say before we said it, but also as a matter of fact checking to make sure we had our facts correct before going public.

**Mr S.A. MILLMAN:** Are you able to provide to the committee—not now—a list of the other stakeholders that you provided a copy of the draft report to?

**Mr GOW:** I can, yes.

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**Mr S.A. MILLMAN:** Thanks very much. I wonder if I might just ask you a couple of questions about your interim report. You have had a chance, presumably, before this morning to have another look at the interim report.

**Mr GOW:** Not very recently. I have to apologise—I have been on three weeks' leave overseas —

**Mr S.A. MILLMAN:** No, that is fair enough.

**Mr GOW:** — but we have a copy here.

**Mr S.A. MILLMAN:** Do you have a copy to hand?

**Mr GOW:** I have a copy.

**Mr S.A. MILLMAN:** Fantastic. I wonder whether I can just take you to page 4 of your interim report and paragraph 3 where you say that with modern projects many of the components and systems are sourced internationally. Do you maintain the view that it is common for a lot of these components to be sourced internationally? Is that right?

**Mr GOW:** Yes.

**Mr S.A. MILLMAN:** The panels that were the subject of the asbestos debacle, I will call it, were checked in 2012; is that right?

**Mr GOW:** What do you mean by “checked”?

**Mr S.A. MILLMAN:** In your report one of the reasons that John Holland is cleared of any negligence as far as the panels were concerned is that they worked with Yuanda to certify that the panels that were being imported would be free from asbestos, and that check took place in 2012.

**Mr GOW:** Yes. Yuanda as the contractor manufactured these panels in their plant in China.

**Mr S.A. MILLMAN:** Did Yuanda manufacture them? I thought there was a third party that manufactured the panels in fact.

**Mr GOW:** The panels are composite panels made of layers of steel with insulation and fibre cement, with acoustic material in it, so they are composite panel. I think you are correct, sorry, it was a subcontractor to Yuanda that actually put the panels together, and John Holland and other parties—I think some consultants on behalf of the state—went to examine prototype panels and the production process, but I do not believe they carried out a check of each panel in isolation.

**Mr S.A. MILLMAN:** I accept that. From your knowledge or from what has been reported to you, the composite part of the panel that contains the asbestos that was provided to Yuanda came from a third party. Are you aware whether John Holland also interrogated the processes of that third party?

**Mr GOW:** I would probably need to go back to the people who carried out the detail of the investigation, but my fairly clear recollection is that no, John Holland did not go that far down the chain.

**Mr S.A. MILLMAN:** The panels were installed on site in 2014; is that correct?

**Mr GOW:** I believe so.

**Mr S.A. MILLMAN:** So, the check was in 2012 and the installation was in 2014. Are you aware of whether there were any checks when the panels arrived on site?

**Mr GOW:** I am not aware of any, certainly not of the form of destructive testing or anything of that nature.

[9.00 am]

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**Mr S.A. MILLMAN:** In your report you described variously the panels as being either bespoke, at page 5; custom designed, at page 4; and made to measure, at page 4. At page 7 you also say that people were worried about NCBPs back in 2015. Given those comments, these panels were a one-off, particularly manufactured for this job, were they not? They were not an off-the-shelf product, were they?

**Mr GOW:** No.

**Mr S.A. MILLMAN:** Can I take you back then to page 13 of your interim report. Thank you for the summary you provided in your report. Can I ask you this question: in your view, the National Construction Code does not contain any provision with relation to asbestos; is that correct?

**Mr GOW:** That is correct.

**Mr S.A. MILLMAN:** Is that a deficiency in your view?

**Mr GOW:** No, that is not really the role of the construction code to specify materials; it specifies performance.

**Mr S.A. MILLMAN:** I will leave that question there, thank you. At page 13 you listed the interviews with stakeholders. Did you speak to Analytical Reference Laboratories or was that a desktop analysis of the reports that they produced?

**Mr GOW:** If they are not listed there, I would say that we did not consult them; however, again, my officers did the detailed work and it is possible I may have to talk to them. If you want an accurate answer to that, I would have to seek further advice.

**Mr S.A. MILLMAN:** That would be great, thank you very much. I also noticed in the interviews with stakeholders a couple of other entities that were missing. Did you speak to any of the workers on site?

**Mr GOW:** I do not believe we did, but we did speak to the CFMEU and as a result of those discussions my recollection is that the CFMEU had a worker present at some of those discussions, but that was the only time we spoke to workers directly.

**Mr S.A. MILLMAN:** This might be a question for Mr McCulloch, but did you speak to the OSH committee or any of the elected safety reps on the site?

**Mr GOW:** Not directly in that role.

**Mr S.A. MILLMAN:** Can I ask why not?

**Mr GOW:** Essentially, our role was looking at conduct of the builder, the procurement process and what went wrong in the system to provide there being asbestos. There is a separate set of issues about exposure, clean-up et cetera, which is more properly the problem is WorkSafe and Comcare, so we left that part of the role to them.

**Mr S.A. MILLMAN:** Thank you for that; that is illuminating. At page 15 of your report you recite a brief history of the discovery of asbestos on 12 July. It might just be a question of drafting, the way in which the paragraph is constructed, but do you have any firsthand evidence that the concerns of the workers who are cutting into this sheet when they saw these plumes of dust were consequent upon what had happened in Brisbane? That seems to be the imputation carried in that paragraph there.

**Mr GOW:** That is my understanding. I think there are two aspects to this. One is the nature in which the work was done to cut the panels, which clearly generated dust and other potential hazards, and I think the workers were reasonably concerned about that hazard of dust.

**Mr S.A. MILLMAN:** Justifiably, yes.

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**Mr GOW:** But there was no reason at that stage to believe that the dust might contain asbestos. When, however, it became apparent in Brisbane that material supplied by Yuanda contained asbestos, naturally it raised everybody's suspicions that there are materials here provided by Yuanda that we need to look more closely at. The concern about there being asbestos in the dust I believe is subsequent to the discovery of the asbestos in Brisbane.

**Mr S.A. MILLMAN:** That is a logical sequence of events, but it is fair to say that you do not have any firsthand knowledge of workers saying—in Brisbane it is spigots, not panels, so obviously when you look at the list of asbestos-containing materials, it is obvious that asbestos can occur in any number of construction materials, and that is a point I will come back to when we go back to how many construction materials have now been imported into Australia. There is a significant difference between spigots, obviously, and panels, so the connection in your mind—you cannot say as a fact that that was the connection in the mind of the workers, can you? I mean, their first concern was about the dust, was it not?

**Mr GOW:** They were certainly concerned about the dust, but you must understand all this happened virtually within the same day; that is, the work was being done at Perth Children's Hospital, asbestos was discovered in the gaskets in Brisbane, that was reported fairly quickly through the industry in various forms, so the workers on site would have become aware very much at the same time. So, talking to the individual worker, you may get a different sequence of knowledge for that particular worker, but in broad terms I think what we say here is correct.

**Mr S.A. MILLMAN:** Thank you for raising it. I wonder whether we can get perhaps a more articulate time line. I have just made a note of a couple of questions. The panel sheets were checked in 2012. They were imported and installed in 2014. They were cut in 2016, although I think the evidence from GCS was that they had been cut a couple of times before that as well, but the relevant time we are talking about is in July 2016. In terms of the report by workers, at what time did that report take place on Tuesday, 12 July?

**Mr GOW:** I have not got the time here.

**Mr S.A. MILLMAN:** What I will do, if I can, Mr Gow, is jump to these questions and perhaps you can take these as questions on notice: the day and the precise time that the concerns were reported by the workers and who they were reported to.

**The CHAIR:** We will write these down for you.

**Mr GOW:** That would be helpful.

**Mr S.A. MILLMAN:** I will just get to the end, if I may, sorry, Mr Gow. The day and precise time that works ceased as a result of the concerns being raised by the workers. The day and the precise time that the panels were tested. You say in your report that by 9.30 pm the site was cleared of all workers. You will forgive me for suggesting that at 9.30 at night you are not going to find many construction workers on site, but I suppose when you are miles behind completing a hospital, maybe you will, but the site was cleared of all workers. For how long did the site remain completely clear of workers? When did the test results come through? When were the workers allowed back on to the site? When was all of the dust removed? They will be the questions, but I am happy to take those. You can answer those in writing.

**Mr GOW:** I can do my best to get you answers to those questions. I think some of that information might be available through my WorkSafe colleagues.

**Mr S.A. MILLMAN:** Yes, I will come to Mr McCulloch in a second.

**Mr GOW:** We will do our best to get that information.

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**Mr S.A. MILLMAN:** I appreciate—I mean, this is an inexact science. I know that everyone is doing their best to get to the bottom of exactly what happened. You have described L&M Painting Service as a restricted licence asbestos removalist, and they began erecting an exclusion zone. To the best of your knowledge, were they responsible for any removal or was their role just erecting the exclusion zone?

**Mr GOW:** I would have to check, or perhaps my WorkSafe colleagues who were directly involved in that might know the answer, but my understanding is it was essentially dealing with the exclusion zone. The repair and remediation of the panels was a completely separate project.

**Mr S.A. MILLMAN:** Yes. I am not talking about the repair and remediation of the panels. That takes place after. What I am talking about is the dust. Obviously you have cut the panels, there are offcuts, there is dust all over the place, so an exclusion zone needs to be set up because now you have a deadly hazard present in the workplace. According to the report at page 15 —

... restricted licensed asbestos removalist L & M Painting Service (L & M Painting) began erecting an exclusion zone ...

I do not know whether or not we have got L&M Painting coming to give evidence, but I have got some questions about the efficacy of the exclusion zone. The questions I had either for you or Mr McCulloch, or for L&M Painting, were: When you spoke to them as part of the preparation of this report, did you check their certification and licence and what they were certified and licensed to do? Did you confirm that the workers who were engaged in the work were in fact the workers who were trained to deal with asbestos removal? Did you check their hierarchy of controls? Did you check that at the time they were doing this work, they had the necessary PPE, including proper respiratory equipment? Again, through you, Mr Secretary, I wonder if we can get those questions as well to Mr Gow. Fantastic. Thanks, Ms North.

**Ms NORTH:** I have some notes of a conversation with a Michael Beer of L&M Painting. I had a conversation with Michael Beer on 5 September 2016.

**The CHAIR:** Michael Beer?

**Ms NORTH:** Yes. He advised that they were called into the Perth Children's Hospital after the asbestos had been identified; they had been on site previously to do other work, not in relation to the asbestos; they do have a restricted asbestos removal licence; and they were wearing what they consider to be the appropriate protective equipment for asbestos handling.

[9.10 am]

**Mr S.A. MILLMAN:** What was that protective equipment?

**Ms NORTH:** I have not made a note of what that was.

**Mr S.A. MILLMAN:** That is all right. Thanks very much.

**Ms NORTH:** They erected plastic isolation walls and, on the subsequent day, they worked with Focus, which is an unrestricted asbestos licence holder —

**Mr S.A. MILLMAN:** I saw that—FDAR.

**Ms NORTH:** — on decontamination work. They possessed and they used asbestos-rated industrial vacuum cleaners and that they did not believe that the work that they had been doing had been dusty or had created or exposed workers to any hazards in relation to asbestos.

**Mr S.A. MILLMAN:** I wonder if we could have a copy of that file note tabled, if that is all right. Thank you for that, Ms North. That is very helpful.

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Mr Gow, I wonder if I can take you to page 16 of your report. At the same time that all of this is going on, obviously the union has concerns which were being articulated, I think, probably through Mr McCulloch's agency. As far as you are aware, had the CFMEU accessed the site before 18 July in relation to this issue?

**Mr GOW:** I am not able to comment on that.

**Mr S.A. MILLMAN:** Do you know when the CFMEU first requested to go on the site to have a look at what was going on in relation to this issue?

**Mr GOW:** No.

**Mr S.A. MILLMAN:** That is not a worry. If I can get you to look at page 16, in the middle paragraph above the heading "Air, surface and bulk testing for asbestos", you say —

John Holland also developed a new work procedure that required pre-approval for any work that involved the penetration of materials.

Was that new procedure a dust-suppressing procedure?

**Mr GOW:** It was a procedure for managing the process. So, if the process that was being put forward was to generate dust, then their procedure would have included the processes used to manage the dust. So, it was a process map, if you like, that could be applied to any circumstance.

**Mr S.A. MILLMAN:** Excellent. Axiomatically, that is an improved process. That is a better process than the one they had applied previously?

**Mr GOW:** I think that is fair.

**Mr S.A. MILLMAN:** I wonder if I can take you to page 24 of your interim report. This is the remediation plan —

John Holland advised that it has considered a number of remediation options, including:

1. replacing the URPs ...
2. removing the URPs ... and
3. replacing the asbestos containing components in-situ with appropriate controls in place.

Did you have any input into helping John Holland decide which was the best remediation plan?

**Mr GOW:** No. Our role was to audit, not to control or interfere in the management of the project.

**Mr S.A. MILLMAN:** You expressed the view that the remediation plan that they came up with was the safest way to remediate the panels; is that right?

**Mr GOW:** We were satisfied that it was an appropriate way to do it.

**Mr S.A. MILLMAN:** Right up until the ceiling fell in.

**Mr GOW:** Yes. But, again, it is not our role to tell them that this is better than that. It is simply for us to look and be satisfied that what they are doing is appropriate, and we were satisfied.

**Mr S.A. MILLMAN:** Can you just repeat that answer for me? It is not your role —

**Mr GOW:** It is not our role to go and tell the contractor, "You should do it this way; you should do it that way" or "This is better than that." That is their professional job. Our role as a regulator or an auditor is to look at the decisions they make and form our view as to whether they are making reasonable decisions or not. We considered that that was a reasonable decision.

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**Mr S.A. MILLMAN:** Yes. I notice in your report at page 31—this is in the interim report, and I will just get on to the final report in a second—you say in the second-last paragraph —

The industry processes used by John Holland for detecting and preventing the presence of non-conforming and hazardous products must be improved.

Do you stand by that finding?

**Mr GOW:** Yes.

**Mr S.A. MILLMAN:** I would agree with you. I wonder if I can take you to your final report now; page 16 —

Fibre cement panels in 132 of the 189 atrium roof panels were found to contain asbestos.

Am I right? That is at the top of page 16, there.

**Mr GOW:** Yes

**Mr S.A. MILLMAN:** That is more than 70 per cent by my back-of-the-envelope calculation.

**Mr GOW:** Yes.

**Mr S.A. MILLMAN:** You would not describe that as an isolated incident, would you?

**Mr GOW:** Depending how you would describe it. This was one production run of panels, all of which—not all of which; the ones that contained fibre cement sheeting had fibre cement sheeting with asbestos in it. That was one thing.

**Mr S.A. MILLMAN:** One production —

**Mr GOW:** I would not have expected it to be a case of there was one rogue sheet of fibre cement sheeting that contained asbestos and all the rest did not, but in terms of other products produced—other assemblies—this is probably an isolated incident in that respect.

**Mr S.A. MILLMAN:** But again, one production of custom-made, built-for-purpose, bespoke containing asbestos.

**Mr GOW:** Yes.

**Mr S.A. MILLMAN:** Anyway, perhaps I will save that for when we come to draw our conclusions.

**Mr D.C. NALDER:** Would you say that the asbestos was uncovered more by chance than by good process?

**Mr GOW:** Absolutely.

**Mr D.C. NALDER:** How much confidence can we have in buildings within Western Australia, not just state government buildings, that there is not this type of issue across a large number of buildings in Western Australia?

**Mr GOW:** Mr McCulloch may want to comment on this as well because he is part of the national asbestos monitoring and response group, but asbestos has been banned as a material in Australia for some years —

**Mr D.C. NALDER:** Yes, I understand that.

**Mr GOW:** Locally manufactured stuff is unlikely to contain asbestos.

**Mr D.C. NALDER:** You said most building products are imported these days.

**Mr GOW:** I would not say most, but many. Imported products is a banned import. There are border controls in place to try to assess whether asbestos is coming in. People who are specifying material, as John Holland and Yuanda did in this case, clearly specify that they want asbestos-free materials

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when things are manufactured and they come in. I think it would be pushing it a bit too far to say there is a high risk of asbestos in building materials in Australia. Clearly, this got through. There have been other examples where asbestos has got through, so it is not a foolproof system, and there is some risk out there. As a building regulator, I would suggest that people need to be more alive to that risk.

**Mr D.C. NALDER:** Are there changes in process moving forward given that this was by chance that we discovered this? I mean, we are talking about asbestos in a children's hospital. This has happened by chance. Are there changes to the process to ensure that we can have greater confidence in imported products meeting Australian standards?

**Mr GOW:** There are changes to the process being prepared and examined. There is a body of work being done by building ministers together to deal with this broad area of non-conforming products, including using a similar response technique that was established for asbestos now to be able to deal with any form of non-conformance, not just asbestos. Coming from that there is greater focus and pressure being put on the individuals in the supply chain—builders, specifiers, architects, engineers, whatever—to be more diligent in their own quality control processes. But this is work to some extent in progress so we have not landed a new set of laws or anything.

[9.20 am]

**Mr D.C. NALDER:** Given this was Yuanda or the subcontractor of Yuanda, I imagine—and what happened in Brisbane—have we gone through a process of identifying whether Yuanda or the subcontractor have supplied products for other buildings and therefore we have subsequently tested them for asbestos?

**Mr GOW:** The Building Commission has gone through a process in Western Australia looking at products supplied by Yuanda into Western Australia. That report was released a couple of weeks ago. We found no further asbestos. Similarly, there was a national audit of Yuanda products and I believe no asbestos was found in other products.

**Mr B. URBAN:** Who was the company who was the contractor who actually physically made them? Yuanda is the contractor who bought them from them. Who is the actual —

**Mr GOW:** It is in the report. It is a Chinese name.

**Ms NORTH:** Yuanda China; so Yuanda Australia was the one that John Holland had the contract with and Yuanda China was the one who had a facility that manufactured them in China, and then they bought the fibre cement component. They said it was from a company called Headerboard, but there is some concern as to whether it was actually Headerboard or whether it was an alternative company, but they were meant to get it from Headerboard.

**Mr B. URBAN:** Can we get that clarified?

**Ms NORTH:** No.

**Mr GOW:** That is in the report, but our ability to investigate exactly where in China the fibreboard fibre cement sheeting came from was not practical. We were not able to track that down to the nth degree because it was too remote. We did not have the capacity to do that. There is a suspicion that while Yuanda China placed an order with Headerboard to provide this sheeting that somewhere along the line sheeting from another manufacturer may well have been slipped into the process, which is essentially some form of glitch/corruption—whatever—in the Yuanda China process, but it was too difficult for us to investigate.

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**Mr S.A. MILLMAN:** Obviously, that makes your job harder. If these boards had been manufactured down at Henderson, you could go to the yard. Nothing manufactured in Australia today contains asbestos.

**Mr V.A. CATANIA:** Given the fact that Yuanda has this black mark against its name, I suppose, is there a register to say companies that use Yuanda—is it blacklisted for governments in general across the country to not use that company because of its history of not having that check and balance of asbestos products?

**Mr GOW:** We as building regulators do not have such a blacklist, but, as I said, we are working through building ministers to put a process in place that will allow us to do that in future if we wanted. Government procurement arms may well make their own decisions about which contractors suppliers are willing to deal with. But that is a question you would need to —

**Mr V.A. CATANIA:** Have you provided that advice to various ministers or various departments?

**Mr GOW:** Not in that form, but in our interactions with people like Strategic Projects, Building Management and Works, they are well aware of what has happened here and the risks they need to make sure that they appropriately manage them through their procurement processes as well.

**Mr S.A. MILLMAN:** Mr Gow, at the time that the state entered into this contract with John Holland, did they come to you for any advice about John Holland's capacity to build this hospital? Did the Building Commission have any input into —

**Mr GOW:** No.

**The CHAIR:** Just before Mr Millman had a couple of questions of Mr McCulloch, Mr Gow in the media release when your interim report came out you stated —

“I am satisfied that the response to asbestos at the new Perth Children's Hospital site was managed appropriately by John Holland and that the remediation plan to remove asbestos-containing material at the site is adequate” ...

I am bit concerned that you have made this finding without actually speaking to any of the workers or the union. I know you said that may come more in the jurisdiction of WorkSafe, but if you are making a finding on the performance of John Holland in regard to the asbestos, obviously John Holland are going to tell you probably the best-case scenario from their point of view, as most people would. Not to seek corroborating evidence from others that would be intimate to that experience I find a bit puzzling.

**Mr GOW:** We worked closely with WorkSafe colleagues and also Comcare who had a role in this, and in terms of dealing with the actual remediation of asbestos, that is a workplace health and safety issue, not our issue. We rely on advice from our colleagues. We also, as I said earlier, spoke to the CFMEU. I think they had a worker involved who had been there so we had the perspective from workers, and our people made a number of inquiries about things that had happened. I believe that is an informed statement. I stand by it.

**The CHAIR:** I know you only received it late last night the submission from the CFMEU. Have you had a chance to read it?

**Mr GOW:** I have.

**The CHAIR:** They make some statements where they contradict your findings. Do you have any comments to make or would you provide that at a later stage?

**Mr GOW:** I am happy to make a written response later on if you wish, but in broad terms what the CFMEU were saying as I read their submission is they are concerned that the work practices that

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created the dust in the first place were poor. I would not challenge that; I would agree with them. You should not have work practices that create dust. There was no expectation that the dust would contain asbestos. It is not meant to, nobody should of. Once the suspicion was raised and asbestos was confirmed, the process then that John Holland followed in our assessment was appropriate, responsible and quick. CFMEU challenge whether the people used in that process were appropriately registered or skilled. Sally has made some comment about their discussions with those people but we have no reason to believe that they were not. And then the rest of the CFMEU's submission is based to some extent about their role and how they were not allowed in to provide input to the process, which is not really a matter that we considered. There is nothing here we have not considered that was relevant to our investigation and I believe that CFMEU's primary concern that would challenge what we say, which is that the people involved in the clean-up were not appropriately licensed or skilled. The information that we have that we have based our report on contradicts that.

**The CHAIR:** I do not want to delay members, because we have nearly run out of time, but if we could maybe get a written response. I think the union actually makes more serious allegations with respect to the way John Holland responded to the initial, by chance, as Ms Fenaldo has mentioned, the way the workers may have been contaminated et cetera. We probably do not have time and you really have not had enough time to look at their submissions, but maybe if you could do a formal written response, it would be much appreciated.

**Mr S.A. MILLMAN:** Mr McCulloch, Mr Gow says that you were consulted on the drafting of the interim report and the final report. Is that correct?

**Mr McCULLOCH:** Yes; Worksafe was, yes.

**Mr S.A. MILLMAN:** In terms of the interim report, do you have any comments that you want to add to the evidence that we have heard from Mr Gow?

**Mr McCULLOCH:** No.

**Mr S.A. MILLMAN:** In terms of the final report—I do not know if you have a copy of that in front of you.

**Mr McCULLOCH:** Yes.

**Mr S.A. MILLMAN:** Mr Gow has covered the asbestos issues, so I am happy to leave that there. But I just want to talk about the remediation and the ceiling collapse. Did WorkSafe have any input—the question that I asked Mr Gow was whether or not there was any input into the formulation of the safest way of remediating the asbestos panels. Quite rightly, Mr Gow says that is not the role of the —

**Mr McCULLOCH:** Yes.

**Mr S.A. MILLMAN:** And WorkSafe?

**Mr McCULLOCH:** The reason I brought these people in was because they were heavily involved in this process. Chris and Sally were from day one virtually when we were involved.

**Mr S.A. MILLMAN:** Excellent.

**Mr McCULLOCH:** Do you just want to talk about what you did in relation to the remediation?

**Mr KIRWIN:** In relation to the plan, myself, and subsequently Sally, attended pretty much straightaway, when we became aware. As the plan evolved, we had meetings with John Holland and discussions with the asbestos removal contractor, Focus.

**Mr McCULLOCH:** FADR.

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[9.30 am]

**Mr KIRWIN:** Yes—how they were going to do the work. We had discussions with Focus and then discussions with John Holland. We did raise some concerns about the potential for fall from height all the way down to the atrium. As a consequence of those discussions, the plan was changed somewhat to cover off on that hazard. But, yes, we were briefed on what they planned to do and raised a concern, and we were listened to. The relationship WorkSafe has with John Holland is different. They are not subject to the Occupational Safety and Health Act; they are invisible to us. So we can make requests of them and suggestions to them.

**Mr S.A. MILLMAN:** Can I interrupt you there on precisely that point. John Holland is a Comcare licensee.

**Mr KIRWIN:** Correct.

**Mr S.A. MILLMAN:** That means that John Holland is not subject to Western Australian occupational health and safety legislation. How many direct John Holland employees were employed in blue collar jobs—in actual construction work? How many John Holland employees were exposed when the asbestos panels were being cut?

**Mr KIRWIN:** Typically, the work on a construction site is done by a subcontractor workforce.

**Mr S.A. MILLMAN:** Yes. Thank you.

**Mr KIRWIN:** I do not know how many people were there on the particular day when it was cut; I was not there on the day. But, in general terms, building in all building sites is done by subcontractor workforce, and those subcontractors have duties under the Occupational Safety and Health Act.

**Mr S.A. MILLMAN:** Precisely.

**Mr KIRWIN:** But the builder is the one that makes things happen.

**Mr S.A. MILLMAN:** But there is no reason to prevent WorkSafe from accessing the site if it has concerns about the way in which the subcontractors are performing their role, is there?

**Mr KIRWIN:** Correct; we can access a site and deal with the subcontractors. All I was talking about was the relationship we have with John Holland is different.

**Mr S.A. MILLMAN:** It is suboptimal in my view, but perhaps this is for the report.

**Mr D.C. NALDER:** I was going to say that—at the time —

**Mr S.A. MILLMAN:** I withdraw that. John Holland did not have any construction workers working on the site. The construction workers were all subcontractors. All the subcontractors were subject to the Western Australian regulatory regime; is that right?

**Ms NORTH:** We probably have some information about John Holland's presence at the time of the incident, so they may have had supervisors and staff, for example.

**Mr S.A. MILLMAN:** Perhaps I can frame it like this: my concern is that John Holland is licensed under Comcare, which makes it more difficult for you to do your job in discharging your statutory obligation.

**Ms NORTH:** What we did to work with that, is we worked with Comcare; so we visited site with Comcare and Comcare also attended the meeting where we had the discussion about the remediation plan, so we worked with them on these issues.

**Mr S.A. MILLMAN:** In working on the remediation plans, were you able to sit down with the occupational health and safety committee—the statutory committee under the WA OSH act, for the site?

**Mr KIRWIN:** For the children's hospital site?

**Mr S.A. MILLMAN:** Yes.

**Mr KIRWIN:** Not the whole committee. During the course of inspections on the site I asked to see some safety and health reps and was granted that opportunity to chat with them, see how they were going, and if they were happy with how things were progressing. Yes, it was positive. But that meeting we had with John Holland was off site; it was at their offices in Osborne Park, so it was not at that site.

**Mr S.A. MILLMAN:** Was there any input into that remediation program from any reps from the occupational health and safety committee, from the workers?

**Mr KIRWIN:** Not that we know of. We certainly dealt with Focus Demolition—focus asbestos removal—as to them and the way they do their work, yes, but not any safety and health reps for that process.

**Mr S.A. MILLMAN:** Did you speak to the union about whether it would be a safe system?

**Mr KIRWIN:** No.

**Mr S.A. MILLMAN:** In the performance of your functions, in terms of ensuring that this is a safe work site, were you directed by the minister or by the government in any way?

**Mr McCULLOCH:** No.

**Mr S.A. MILLMAN:** Last night we sent through a copy of the CFMEU submission to the Building Commissioner. Have you seen that, Mr McCulloch?

**Mr McCULLOCH:** I saw it this morning.

**Mr S.A. MILLMAN:** I have printed out copies of the letter that the CFMEU sent to the then Premier in 2012, articulating some of the concerns that the union had with safety on that site. I just wanted to know whether or not you had any knowledge of that letter.

**Mr McCULLOCH:** What date was this?

**Mr S.A. MILLMAN:** It was 5 February 2013.

**Mr McCULLOCH:** I cannot recall seeing this letter, but we would have to go back and check whether we were asked to provide any advice and give input into it.

**The CHAIR:** Just further to that, there was a letter from the union to Mr Gow—I think it is 10 April—expressing a number of allegations as a result of a whistleblower. Were you aware of that letter?

**Mr GOW:** That is related to firewalls.

**Mr McCULLOCH:** No, I am not aware of that; I have not seen that letter.

**The CHAIR:** Mr Gow, I am just wondering, that memo or that letter to you, raises some very serious allegations. You stated that a lot of the WorkSafe issues obviously come under the jurisdiction of WorkSafe. I am just curious why you may not have forwarded that letter to them.

**Mr GOW:** The letter in respect of the firewalls—the 10 April one—essentially deals with compliance with building standards and the construction of the building. In my view, there were no occupational health and safety issues raised in that letter, so we have dealt with that as a building control matter.

**The CHAIR:** You say you have dealt with that in what respect? How have you dealt with it?

**Mr GOW:** We have examined the allegations. A report has been prepared. It is in its final week or so of drafting and should be released in the next two or three weeks.

**The CHAIR:** Publicly released?

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**Mr GOW:** Yes.

**The CHAIR:** Can I just now return to your final report and the issue about lead contamination, which I think starts at page 27. You mention in that report that in May 2016, lead levels above the ADWG were found in the water samples for Perth Children's Hospital. So that is May 2016. Is that when you became aware of it?

**Mr GOW:** No. Again, if you want an accurate date, I would have to go back and get advice. But I think we found out about that some two or three weeks after those tests were provided to John Holland.

**The CHAIR:** And then you instigated your own audit. It has been to John Holland, Christopher Contracting and Strategic Projects.

**Mr GOW:** Yes.

**The CHAIR:** In regard to Strategic Projects, was there someone from the Treasurer's office on Strategic Projects?

**Mr GOW:** Not that I am aware of. We dealt essentially with the officers who were supervising the Perth Children's Hospital contract.

**The CHAIR:** You mention also in the report that the Water Corp provided test results to the Building Commission that indicated the quality of water supply to the QEII ring main were within the guidelines. Then you said on 14 October 2016 that the Building Commission, in conjunction with the north metro health service, tested water from the QEII ring main for lead and water softness.

**Mr GOW:** Yes.

**The CHAIR:** And you found that two of the 10 samples were above the guidelines. You mentioned earlier that in early September 2016, in addition to Perth Children's Hospital, the Building Commission became aware of the presence of the dead leg, which had been dormant since 1969. You recommended that that should be removed.

**Mr GOW:** Yes.

**The CHAIR:** So you became aware in September 2016. How did you become aware?

[9.40 am]

**Mr GOW:** Our plumbing investigators, our plumbing inspectors, who were both doing their normal regulatory job. But also, to assist us with this particular audit, we obtained copies of the plumbing layouts on the campus and became aware from that that there was this dead leg in place and as, broadly in plumbing installations, dead legs are a bad thing, they recommended that it would be appropriate to disconnect it.

**The CHAIR:** So you first became aware of that, as you say, in September 2016; right?

**Mr GOW:** Yes.

**The CHAIR:** Did you notify your minister of that at the time?

**Mr GOW:** Again, I will check, but I would be surprised if we provided that level of detailed commentary on what we were doing to the minister, but I will check.

**The CHAIR:** You will let us know?

**Mr GOW:** Yes.

**The CHAIR:** Either the minister or his office?

**Mr GOW:** Yes.

**The CHAIR:** You mention in your report four sources when you say —

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Although the specific source of the lead contamination cannot be identified without further testing, there are four possible sources, ...

I think they have been quite well canvassed. You then mention —

The most likely two sources of lead contamination are lead containing in residues within the ring main ... and lead leaching from PCH fittings.

So you formed that on the basis of all the testing and all the reports from the various parties.

**Mr GOW:** Yes.

**The CHAIR:** When did you come to that conclusion about those two sources being the likely source of the lead contamination?

**Mr GOW:** I would think early this year once we had sufficient test results. It was an evolving view as the test results came in, but as we settled our report starting from the beginning of this year, I think that would have been our emerging and settled view.

**The CHAIR:** When you say “early this year” —

**Mr GOW:** January–February.

**The CHAIR:** Are you able to maybe go back and look at your own diary and notes and whatever to confirm that?

**Mr GOW:** I can, but understand, in looking at all of this, the audit team, and myself included, from time to time would look at the evidence, hypothesise what that might indicate and then go and see if we could find supporting evidence to back one hypothesis or the other. I do not know that I would find a specific date when we said, “Aha, that’s it”, but I can probably find an early draft of the report where we were starting to couch our views in those terms, yes.

**The CHAIR:** You also mention in your report that there was a stakeholders’ meeting held on 21 December 2016. Presumably, Strategic Projects were at that meeting?

**Mr GOW:** Yes.

**The CHAIR:** And who else?

**Mr GOW:** Essentially, Strategic Projects; the contractor, John Holland; the representatives from the health department; the Chief Health Officer; and the Building Commission.

**The CHAIR:** The Chief Health Officer and the Building Commission?

**Mr GOW:** Yes.

**The CHAIR:** And at that meeting I assume the lead issue was discussed.

**Mr GOW:** Yes.

**The CHAIR:** You mention in your report the four possible sources; were they discussed at that meeting?

**Mr GOW:** Not in the sense of “Here are four possible sources; let us discuss each one in turn.” The thrust of that meeting was around setting up a filtering regime and, if so, how that should happen. The filtering regime was essentially there to deal with how you get rid of residues and things out of the piping. So that was really what that meeting was focused on rather than all other possible sources.

**The CHAIR:** But in discussing the possible remedial action, you would have discussed the possible sources, I assume.

**Mr GOW:** Yes.

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**The CHAIR:** The first alert to the possible problem with lead was, as I said, back in May 2016. But the task force—you maybe cannot answer this, but I am asking your opinion on this—appeared not to be alerted to it until about 2 August. Do you know why that would have been the case and why it would have taken so long? When were you first alerted to the lead problem?

**Mr GOW:** I have undertaken to check the exact date, but it would have been some two or three weeks after May is my recollection. The test results came in, the contractor had them, they were reported to Strategic Projects and our plumbing investigators then became aware of those test results shortly after that.

**The CHAIR:** I will leave this in a minute, but you stated that you think it was around January that you came to your determination or conclusion of the two main possibilities of the source of the lead contamination. Did you then prepare a briefing note for your minister on that?

**Mr GOW:** I do not recall doing so, but I will check.

**The CHAIR:** Do you recall any discussion with the minister or his office about that?

**Mr GOW:** Only in the sense of providing the minister's office with an update that we were proceeding and when we expected to report.

**The CHAIR:** When did you reach the conclusion that the dead—obviously, there was not a problem after, because it was disconnected, was it not? From that time, it was not an issue, was it?

**Mr GOW:** Yes. There has been a lot of what I would call poor or inaccurate reporting around this. What I can say about dead legs is they are generally bad things to have in plumbing because you have stagnant water and that allows pathogens to grow, it allows residues to fall out et cetera. So, in severing the dead leg, we reduce a possible hazard, but the amount of actual lead or other contaminants that would have come out of that dead leg is minuscule in comparison with the amount of water that has gone through the hospital. But what is important about the dead leg is that that gave us a look at what is in the ring main. So that is our evidence that there are residues in the ring main, or there were at that time, and that those residues contained lead. It is a piece of supporting evidence, but that is not the cause of the lead contamination in any significant way.

**The CHAIR:** Just one final question before I hand over to the member for Darling Range. In regard to the lead problem, which was becoming a major media story et cetera and there was a lot of pressure on finding the solution and so forth, you had constant meetings with Strategic Projects and other interested parties with regard to this?

**Mr GOW:** Yes. Our auditors and plumbing inspectors were kept informed of what was happening. We had full access to the Aconex record-keeping system, so as test results came in we could see them et cetera. But, again, as I say, as regulator we were not in there telling them, "You can do this. You can do that." We were observing, and to some extent providing advice on what complied with plumbing standards and so on. But we were not the decision-makers about what to try next or where testing would take place.

**The CHAIR:** Just on notice—this is a request—can you provide us with all meetings that you had with Strategic Projects in regard to the lead issue, and any briefing notes or other documents you have in regard to the lead issue?

**Mr GOW:** Yes. I will give you the caution on the meetings.

**The CHAIR:** Yes. Of course.

**Mr GOW:** The staff were in very regular contact by telephone, email and personal meetings. So if you just want dates of personal meetings, I can give you that, but it was a fairly continuous and regular interaction through the various means.

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**The CHAIR:** So it was a constant interaction and communication?

**Mr GOW:** Yes.

**Mr D.C. NALDER:** Just on, again, due process. In looking at this and whether it is ring mains or whether it is dezincification, do you believe that there are improvements of process that could be adopted or, with the benefit of hindsight, are there things that could have been done better or should have been better, or are there things that failed?

**Mr GOW:** In terms of the problem that there was lead there in the first place or the process for determining what has caused it and fixing it?

**Mr D.C. NALDER:** Both.

[9.50 am]

**Mr GOW:** If you go back to the four causes of lead that we identified, it is normal that there would be residues in the ring main such as QEII, and that they would contain lead. There is evidence that in 2016 there were substantial disturbances of flow in that ring main which could have stirred the residues up. I think there is an argument to say that there could have been some better practice around being aware that that was a risk and making sure that when that happened, you did not have the risk of residues being drawn into the hospital. That is currently being dealt with because they have filters on the take-offs of the ring main. But, arguably, people should have been a little bit more aware of that possibility and been a bit more cautious about the connection to an old ring main.

Of more concern is the suggestion—again, there is not hard evidence of this but I think there are good grounds to believe that this has contributed significantly to the problem—that when commissioning the water supply there is a requirement to, basically, fill the pipes, hit them with a concentration of chlorine to kill off any bugs that may be in there, and then flush it all out. There is a reasonable suspicion that that process was not done well and that chlorinated water was left in contact with the brass for too long, and that has accelerated this dezincification. Clearly, there could be better things done around the management and the recording of what was done in that commissioning process.

**Mr D.C. NALDER:** I have a couple of things. Within the ring main itself, have all the testings been below our health standards such that the water entering all other hospitals within that precinct et cetera were below the standards that we set as being acceptable?

**Mr GOW:** No. We have one or two test results that did come up above the drinking water guidelines, but most of them sit below.

**Mr D.C. NALDER:** So when they are triggered above and that was feeding into other hospitals, what processes did that trigger?

**Mr GOW:** North Metropolitan Health Services could give you the detailed response to that, but they carried on then and did some further testing in individual buildings, and those test results did not show higher than the drinking water guidelines. Again, you need to understand that you can have a sample of water that had, say, been in contact with brass or some other lead-containing material for a while, which will build up a reasonable concentration, and if you test that little bit of water it will be above the drinking water guidelines. But that is not a representative sample of all the water in the system, so you need a number of tests to be reasonably satisfied and, as I say, I think we only got about two that showed up directly above the guidelines.

**Mr D.C. NALDER:** Given dezincification is considered the most likely issue now, is it still prudent that we have brass fittings that contain lead, given that we have a situation in which we potentially have

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dezincification putting lead into the system? Therefore, why do we still allow these type of fittings and why have we not moved to stainless steel or brass without lead et cetera?

**Mr GOW:** That is a fair question. We have flagged with the Australian Building Codes Board and the plumbing regulators that this is an issue that needs to be looked at. We are holding off putting in the formal request for that to be looked at until the children's hospital saga is complete and we have the complete story to put forward. But it is an issue that we believe needs to be considered by the national regulator, and they have put aside money ready to do that work when we have finalised all the testing and so on for Perth Children's Hospital.

**Mr D.C. NALDER:** Given that we have a hypothesis right at this point that there is dezincification and flushing still occurring and so forth, do you have a view around the commissioning of the hospital and the timing of that and whether we should have taken practical completion of the building when we still have these outstanding issues?

**Mr GOW:** I will not comment on the practical completion aspect of it; that is a contractual aspect that we have not specifically looked into.

**Mr D.C. NALDER:** Sorry, can I just clarify. Given that you are the building inspector—commissioner—looking at issues that are occurring, you do not provide any input into the decision-making regarding the practical completion?

**Mr GOW:** No. That is a contractual decision basically between the principal of the contract and the contractor. It is not a matter that a building regulator gets involved in in the normal course of events.

**Mr D.C. NALDER:** But your advice is not sought in that process?

**Mr GOW:** It was not sought in that, and I would not have expected it to have been sought. In terms, though, of the process of commissioning of the hospital, clearly, as the hospital comes to completion you need to fill the plumbing with water, you need to test the water, test the water flows and do all that sort of thing. There is some suspicion, I think, that the delays in completing the hospital that left the water in the pipes —

**Mr D.C. NALDER:** Stagnant.

**Mr GOW:** Stagnant for longer than would normally have been the case, and that there is a risk that the chlorine was in there for too long, but we have no evidence in terms of documents of when stuff was put in and flushing happened to really confirm that, but it is a pretty good suspicion. Probably a better, more coordinated flushing regime in the hospital would have been appropriate to have reduced the risk of what we have. So, yes, there are some improvements there in the commissioning process, but as to whether it was the appropriate time to take practical completion or not, that is a contractual matter that we did not get involved in.

**Mr D.C. NALDER:** Just for clarification, is the flushing process the responsibility of John Holland or is it the responsibility of elsewhere; and, therefore, was the chlorine also administered by John Holland itself in part of the building contract, or is that done through somewhere else?

**Mr GOW:** I cannot tell you how it is specifically written up in the contract between the state and John Holland, but in the normal course of events in construction contracts it is the responsibility of the contractor until the building is complete and it is handed over to the client for practical completion. So it would be the responsibility of John Holland in the normal course of events up to practical completion.

**Mr D.C. NALDER:** In your professional opinion, is there a risk to the state by taking practical completion if John Holland is responsible for the flushing, and the flushing is probably the most probable cause for either dezincification or the build-up of lead from the ring main into the system?

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**Mr GOW:** I think it was a reasonable call at the time.

**Mr D.C. NALDER:** To take practical completion?

**Mr GOW:** To take practical completion.

**Mr D.C. NALDER:** On what basis?

**Mr GOW:** That the testing of the lead reduction at the time was showing that the filtering and the other measures that John Holland was doing was having effect in bringing the lead levels down.

**Mr D.C. NALDER:** But it was not down to acceptable health standards.

**Mr GOW:** Bearing in mind that that is a difficult one to pin precisely because you are dealing with very gradual and very small concentrations in the lead. I could go on about statistics all day if you wanted, but essentially the contractor had done reasonable things to try to get the lead content down. It was coming down. It was getting close to where it should have been; if not, was where it should have been depending on your view, your contractual understanding and your reading of the various standards. However, the state had some different ideas about what might need to be done. It needed to get control of the hospital to commission it and get it going anyway. The work that might have needed to be done to provide some additional treatment of the lead was something that is equally capable of being done by the owner when they take it over as the contractor. While it is not a black–white decision, to me as a reasonably informed onlooker I think it was a decision that was open to the state and it was sound enough to take it.

**Mr D.C. NALDER:** Is there a chance—you might not be able to answer this—that we have increased the liability to the state by taking practical completion before we have resolved this issue?

**Mr GOW:** Might have, yes.

**Mr D.C. NALDER:** Is that not a reasonable view as well to have, that we have increased the state's liability potentially?

**Mr GOW:** The potential is there but that is the balance that you have in all of these sorts of contractual decisions. You might choose to go one way which increases risks in some area but delivers you benefits in another.

**Mr D.C. NALDER:** Okay; so we need to reserve that to someone else to ask.

**Mr GOW:** Yes.

[10.00 am]

**Mr D.C. NALDER:** Do you feel that the Building Commissioner should have a say for the state when they are about to take practical completion of a major construction?

**Mr GOW:** Not really. We do not, as a matter of course, examine every building project going on in the state. That would clearly be impossible.

**Mr D.C. NALDER:** Okay, but we have got a building where something is going wrong in this situation.

**Mr GOW:** Our role is to determine whether the builder is doing the right thing, the builder is competent, whether building standards are being met and building laws are being complied with.

**Mr B. URBAN:** So can I ask you this question —

**Mr GOW:** Sorry, if I can just say: the decisions around taking practical completion of a project, the day-by-day supervision that you are getting what you paid for et cetera is beyond us. I do not think we would add value to that decision-making.

**Mr D.C. NALDER:** I am not asking that. You actually indicated that you audit the processes.

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**Mr GOW:** Yes.

**Mr D.C. NALDER:** And you are auditing the processes and you have got some findings in there that would suggest that there are practices or processes that are not satisfactory.

**Mr GOW:** Yes.

**Mr D.C. NALDER:** And there are question marks over the outcomes of lead in the water, asbestos in the roof, and yet we have moved to practical completion without actually taking any input from the auditor of what is going on in the construction of that building when we have question marks over the construction of that building. Do you see my line of thinking? I would have felt a lot more comfortable if I was the minister making a decision on practical completion that the Building Commissioner who is undertaking the audit process actually would input on the recommendation as to whether that is an appropriate thing to do or not?

**Mr GOW:** Yes, but in the situation in which we go and do our independent investigation, we put a report out, I would absolutely expect the parties to take our report into account. But using us as a behind-the-scenes third party to comment on things I do not think is appropriate either for our independence as a regulator or in fact that we would add much value to the decision-making because our oversight of the projects generally is at a much higher level than the sort of decision-making you need as to whether you have actually got the practical completion.

**Mr D.C. NALDER:** To clarify that: you believe our questioning should be to Strategic Projects as to whether they took into consideration the reports that you are making?

**Mr GOW:** Yes.

**The CHAIR:** In regards to Strategic Projects—are you going to ask a question about that?

**Mr S.A. MILLMAN:** Yes. I have got a very quick question. On Mr Nalder's line of questioning, do you feel that Strategic Projects has within it the necessary building and construction expertise? You will remember my question earlier to you, Mr Gow, in terms of participation in the contract formation stage. My concern is that the state needs to have building expertise both at the contracting point, in the oversight point, and at the commissioning and taking of practical completion. What is your opinion, or can you even express an opinion on whether or not Strategic Projects has sufficient building and construction expertise?

**Mr GOW:** The people that we deal with in Strategic Projects are very experienced and knowledgeable and comparable to anybody we would encounter anywhere else in the industry. I do not think there is a lack of capacity in terms of building knowledge, technical knowledge and contracting knowledge in the people we have been dealing with.

**The CHAIR:** I want to hand over to the member for Darling Range; he has been waiting patiently. We will be over time. I have one final question: did you report and/or communicate at all to the Perth Children's Hospital task force or only to Strategic Projects?

**Mr GOW:** I have attended two or three meetings at the task force since the middle of last year and have been involved in some discussions with them, but not reporting my findings to them outside of my public report. When I have been there, there have been more questions about when we are likely to report, what other investigations might be needed et cetera. I will modify that slightly to say, in respect of the fire walls and the issues that the CFMEU and others raised, and we have been looking at and that we are about to report on in the next couple of weeks, I have provided some updates to the director general of Health and have attended once a meeting of the task force to indicate that what we had found to date did not appear to be major issues that were going to

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influence their planning around the commissioning and the takeover of the hospital. I have, to that extent, provided that information.

**The CHAIR:** Likewise, would you be able to provide on notice the dates you did attend meetings or had discussions with the task force and the contents of those discussions?

**Mr GOW:** Yes, I can do that.

**The CHAIR:** Okay, member for Darling Range, we have got 10 minutes.

**Mr B. URBAN:** I have got quite a few, but I will put them all on notice because of the time. One of the things that I want to ask you first is: would you describe the Building Commission as proactive in ensuring that the construction of the Perth Children's Hospital was built in accordance with Australian standards and manufacturers' specifications? I have a supplementary on the back of that.

**Mr GOW:** Proactive, no. We came into this as a result of a number of high-profile reported issues with the hospital that caused me to conclude that we needed to go and have a look at it. But we did not start right at the beginning of the construction process and attempt to monitor it all the way through. In that sense I would not use the word "proactive", but I think once we saw all the issues that were coming there, we felt it was appropriate for our regulatory role to go and have a look.

**Mr B. URBAN:** I have done a lot of research on the brass fittings, particularly, and the fire walls. I will put those questions on notice and get them to you. One of the things that I want to raise is: on page 2 of your final report it actually says —

Brass plumbing fixtures and fittings in the PCH meet the required standards for lead content.

One of the things that I was researching was the actual brass fittings, particularly around potable water. The Australian standards is quite flawed. There are four types of brass fittings. Who actually looked at and monitored to make sure that we had the right fittings put into the hospital?

**Mr GOW:** Who actually monitored that?

**Mr B. URBAN:** Yes; because there would have been specifications for potable water, particularly. *The Sunday Times* commented on that at the weekend, that some of the brass fittings are not actually Kitemarked or even marked for water use; which is obviously for gas use; not water.

**Mr GOW:** The plumbing regulatory system basically says you have to use fittings that have gone through a watermark process in a plumbing installation. That requires samples to be tested against the Australian standard and a mark being placed on the fittings so that people can identify that they have been tested. Where you get an assembly—think of something like a washing machine—it is that whole assembly that is checked and effectively watermarked, not each individual component within the assembly. Depending on what you are looking at, it might be each elbow or each joint has been looked at and watermarked, or it may be an assembly that has been pre-manufactured and that whole assembly gets watermarked. But individual bits within it may not actually have a mark on it. On that basis, we would expect that anything that is installed in a plumbing installation has been appropriately watermarked. Substantially, that is the case with Perth Children's Hospital—our plumbing guys have gone out and looked at the watermark certification for the fittings that have been put in there. The Chief Health Officer, in his report—which came out just before I went on leave—identified some elbows around the thermostatic mixing valves that did not appear to have the relevant marks. That has been chased up. I was not able to get enough dated information yesterday as to exactly where they have got with that, but it is probable that they were not watermarked—if that is what the Chief Health Officer has said—but they may well still comply with the standard. All it is saying is that they have not been tested, so we are still investigating that.

[10.10 am]

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**Mr B. URBAN:** So the testing regime for the water, when it got commissioned in January 2016, one of the first things after it gets flushed through is it gets water sampled —

**Mr GOW:** Sorry?

**Mr B. URBAN:** It gets water sampled—it gets tested by the various outlets. It comes back to May that the first initial testing was done. They are the first lot of results that came through.

**Mr GOW:** Yes.

**Mr B. URBAN:** The rest of them, I have just put on notice.

**The CHAIR:** Thanks —

**Mr GOW:** I have just got one —

**Mr B. URBAN:** I could have gone on to fire walls, but it is easier to —

**Mr S.A. MILLMAN:** I have one more general question. In terms of the children's hospital, if I can summarise from your final report, we have got issues including unitised roof panels, partial collapse of the atrium ceiling and the curtain wall components. In terms of plumbing, we have got lead contamination in the water, stainless steel pipe corrosion and burst rubber expansion joints. In terms of fire safety, we have aluminium composite panels and fire door sets. In terms of other issues, we have vitreous enamel panels and curtain wall glazing. There is a whole bunch of issues that you have had to investigate in respect of this project. Presumably a similar number of issues, or perhaps I should put the question differently: how many investigations was the Building Commission required to do into the construction of Midland hospital and how many investigations was the Building Commission required to do in respect of the construction of Fiona Stanley Hospital, just as a comparator for us?

**Mr GOW:** We are not required to do inspections —

**Mr S.A. MILLMAN:** I beg your pardon; forgive my language.

**Mr GOW:** — we elect to do them. Basically the Building Commission has been around now for six years in its current form under our current legislation, and over that time we have basically reorganised the previous operations to allow us to do these sorts of proactive audits, and so have started. But Perth Children's Hospital is the first time we have tackled a big, major, complex construction. We have not done any comparable ones.

**Mr S.A. MILLMAN:** And your predecessor entity would not have done any either?

**Mr GOW:** They would not have done any at all.

**Mr V.A. CATANIA:** Given the fact that you are not required to do it, do you get approaches from the CFMEU to actually perhaps go and have a look at the other hospitals? Have you had any requests from any other organisations in the past?

**Mr GOW:** We get information in from a lot of areas including the CFMEU or other unions from time to time, from members of the public, clients, subcontractors, people with concerns saying, "Look, something odd is going on in this building, you need to go and have a look at it." We examine those and if we think there is enough evidence to do so, we will stick that on our audit plan and go and have a look. We do have an audit plan. It has been a little bit distorted because of the size of this Perth Children's Hospital one. If anybody brings us reasonable grounds to consider that there are problems going on at a particular building or a particular builder, we will attempt to audit.

**Mr V.A. CATANIA:** Did you get any for Fiona Stanley or Midland hospital?

**Mr GOW:** No.

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**The CHAIR:** Just before I read out a closing statement, I would like to let Mr Gow and McCulloch know that in regards to the questions already flagged, there may also be some additional questions that we were not able to get through that we may also send through.

Thank you for your evidence before the committee. A transcript of this hearing will be forwarded to you for the correction of minor errors. Please make these corrections and return the transcript within 10 working days of receipt. If the transcript is not returned within this period, it will be deemed to be correct. New material cannot be introduced via these corrections and the sense of your evidence cannot be altered. Should you wish to provide additional information or elaborate on particular points, please include a supplementary submission for the committee's consideration when you return your corrected transcript of evidence. Thank you once again for your attendance.

**Hearing concluded at 10.14 am**

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