

**STANDING COMMITTEE ON ESTIMATES AND
FINANCIAL OPERATIONS**

2014–15 ANNUAL REPORT HEARINGS

**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
MONDAY, 7 DECEMBER 2015**

**SESSION THREE
BUILDING COMMISSION**

Members

**Hon Ken Travers (Chair)
Hon Peter Katsambanis (Deputy Chair)
Hon Liz Behjat
Hon Alanna Clohesy
Hon Rick Mazza**

Hearing commenced at 3.47 pm

Hon MICHAEL MISCHIN

Minister for Commerce, examined:

Mr PETER GOW

Building Commissioner, examined:

Ms ANNE DRISCOLL

Acting Director General, Department of Commerce, examined:

Mr DAVID GOODWIN

Director, Finance and Administration, Corporate Services, Department of Commerce, examined:

Mr JEREMY LEE

Principal Policy Adviser, Minister for Commerce, Department of the Premier and Cabinet, examined:

The CHAIR: On behalf of the Legislative Council Standing Committee on Estimates and Financial Operations, I would like to welcome you to today's hearing. Firstly, can the witnesses confirm that you have read, understood and signed the document headed "Information for Witnesses"?

The Witnesses: Yes.

The CHAIR: Witnesses need to be aware of the severe penalties that apply to persons providing false or misleading testimony to a parliamentary committee. It is essential that all your testimony before the committee is complete and truthful to the best of your knowledge. This hearing is being recorded by Hansard, and I should note that it is also being live broadcast and, to the best of my knowledge, our Clerk is watching from London as we speak, so we welcome him to it as well. A transcript of your evidence will be provided to you.

Hon MICHAEL MISCHIN: Along with the ratings figures!

[3.50 pm]

The CHAIR: That is right. The hearing is being held in public, although, minister, now that you are here, I am sure they have just soared! The hearing is being held in public, although there is discretion available to the committee to hear evidence in private either of its own motion or at the witness's request. If for some reason you wish to make a confidential statement during today's proceedings, you should request that the evidence be taken in closed session before answering the question. Government agencies and departments have an important role and duty in assisting Parliament to review agency outcomes on behalf of the people of Western Australia. The committee values your assistance with this.

Do any of the witnesses wish to provide an opening statement? No? We will go straight to questions.

Hon RICK MAZZA: I refer to page 27 of the report in relation to the home indemnity insurance scheme, which has been extended. How much money is currently sitting in the special purposes account?

Hon MICHAEL MISCHIN: Thanks. Perhaps it would be easier if I asked the acting director general to explain the position with that account and whether or not it is possible to give a precise figure.

Ms Driscoll: Thank you, minister. It is not really possible to give a precise figure as of today, but what I can report is that since November 2013, it has been the situation where essentially the state is accepting the liability for home indemnity insurance in full. I can advise that since that time, the gross premium written has been in the order of \$67 million. The fees charged to the insurers who both collect the premiums and make and assess claims as necessary have been \$22 million rounded. The amount paid out by the state to date is in the order of \$16 million. So at the moment the net amount paid to the state, the surplus amount, is \$29 million. So, in essence, \$67 million has been written since November 2013 and the state currently has \$29 million in surplus.

Hon RICK MAZZA: Approximately?

Ms Driscoll: Approximately, yes.

Hon RICK MAZZA: Thank you for that. When do you think the home indemnity insurance scheme will be able to be fully privatised?

Hon MICHAEL MISCHIN: It is the government's desire that it be reverted to private insurers at the earliest practicable opportunity. The insurer has gone out of the market because it was not viable for them. We have this interim arrangement with the two insurers who had been in the market, QBE and Calliden, where they are writing the policies and collecting the premiums on our behalf, and the state is underwriting the risk. We have since then received indications from one group that there is a prospect of a private insurer or consortium of insurers potentially taking over the risk for the state. That is being explored to see whether it is viable and to see to what extent the legislation may need to be changed in order to change the scheme to make it attractive to private insurers to re-enter the market. Some work is being done on the scheme in any event to see whether there are some changes that might need to be made more generally to see whether it can be made attractive to private insurers. There is currently some work being done through the Building Commission to see to what extent the private insurance scheme would be viable, and we are expecting some early next year. Aspirationally, we hope in the second half of next year that we can have the scheme revert to private insurers. I have got to balance, of course, the attractiveness to private insurers against the consumer protection element of the scheme, which is the whole point of it. Some jurisdictions do not have home indemnity insurance; others have a different sort of a scheme. Elements of it that might need examination and development are perhaps splitting the scheme into two, one risk being that of the collapse, disappearance or death of builders; and the other side the warranty element of it and to what extent the warranty element needs to be modified both in terms of the period of the warranty and of things covered by that warranty. So those elements are being examined. As I say, we have a proposal that is before us that is being examined in order to see whether it is suitable and appropriate and viable. Perhaps the Building Commissioner may be able to expand on some of the detail of the work that was being done there. But other options, if that does not prove to be an appropriate avenue to take, would be to look at the Insurance Commission of Western Australia taking over the risk on behalf of the government.

Hon RICK MAZZA: Before we move to the commissioner, the risk associated with the claims for an underwriter to take it on is probably where a lot of the trouble lies. Is there any work towards reducing the claims? Is there any tightening around builders and that sort of thing that could actually assist with reducing the number of claims that are made against the indemnity scheme to make it more attractive for underwriters?

Hon MICHAEL MISCHIN: You are aware that there have been a couple of collapses over the course of the last year—Benchmark and Capital Construction. Those have been examined in quite some detail and the Building Commission has taken some significant steps to not only improve its processes, but also its awareness and monitoring of the state of builders to anticipate problems that

may arise, so it has been a very useful exercise. Again, the Building Commissioner can fill you in on some of the detail that has taken place there, the status of those claims, what action is flowing from it in terms of enforcement and other supervisory action, and also the reforms that have taken place within the commission in order to improve monitoring in future.

Mr Gow: Thank you, minister. To start with the risk of builder and builder insolvency, the indemnity insurance scheme has been in place now since around 2002–03; and in that time the insurers have been the ones who have primarily managed the financial risk of builders. In order to get insurance out of a commercial insurer, a builder has had to demonstrate their financial capacity, their assets, liabilities, track record and so on. And the insurers have often sought a security out of the directors of the company. They put turnover limits on what the builder can and cannot do, and generally tightly monitor the issue of the policies to individual builders. That regime is still in place, even though since 2013 the state has effectively 100 per cent underwritten that risk.

Since 2013, because of the reinsurance arrangements or the underwriting arrangements, we have now had direct access into the financial assessments and the monitoring that both QBE and Calliden do, so that is a much richer and more useful flow of information than has been available to building regulators in the past. We have also, as part of the general reforms that have happened in building regulations since 2011–12, put in place better monitoring of the registration of builders, so now a builder has to apply for re-registration at a maximum of each three years; previously, they simply had to pay a fee and they carried on being registered forever. We now have a renewal process where they have to demonstrate their continued financial viability and their continued ability to organise and supervise their work.

[4.00 pm]

Hon RICK MAZZA: Sorry to interrupt you there: for the builder to renew their licence, do they have to have a minimum capital value?

Mr Gow: Each builder is ultimately addressed on its merits, so there is not a hard-and-fast rule, but in order to get registered in the first place, the rule of thumb that applies to most builders is that they have to have a minimum of \$50 000 in the business and then, depending on the size and the complexity of work that they want to do, we may want to see more than that. When they come up for renewal, we are effectively checking that they are still able to pay their debts when and if they become due. As you can appreciate, builders go into different parts of the market and have different turnovers, so on renewal it is not quite so easy to just have a single financial measure that we have, but they are checked now, coming up for renewal, which was something that was not there before. We have also implemented an audit program of builders, starting earlier this year, where we basically take a random selection of builders and look at their paperwork as well as the work they are doing on site and we do targeted audits, depending on whether we get information that indicates a builder may or may not be in some sort of difficulty. We have just entered into an agreement with Dun and Bradstreet to get basically online, realtime monitoring of builders so that Dun and Bradstreet, as part of their commercial operations, monitor claims, turnover, payment times et cetera, so we are now plugged in that as of basically last month. We are building up a much greater capacity to scrutinise builders and to control who gets into the market through the registration process.

Hon RICK MAZZA: What about complaints made to the commission? Do you monitor if you are getting a series of complaints about one particular builder?

Mr Gow: Yes, we do. We have a financial review advisory group within the Building Commission that meets once or twice a month and looks at the complaints that we have received, both the consumer complaints as well as the disciplinary complaints, the information we are getting from the insurers and now the information that we are getting from Dun and Bradstreet, applications for renewal, and builder failures, so it all comes together and we then identify whether there are any builders we think are in danger of some sort of financial difficulty, and then we chase that up.

The internal systems that we have, and they have developed probably more quickly over the last 12 months as we have managed to get some of these systems in place, are a lot better than we have ever had in the past. The final thing that we are working on—it is not in place yet—is a database that will collect, again effectively in real time from local governments, building permit information, so when building permits are issued, who they have been issued to, and value of work. When that is in place, we will be able to pretty much monitor builder activity in real time.

Hon RICK MAZZA: Since you have had these programs implemented, have you seen any change in the number of claims or complaints that have come up? Have you been able to assess that as yet, or is it still a bit early?

Mr Gow: It is a little early, but since we took over the complaints process in August 2011, at that time there were around 800 complaints per year being fed to the former Building Disputes Tribunal. That has now drifted up to about 950; that is partly, we believe, due to the fact that the building industry has had a bit of a boom, so the number of housing starts went up from around 22 000 to 30 000 in the last 12 months, so that reflects increased turnover and I think it also reflects the fact that there is a growing awareness of the disputes process. It is not a radical change, but we have noticed more complaints coming in. As the industry is dropping off, particularly the housing industry, staff are coming down, and we have certainly seen some builders come under pressure, so that happened with Benchmark and Capital Works earlier this year, and we are watching and there has been a little trickle of small builders getting into trouble, but it is a bit hard to get a real trend line because of the shortness of the record that we have.

Hon RICK MAZZA: You might work on percentages, I take it, rather than numbers of complaints, because it depends on the market and how many building contracts have actually been written.

Mr Gow: Yes.

Hon MICHAEL MISCHIN: I was just going to suggest that it might be of assistance if the commissioner were also to outline the categories of types of complaints that are received and also the extent to which these are well founded or not because having a number of complaints, of course, does not indicate whether there is any basis to them or how they are disposed of.

Hon RICK MAZZA: Just before the commissioner moves on with that, with the change in the market there are a lot more renovations taking place these days. What is the minimum contract price before professional indemnity insurance is required?

Mr Gow: For home indemnity insurance, it is typically \$20 000, but there are some different thresholds that come into play. If it is covered by the Home Building Contracts Act, which is the primary driver for indemnity insurance, there is a threshold of a \$20 000 contract for that, but that then picks up any home-building works; it would pick up a kitchen renovation or a pergola or something like that, if it were sufficiently valuable.

Just quickly to pick up on what the minister just said, the complaints that we get are what are called building services complaints, the majority of them, and they are complaints about a registered builder or a building surveyor or a painter or a plumber, and we get around 900 of those a year. We also have what are called home-building work contract complaints, which are complaints about breaches of the Home Building Contracts Act, and we get a smaller number of those, around 50 or 60 of those. I can provide detailed numbers later, if you wish. Of those complaints, they are assessed by the Building Commission and, depending on the outcomes from them, we either dismiss them; we can conciliate the two parties and see if they can agree on an outcome; we can issue an order to remedy work; or, if it is an intractable dispute, we pass it on to the State Administrative Tribunal and it runs formal tribunal hearings. There is also a requirement if there is a complaint worth more than \$100 000 that we pass that on to the State Administrative Tribunal, so we can only make direct orders valued up to \$100 000. Of those complaints, we are managing to resolve upward of 80 per cent within the Building Commission. Our original goal was

about 50 per cent going through to SAT, so we are actually doing better than that. It works out that probably around a quarter of them get dismissed if there is no great substance to the complaint, but the rest end up in an order of some sort to the builder or the contractor to do further work, so that process works quite well. However, often they are disputes over workmanship or a contractual matter; they are not actually indicators that the builder is about to go broke. While we did get a spike in complaints from benchmark and capital works when they came in, typically most of the complaints are related to either the quality of some work in a particular area, and they do not normally lead us to believe that the builder is insolvent.

[4.10 pm]

Hon RICK MAZZA: Have you received any complaints where a building contract has been entered into and the builder has not taken out home indemnity insurance cover in a timely fashion?

Mr Gow: Yes, we have had a couple of those and we have prosecuted one or two builders for that in the last year or two, but it is not particularly common. It is not particularly common in the sense of a full building. I suspect that there is probably a little bit of handyman work and minor renovation work that does not require a registered builder or does not require a building permit et cetera. In that area there could be more default in indemnity insurance, but it is a bit hard to track.

Hon RICK MAZZA: In the budget estimates hearings we discussed what the actual home indemnity insurance cover covered if, basically, a builder goes broke or there is shoddy workmanship or whatever the case may be. One area we did not talk about, though, is when someone enters into a building contract—as I understand it, is it six per cent maximum they can take as a deposit?

Mr Gow: Yes.

Hon RICK MAZZA: If you have a building contract for \$300 000, you would say quite a substantial deposit is paid. If the builder does not take out the home indemnity insurance policy straightaway and between the builder taking out the home indemnity insurance cover he goes broke or she goes broke, is that deposit covered by the home indemnity insurance?

Mr Gow: If there is not a policy in place, no, it is not. However, the builder essentially needs to get a building permit to get on with the work in most of the cases that are covered by or have a requirement for indemnity insurance. In order to get a building permit you have to demonstrate the evidence that you have the policy, so it is relatively rare for a builder to do substantial work without the policy in place.

Hon RICK MAZZA: Sorry to interrupt there, but that is not my concern. In getting the building permits, if something happens after the contract is signed—so I could sit down today, sign the contract with the builder, hand over my deposit for \$18 000, whatever the case may be, and the builder then goes away and usually processes the paperwork to get a building licence. That could take weeks—in many cases it does. There is a potential, particularly if the builder is under duress—you have paid the money and, unlike a real estate agent, that money will go straight into the builder's general account, where it sits to pay his outgoings—between the time the deposit is paid to a home indemnity insurance policy being taken out, if it ever happens, for the builder to go broke. For many people it is a very big deposit that could be lost. On top of that, if they have signed up to a fixed-price contract, they have to get someone else then to go and take over that contract; they also have the shortfall that they might be up for as well. So there seems to be quite a consumer protection hole in that process. I am wondering whether there has been any talk about closing that.

Mr Gow: You are correct; there is a gap because we do not have any way of monitoring when contracts are actually entered into. If a builder has entered into a contract, taken the money and then not asked for the indemnity insurance, there is a gap there that is very hard to supervise. We have looked at different mechanisms whereby that could be managed, but they are difficult to put into place and probably do not fit in terribly well with a private sector insurance model. One way is to

have an automatic cover if that contract comes into place, but then that better suits the sort of central fidelity fund-type arrangement than an insurance arrangement. Can I say that while I recognise the hole is there, we are finding that certainly at the bigger project builder end of town the builders tend to hold off actually entering into the formal construction contract until they are ready to go. They have introduced a model whereby they get a documentation contract in place at the beginning, which just covers the cost of doing the paperwork, getting the drawings prepared and getting approvals, and that suits, if you like, the honest builders because they are not entering into a home-building contract until the end. Therefore, they do not have to have the insurance, therefore it means that they are not playing around with their cash flow too early. It is quite common in the bigger project end of the market for there to be quite a short period of time between taking the deposit and building works starting. Secondly, in our audits that we are now starting one of the things we look at is when the contracts were entered into, was the insurance in place, when was the deposit taken et cetera.

Hon RICK MAZZA: Not all builders are big builders, of course; many smaller builders are out there operating. Are there any thoughts around having some legislation in place that a deposit is not paid until an insurance cover certificate has actually been produced, to make sure that that cover is in place before they pay the deposit?

Mr Gow: That is what the Home Building Contracts Act says now, so it is unlawful to ask for a deposit until you have the insurance in place.

Hon RICK MAZZA: So the builder has to have the insurance first before they can actually accept the deposit?

Mr Gow: Yes; they can sign the contract, but they cannot take the deposit or start work until the insurance is in place.

Hon RICK MAZZA: That is something at least.

Mr Gow: We have prosecuted a couple of people in the last 12 months for doing that.

The CHAIR: When you say a couple, do you just mean two?

Mr Gow: No, I mean two.

The CHAIR: You do mean two?

Mr Gow: Yes.

Hon ALANNA CLOHESY: Of the 964 building service and home-building contract complaints in the last financial year, what proportion were building service and what proportion were home-building contract?

Mr Gow: The number is here. In 2014–15, the number of home-building work contract complaints relating to registered builders was 89, but relating to unregistered people there were 57. As to complaints lodged by the builder—so you can go back the other way—there were 16. So that is 162.

Hon ALANNA CLOHESY: How does that compare with the previous year?

Mr Gow: I may not be able to give you that detail.

Hon ALANNA CLOHESY: Could you perhaps take that on notice?

Mr Gow: I could take that on notice.

[Supplementary Information No C1.]

Hon ALANNA CLOHESY: Just on that, is there a reason other than stylistic that the annual report has changed this year so that it does not include more detailed data on complaints and closures?

Mr Gow: I think it is probably just stylistic.

Hon ALANNA CLOHESY: I note there is a comment form in the back of the annual report to encourage people to use it. It is certainly difficult to find the data and information in relation to not only the Building Commission, but other aspects of the department's business in here.

The CHAIR: In terms of the finalisation of complaints and matters that you get, do you do any work identifying the satisfaction level of people who have made the complaints?

Mr Gow: Yes; we survey people who have been through the complaints process. The survey results are fairly recent, so I have not personally gone through them in detail yet, but we get a fair alignment between the people who got what they wanted are happy and the people who did not get what they wanted are unhappy. But we are surveying; as I say, the results are fairly new in and we are still analysing them to see precisely what they say.

The CHAIR: Is that a one-off for this year or is it something you do on a regular basis?

Mr Gow: We propose to do it regularly, but it was the first time we did it in the last 12 months.

The CHAIR: Is it the intention to report that? What will happen to those figures now and where will they be reported?

Mr Gow: We would expect to report that. We are considering, as part of our general information and education process, what information we can put on the website as opposed to a formal annual report. We think there are quite a lot of those statistics that would be useful to put up there, so we are steadily working on that.

[4.20 pm]

Hon ALANNA CLOHESY: One of the issues, of course, when you are considering that, is around consistency of data as well. You will notice that I have asked some repetitive questions, which I am sure you are getting bit tired of, but that is for that reason.

The CHAIR: I think Ms Driscoll wanted to add something.

Ms Driscoll: Yes, two points: one is that, of late, there have been some issues with us undertaking surveys for the purposes of effectiveness indicators in our financial statements and annual budget papers et cetera. It relates to the increasing problem of getting a good return rate. The OAG is quite concerned in that for surveying we are finding that people are quite reluctant due to time pressures. And certainly if the contact is by phone, people are so overwhelmed with people trying to get money off them, basically, or scams et cetera, they are just not getting the required return rate. So whilst we can produce documents and information about survey results, there are some issues about their statistical significance and validity. It is important though to flag that we are very mindful that in this annual report and in the financial statements that applied in the previous financial year, there was a situation in which four divisions were basically combined into one service, so there was no transparency about, say, the Building Commission versus labour relations, versus WorkSafe, versus EnergySafety. So for this financial year and going forward, there will be separate effectiveness indicators for each of those divisions and it will provide much clearer information about unit costs as well as the effectiveness indicator for each division.

Hon ALANNA CLOHESY: I am pleased to hear it. Thank you.

The CHAIR: Can I ask that the survey results be provided as supplementary information.

[*Supplementary Information No C2.*]

Hon MICHAEL MISCHIN: I should add that, as I understand it, the greater transparency has been an initiative of the department and Treasury, rather than the Office of the Auditor General, who had been quite content with the way those figures have been presented in the past, so I am gratified and satisfied that the department is looking at better ways of disclosing information that may be of interest.

Hon ALANNA CLOHESY: Transparency is very important. The audit program started in April last year, did it not?

Mr Gow: April this year.

Hon ALANNA CLOHESY: April this year, was it?

Ms Driscoll: Yes.

Hon ALANNA CLOHESY: It was discussed in the annual report last year, was it not? Oh, no, just that it was going to happen. The random selection—how many audits have been completed since April this year.

Mr Gow: Of builders, we have done 42 buildings.

Hon ALANNA CLOHESY: Is that home building?

Mr Gow: It is predominantly home builders.

Hon ALANNA CLOHESY: One hundred and twenty-five sites.

Mr Gow: Which included inspecting 125 sites. We have done no painter contractor audits. We have done 32 test audits of building surveyors and a number of plumbers as well, which is a slightly different regime.

Hon ALANNA CLOHESY: How many were randomly selected for the audit program and how many were targeted audits?

Mr Gow: Of that group, the 42 were randomly selected and we have done three following complaint.

Ms Driscoll: May I add that we have actually recently engaged some additional people to undertake this work. We do see it as very important. Our goal is to have 400 assessments in the next couple of months, ideally by the end of February or the end of March. We are really committed to getting again a balanced view of the level of compliance.

Hon ALANNA CLOHESY: That is great to hear—really encouraging. Back to the amount of time taken to resolve complaints; in relation to home building complaints for the last financial year or what would be in the annual report, what was the average time taken to resolve complaints for home-building complaints?

Mr Gow: From memory, it was 20 weeks.

Ms Driscoll: I think it is recorded in these papers.

Hon ALANNA CLOHESY: Is it in the annual report?

Ms Driscoll: Somewhere; I cannot remember where. It is reduced from something like 70 weeks in the old days of the BRB.

Hon ALANNA CLOHESY: My apologies. As I said, it is difficult to try to collate the information.

Hon MICHAEL MISCHIN: It is on page 28 of the annual report.

Hon ALANNA CLOHESY: It is strewn throughout the annual report.

Hon MICHAEL MISCHIN: It is on page 28 under the heading “Improved responses to building services complaints”. It gives the number of complaints as well as the average times, which are down from 75 weeks under the previous process.

Hon ALANNA CLOHESY: Of the 100 or so that have been unresolved, what is the average time it takes to resolve complex matters?

Mr Gow: In the sense of a complex matter where we deal with it and then it goes to the State Administrative Tribunal, I understand their time is something in the order of 15 to 18 weeks in addition to what we do. But that is their performance indicator, so I have to check that to give you

an accurate number. For the complaints that we resolve ourselves, the average time is 20 weeks. It is a fairly tightly bunched set of time statistics because the process requires us to follow some degree of due diligence of notifying the parties of proposed orders and so on.

Hon ALANNA CLOHESY: From the consumer's perspective, it needs to be quicker because of the time they are spending trying to resolve a complaint themselves.

Mr Gow: Yes.

Hon ALANNA CLOHESY: You talked about Dun and Bradstreet. Can you give us some more detail on how that operates and how that will assist in client complaint minimisation or resolution?

Mr Gow: Dun and Bradstreet, as a commercial service, tracks reports out of ASIC. It looks at court reports. It surveys contractors and people in business and how long it is taking to get paid. They get in a lot of intelligence about businesses, not just building businesses and, essentially, they then sell that to people who are interested in it, be they credit companies or people willing to contract and so on. We have contracted in—when I say, “we”, it is ourselves, but it also includes some of the areas in Consumer Protection; I think the motor vehicle traders also partner with us in this—the service from Dun and Bradstreet so that we give them the names of our registered contractors. They go onto their watch list and, as any significant change or piece of intelligence comes in in respect of one of those, they notify us online promptly. We are now building up a capacity to monitor everybody that we register and see whether anything of concern comes out from that. It might be that suddenly their payment terms are running out or ASIC is doing an inquiry on them or they have been pinged for failure to report or something like that.

Hon ALANNA CLOHESY: And financial?

Mr Gow: This is predominantly financial. As I say, we have only just signed them up, so it is a bit early to tell precisely how it will run. But it provides an information stream that we have not had before.

Ms Driscoll: May I add as a point of clarification that the capacity to do this applies only to companies. Privacy laws restrict the capacity to monitor persons and individuals, but clearly most contractors are operating as companies.

[4.30 pm]

Hon ALANNA CLOHESY: With the building permit database, which I think will enable you to link them—pretty amazing information really—you are checking it against the registration, are you also checking it against the complaints, both current complaints and previous complaints, to identify?

Mr Gow: We can. It is not in place yet and I must say that our complaints people do talk to the enforcement and licensing people now, so if there is a spurt of complaints about a particular builder or whatever, then we will pick that up through our internal processes.

Hon ALANNA CLOHESY: Except when they change their names.

Mr Gow: Even then, because we deal ultimately with the legal entity that is under it, even if they change their trading name, we still track the original company. Many builders have a number of trading names, as you know, so we track them all by the ultimate legal entity that runs them. The database will give us what building permits have been issued, who they have been issued to, where they are, names and addresses of the locations, value of building work et cetera. Once that information is available, clearly, we have a lot of capacity to link that with complaints with who is registered, the Dun and Bradstreet stuff, for example. It will give us the potential to be a lot smarter with the analytics that we can do. That database is under construction at the moment. We expect it to start running around the middle of next year on a trial group of local governments initially, just to get the IT right, and then it will expand out to all local governments.

Hon ALANNA CLOHESY: Can I come to Benchmark Designer Homes? What is the latest in terms of where that is at?

Mr Gow: Benchmark, as you know, went into liquidation in May. We have investigated the builder. The Building Services Board imposed a condition on the nominated supervisor in July, so that nominated supervisor could only work for somebody else—could not set up in business himself. We have also referred a case against the builder with the State Administrative Tribunal, seeking an order declaring the director to be an ineligible person. Because of the way the bankruptcy laws work, you have to get court permission to actually take legal action against an insolvent company, which is essentially to stop, I suppose, wasting the court's time. We got that approval in November to commence proceedings against the builder, so we are preparing that application now with the State Administrative Tribunal. In the meantime —

Hon ALANNA CLOHESY: Sorry, just on the application: If that application is successful, what will that mean? What will happen?

Mr Gow: The builder company is effectively out of business and gone broke. So, while we can ask the State Administrative Tribunal to cancel the registration, that is really a technical thing to do; it is not going to have any effect. What we are primarily after is the directors of the company, having them declared an ineligible person, which means they cannot be directors of a building company for a period of years, depending on what SAT determines is appropriate. It basically pushes them out of controlling any building company for a period of time.

Hon ALANNA CLOHESY: Did you have more?

Mr Gow: I was just going to say in terms of insurance claims, we received 19 claims; 16 of them have been dealt with. From the point of view of the owners, their buildings are now largely back on track and being completed by other builders.

Hon ALANNA CLOHESY: And for the other three, expected completion?

Mr Gow: I do not have any details of what is happening to those three.

Hon ALANNA CLOHESY: Perhaps we could take that on notice.

Mr Gow: If I can just clarify then, sorry. Those 19 claims are in relation to policies reinsured by the government. There were 275 policies in total, so most of those are underwritten by QBE and they have dealt with those, I do not have any statistics for these.

Hon MICHAEL MISCHIN: Fifty-two of those 275 policies were reinsured by the government, but there has been only 19 claims that have been made, and of those, 16 claims have been settled—just to put it in the context.

Hon ALANNA CLOHESY: Why do you think there have not been more claims made?

Mr Gow: I would assume at this point, but I can check these facts, the insurance cover's failure to complete or taking a deposit and failing to continue. It also covers the inability to make a claim or get the benefit of a dispute that has been sent to the Building Commission. These will have been predominantly about failure to complete. If there are people who down the track have defects that they want to make a claim on, then they have the currently six-year tail in which to make a claim about a defect. At this point, we mostly, I think, dealt with the failure to complete homes.

The CHAIR: Did that answer all of your questions? Initially, you said you might take it on notice and then you went on to provide an amount of information, so I am just trying to work it out.

Hon ALANNA CLOHESY: The number for QBE.

The CHAIR: Is there something that you were going to provide on notice then?

Ms Driscoll: We could just follow up on those last three, because most of the claims have been dealt with very quickly. We are not getting complaints about claims not being dealt with, so we will just find out where those three are.

The CHAIR: Anything else you wanted?

Hon ALANNA CLOHESY: Also the number dealt with by QBE.

The CHAIR: And the number dealt with by QBE.

[*Supplementary Information No C3.*]

Hon ALANNA CLOHESY: I have lost my train of thought.

The CHAIR: Sorry. Once you get your train of thought back, I have got another question.

Hon ALANNA CLOHESY: Okay. It is that late in the day.

Hon MICHAEL MISCHIN: We can always knock off and go home if you like?

The CHAIR: I promise you it will be earlier than the last time the house sat, minister.

Hon ALANNA CLOHESY: Ironically, it is 4.30 in the afternoon, not 4.30 in the morning!

The CHAIR: On page 49, you talk about the building services levy increasing from 0.09 per cent to 0.137 per cent. Who pays the building services levy?

Mr Gow: The levy is paid at the time of application for a building permit and also the application for an occupancy permit or even approval certificate. However, when applying for the levy for a building permit, it is based on the value of building works, so that is where the bulk of the money comes in.

The CHAIR: At each point you pay on the value of the works, at that point?

Mr Gow: No. Only when you apply for a building permit is it based on 0.37 per cent of the value of the work and then when you apply for an occupancy permit after that, it is just a fixed fee of some \$40 or \$50.

The CHAIR: That is on all building work?

Mr Gow: That is on all building work that requires a building permit.

The CHAIR: Right. So, residential homes right through to major buildings in the city. For the average residential home, what does that increase from 0.09 per cent to 0.137 per cent mean for the average consumer of a residential home?

Mr Gow: It is of the order of \$200, depending on the precise value of the home. But, I suppose, the standard sorts of homes that are built at the bottom end of the market are around \$250 000 to \$350 000 contracts. Multiply the figures by that and it comes out around the order of \$200 as the increase in levy.

[4.40 pm]

The CHAIR: In the text, it says —

An increase in the levy was needed to meet the Building Commission Division's full operating costs and to provide a source of funding over the next three to five years for a second phase of building and plumbing ... reform.

Has the building services levy always covered the commission's full operating costs or are you transitioning from having some consolidated account funding to all user-pays?

Hon MICHAEL MISCHIN: The latter.

Mr Gow: The latter. Up until the end of 2013–14, we had of the order of \$2.7 million a year of consolidated fund appropriation as well as levy funding at 0.09 per cent. From this year, we

obviously do not have any further consolidated account funding but the levy rate has gone up to compensate for that.

Hon MICHAEL MISCHIN: And to fund the further reforms that Anne mentioned.

Mr Gow: And to fund the further reforms, yes.

The CHAIR: How much of that increase is to replace the consolidated account funding and how much of it is for future reform work?

Mr Gow: I would have to give you detailed figures on notice for that.

[Supplementary Information No C4.]

The CHAIR: In doing that, could you also provide—was it \$2 million that you were previously getting from the consolidated account?

Mr Gow: It was \$2.7 million from the consolidated account, previously. It is of the order of one-third or two-thirds, but I will give you the accurate figures on notice.

Hon RICK MAZZA: Just on that subject, how much do you think that the increase in the building services levy will raise? What is the estimate of how much extra funds that will raise?

Mr Gow: It is \$5 million to \$7 million per year.

Hon RICK MAZZA: Is that \$5 million to \$7 million in relation to the regulation reform? Are you going to use some of that money towards the regulation reform of some \$5 million?

Mr Gow: Yes.

The CHAIR: How much did you say—\$5 million to \$7 million? That must be mainly from commercial works, is it, that you are expecting that money to come from, rather than residential?

Mr Gow: Again, I can give you the detailed figures on that but, broadly, the home building or residential side of the market brings in more levy than the commercial side and it is of the order of, again, something like 60 per cent residential and 40 per cent of the income is from commercial, but I can give you accurate figures on that because it varies a bit on month-to-month statistics.

The CHAIR: Okay. If you can provide us with a breakdown of that, we will make that part of C4. Was that incorporated into your budget papers for this year or was that post the budget announcement?

Mr Gow: No, that was incorporated into the budget.

Ms Driscoll: Again, if I might—just a point of clarification. You asked is this the source of funding for the Building Commission? There are some other fees and charges relating to licencing and complaints lodgement et cetera. In the interests of completeness, I will just flag that there are some other fees and charges as well.

The CHAIR: Right. Do you collect it or do they pay it to local governments and then local governments forward it on to you?

Mr Gow: The building services levy is paid to local governments and then it is fed through to us. The local government collects it as part of the building permit application.

The CHAIR: Do they then pass on the full amount, or do they take out an admin charge?

Mr Gow: There is an admin charge.

The CHAIR: Maybe if you could provide us with what the admin charge is as part of C4.

Hon RICK MAZZA: On page 82 under “User charges and fees and sales” there is a line item for “Building Commission”. I see that there has been an increase of about \$4.5 million dollars there. What is the increase in relation to?

Mr Gow: That is the sum, I think, of the building services levy registration fees, plumber licensing fees et cetera, and it substantially relates, I think, to the upturn in the housing market, basically, in the 2014–15 financial year. It went from 20 000-odd starts to 22 000 starts to 30 000 starts.

Mr Goodwin: If I may, it just reflects the underlying changes in the industry, if you like—the volume of transactions between years. It can go up to that kind of magnitude between years, and it can also go down between those years.

The CHAIR: With C4, it would be useful if you could actually find out what is the average fee paid for the building services levy for both residential and commercial. I will make that all part of C4.

On page 27 of your annual report, you make reference to a case study with respect to aluminium cladding and you said, obviously at the time that the report was completed, “the auditing and examination of risk continues.” Have we now completed the auditing and examination of risk, and what was the outcome?

Mr Gow: It is not absolutely complete in the sense that the City of Perth, which was the permit authority for the buildings that were audited, has identified nine buildings that use this particular cladding type. They have examined completely and cleared five of those. They do not believe there is an issue with the four remaining buildings, but the builders of them have actually gone broke and so they are going through the owners and other records to try to confirm exactly what was placed there. The City of Perth has not closed it off yet and we are waiting for them to do so, but at this stage it looks like there has been no difficulty that has been determined.

The CHAIR: Are those buildings now occupied?

Mr Gow: Yes.

The CHAIR: Are all of the occupiers of the buildings aware of the process that is being undertaken?

Mr Gow: I do not know, because it was undertaken by the City of Perth, but I would be probably surprised if the City of Perth specifically made the owners aware because the initial inquiries were made through the builders and the builder records, at least for the five where the builders were still in business.

The CHAIR: In the case study, you talk about how —

... a complex and high profile issue has kept Western Australians aware of measures to assess any risk.

But you have not kept them informed of how you are going in processing that risk in any way, have you?

Mr Gow: We have provided broad information back out to the public in various forms but, as I say, the City of Perth has managed that process and I would have to ask them specifically what they have informed owners of or not. My understanding is that they were primarily chasing up builder records rather than owners to get the information.

The CHAIR: I would have thought you were using it as an example of how you kept people well informed. When do you expect that to be completed?

Mr Gow: Basically any time now. Certainly, the last information I was given was that it was imminent, but whether it is before after Christmas, I do not know.

The CHAIR: If you can, at the time, inform us of where it is up to and what efforts have been made to keep people that are using those buildings aware of what the process is.

[*Supplementary Information No C5.*]

The CHAIR: No other questions? You wish has come true, minister!

Hon MICHAEL MISCHIN: I have powers that I did not realise I had!

The CHAIR: The committee will forward any additional questions it has to you in writing in the next couple of days, together with the transcript of evidence, which includes the questions you have taken on notice. Responses to these questions will be requested—I think there is a date; I do not have it with me but it will be in the middle of January. We have given a slight extension to the normal 10 working days because of the Christmas–new year period. It will be in the letter that you receive. I should also note that you should keep an eye out for the letter as well because the period for getting back uncorrected *Hansards* has actually been shortened. They are now trying to get them back in a more prompt way of five working days, which will also be from the date of receipt, which is in the letter that you will receive. Should you be unable to meet the due date for the questions, please advise the committee in writing as soon as possible before the due date. The advice is to include specific reasons as to why the due date cannot be met. We also ask that you provide those questions that you can and defer those that you are not able to answer at that time. If members have any unasked questions, I ask them to submit these to the committee clerk at the close of the hearing. Again, on behalf of the committee, can I thank you all very much for your attendance today.

Hon MICHAEL MISCHIN: Thank you.

Hearing concluded at 4.50 pm
