

Hon Kate Doust MLC

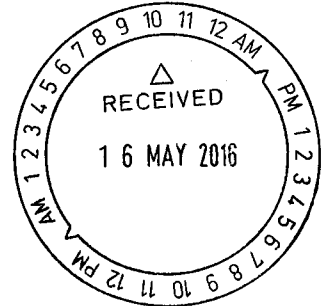
Member for South Metropolitan Region

Deputy Leader of the Opposition in the Legislative Council

Shadow Minister for Industrial Relations; Commerce; Information Communications Technology;
Small Business; Electoral Affairs



Hon Simon O'Brien MLC
Standing Committee on Environment and Public Affairs
Parliament of Western Australia
GPO Box A11
Perth WA 6837



Dear Simon

Petition No. 118 – White Set Plaster.

I thank you for your letter of 8 April inviting me to provide a written submission regarding the issues raised in the petition.

In Western Australia, homes are predominantly plastered with white set plaster, if the plaster is too soft it lacks durability, walls may damage easily and paint fail to 'stick' to the wall.

In March 2002 the Building Disputes Tribunalⁱ made a finding for compensation against Peter Stannard Homes for defective plaster being soft in "50% of the rooms"ⁱⁱ.

There is some anecdotal evidence that one Western Australian house owner in ten has concerns as to the internal walls and complains of paint peeling and plaster damage.

Lime content and hydration of the white set plaster can result in a lack of durability of the plaster and diminish the final product when painted.

At the core of the issue is how to ensure consumers are aware of the need to have their white set plaster wall harden to a finish which is sturdy and to which paint adheres.

The question which needs to be resolved is how do consumers assure themselves that the white set plaster in their home is sound. Further, if they have concerns how do they satisfy themselves as to its quality without a costly application to the Building Commission?

The Building Commission offers consumers and industry a dispute resolution process under the *Building Services (Complaints Resolution and Administration) Act 2011*. Complaints are received and dealt with by the Building Commissioner if possible, with intractable and complex disputes being referred to the State Administrative Tribunal (SAT).

On the 19 May 2014, the Department of Commerce made an announcementⁱⁱⁱ in response to the continuing consumer concern about "*paint peeling off damages areas of plaster. Increasingly, the issue is being found to be with the plaster rather than the painting work.*"

At the time the Building Commission announced the working group convened by the Master Painters and Decorators Australia (MP&DA) to undertake trials and establish best practice approach.

Since that time and subsequent to a State Appeal Tribunal determination^{iv} which held the painter accountable for costs despite finding *"the question of whether the plaster was too wet indisputable"*, painter liability and consumer protection requires clarification.

As a result the MP&DA advised in their Brushstrokes magazine^v that *"it is imperative that all painters carry a moisture meter and take tests..."* Directing painters; *"Do not paint the surface if the pH reading prior...does not sit within Australian Standards ... (AS/NZS 2311:2009) or manufacturers recommendations."*

The article also advised painters that the MP&DA is seeking legal advice on a disclaimer for contracts. This response by the MP&DA, to substandard plaster, has the potential to leave both consumers and painters disadvantaged.

In responding to a parliamentary question without notice on 19 November 2015, which asked what the Building Commission had done, given its awareness of the issue, to determine whether defective white set plaster is a problem, the Minister for Commerce informed the house that a report of the working group would be released mid-2016^{vi}.

This is despite, I believe, the report being finalised in July 2015 and the MP&DA posting on FaceBook in June 2015 *"We are back at Jandakot for the final tests for the white set plaster trial"*^{vii}.

It is therefore of concern that since May 2014 despite the extent of concern being fully evident to the Department of Commerce Building Commission consumers have been left uninformed.

It is worth noting the Building Commission's Senior Painting Inspector stated to the press in May 2014, *"We are finding that often what comes to us as a complaint about painting work may in fact be an issue with the plaster. Unfortunately, issues with the plaster often don't become evident until after the surface is painted"*^{viii}, yet consumers continue to be uninformed of the issues.

It is worth noting that the standard fee to lodge a complaint with the Building Commission is \$105.00 (concession \$52.50). It is therefore little surprise that in response to my parliamentary question on notice that I was advised; *"12 complaints have been captured under the 'Plastering internal/Hard wall set plaster' field, of which two relate to soft plaster"* since data began being compiled in March 2015. No records of enquiries are lodged in the Building Commission data base^{ix}.

Given the impact on consumers both in cost and convenience it is imperative that there is clear guidance regarding the standard of white set plaster required in the housing industry. As such I make the following suggestions as to areas of investigation.

I suggest:

- The Committee should obtain a copy of the Jandakot White Set Plaster Trials report to consider its conclusions and how the consumer can be advised accordingly.
- The Committee may wish to investigate the number of painting complaints, which may pertain to paint adhesion to the plaster, to ascertain if complaints are not being correctly captured.
- If in response to the concerns painters seek a disclaimer on contracts from consumers such that in their enthusiasm to complete their home they paint on

substandard plaster what recourse do consumers then have to have faulty work repaired?

- The Committee may consider taking evidence as to whether the lack of regulation in the plastering industry has resulted in a decline in quality and durability of the plaster?
- The Committee should consider questioning the Building Commission as to how many painting inspectors are available to consumers and whether the FTE, which is understood to be one, is sufficient to address an acknowledged concern?
- The Committee should consider whether the Australian standards 4349 and 4349.1 Inspection of buildings apply as to assessment of the durability for Western Australian white set plaster or the Victorian Building Commission Guide to Standards and Tolerances 2007 – that surfaces are to be inspected from a normal viewing position. The use of the Victorian standards has been questioned as to its capacity to fully assess the standard of the plaster.

If you require further information please do not hesitate to contact me.

Yours sincerely



Hon Kate Doust MLC

11 May 2016

ⁱ The Building Disputes Tribunal (BDT) no longer receives applications to review building decisions, and the BDT's jurisdiction was transferred to the Building Commission and State Administrative Tribunal in August 2011.

ⁱⁱ Massie and Peter Stannard Homes [2002] WABDT 8 (8 March 2002) Available at <<http://www.austlii.edu.au/au/cases/wa/WABDT/2002/8.html>>

ⁱⁱⁱ *Working together through a white hot issue for painters*, Department of Commerce (19 May 2014) Available at <<https://www.commerce.wa.gov.au/announcements/working-together-through-white-hot-issue-painters>>

^{iv} Fletcher and Leonard Willis trading as Willis Painting Service [2015] WASAT 135 (28 October 2015) Available at <<http://www.austlii.edu.au/au/cases/wa/WASAT/2015/135.html>>

^v What lies beneath the surface? A warning for all painters, *Brushstrokes*, (December 2015/January 2015), p.18 Available at <http://www.masterpainters.asn.au/Media/News/MPA0204BrushstrokesMagazineWithInsertDecember16_WE.aspx>

^{vi} Parliament of Western Australia Legislative Council (2015), *Parliamentary debates (Hansard)*, Questions Without Notice 1306 (19 November 2015) Available at <[http://www.parliament.wa.gov.au/Hansard/hansard.nsf/0/0182169F16A44C0D48257F0600256588/\\$File/C39%20S1%2020151119%20All.pdf](http://www.parliament.wa.gov.au/Hansard/hansard.nsf/0/0182169F16A44C0D48257F0600256588/$File/C39%20S1%2020151119%20All.pdf)>

^{vii} Master Painters & Decorators Australia FaceBook page (12 June 2015) Available at <<https://www.facebook.com/MasterPaintersandDecoratorsAustralia/photos/a.728592907156801.1073741829.500127920003302/1128389950510426/?type=3&theater>>

^{viii} *Working together through a white hot issue for painters*, Department of Commerce (19 May 2014) Available at <<https://www.commerce.wa.gov.au/announcements/working-together-through-white-hot-issue-painters>>

^{ix} Parliament of Western Australia Legislative Council (2016), *Parliamentary debates (Hansard)*, Questions on Notice 3758 (16 February 2016) Available at <[https://powanet.parliament.wa.gov.au/hansard/hansard.nsf/0/a2a5835aa43fabed48257faa001869e6/\\$FILE/C39+S1+20160216+p59e-59e.pdf](https://powanet.parliament.wa.gov.au/hansard/hansard.nsf/0/a2a5835aa43fabed48257faa001869e6/$FILE/C39+S1+20160216+p59e-59e.pdf)>