

**Division 16: Mines, Industry Regulation and Safety — Service 2, Commerce, \$108 937 000 —**

Mr D.A.E. Scaife, Chair.

Ms A. Sanderson, Minister for Commerce.

Mr R. Sellers, Director General.

Ms K. Berger, Deputy Director General, Industry Regulation and Consumer Protection.

Mr G. Newcombe, Commissioner for Consumer Protection.

Mr S. Abdoolakhan, Executive Director, Building and Energy.

Ms M. Haasnoot, Executive Director, Corporate Services.

Ms R. Parker, Acting Executive Director, Service Delivery.

Mr R. De Giorgio, Chief Finance Officer.

Ms A.J. Blackwell, Principal Policy Adviser.

[Witnesses introduced.]

**The CHAIR:** This estimates committee will be reported by Hansard. The daily proof *Hansard* will be available the following day. It is the intention of the chair to ensure that as many questions as possible are asked and answered and that both questions and answers are short and to the point. The estimates committee's consideration of the estimates will be restricted to discussion of those items for which a vote of money is proposed in the consolidated account. Questions must be clearly related to a page number, item, program or amount in the current division. Members should give these details in preface to their question. If a division or service is the responsibility of more than one minister, a minister shall be examined only in relation to their portfolio responsibilities.

The minister may agree to provide supplementary information to the committee, rather than asking that the question be put on notice for the next sitting week. I ask the minister to clearly indicate what supplementary information she agrees to provide and I will then allocate a reference number. If supplementary information is to be provided, I seek the minister's cooperation in ensuring that it is delivered to the principal clerk by close of business Friday, 1 October 2021. I caution members that if a minister asks that a matter be put on notice, it is up to the member to lodge the question on notice through the online questions system.

I give the call to the member for North West Central.

**Dr D.J. HONEY:** Sorry, chair. Before we commence, can you please clarify the scope for this session. On my agenda, I have "Department of Mines, Industry Regulation and Safety—Service 2, Commerce".

**The CHAIR:** That is right.

**Dr D.J. HONEY:** What pages does that cover in budget paper No 2? I see that service 2 is industry advice and regulation. Does that cover all of the budget for DMIRS? I am not being obtuse. I genuinely want to know the scope of what we can cover here because if it is only service 2, it is going to be a pretty brief session.

**The CHAIR:** I am advised that it covers any items or pages that refer to service 2, industry advice and regulation.

**Dr D.J. HONEY:** That has two hours allocated to it.

**The CHAIR:** I believe it is an hour and a half.

**Dr D.J. HONEY:** It will be an early night, I suspect. We will see how we go.

**The CHAIR:** As the more experienced members of this place probably know, there is a certain art to asking your questions. Provided that you can link your questions to both the minister's portfolio responsibilities and a line item or reference that comes under service 2, industry advice and regulation, it is likely to be relevant.

**Ms A. SANDERSON:** If I may assist, it is slightly broader than that. It covers a range of the budget papers, probably from pages 244 to 258, but not everything within those papers. There is a lot of crossover with industrial relations and mines regulation and it is complex, but I am happy for the member to ask a question and I can tell him whether it is in my portfolio.

**Dr D.J. HONEY:** I seek your indulgence; thank you, minister.

**The CHAIR:** I am sure that we will all approach this in a constructive manner. I give the call to the member for North West Central.

**Mr V.A. CATANIA:** My question relates to page 245 of budget paper No 2, volume 1. Under election commitments is the Building and Construction Industry (Security of Payment) Bill 2021. Can the minister please confirm that this election commitment comes from the 2016 election campaign. Am I correct?

**Ms A. SANDERSON:** The 2017 election, correct.

**Extract from Hansard**

[ASSEMBLY ESTIMATES COMMITTEE A — Wednesday, 22 September 2021]

p223c-234a

Chair; Dr David Honey; Amber-Jade Sanderson; Mr Vincent Catania; Mr Simon Millman

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**Mr V.A. CATANIA:** Sorry, the 2017 election. That election commitment was to protect subcontractors by including cascading trusts in the legislation. Can the minister confirm that that part of the election commitment was removed in 2021?

**Ms A. SANDERSON:** Chair, I am struggling to understand how the party process in writing an election commitment leads to a budget line item. I was not a part of that process. I do not think that it is linked and I do not think that is in the scope, frankly, because that is a party political process outside of the budget. I can read out the election commitment from the last election.

**Mr V.A. CATANIA:** Please do.

**Ms A. SANDERSON:** The commitment that we took to the last election was that a McGowan Labor government would establish a project trust account for government contracts to protect access to progress payments between head contractors and subcontractors and that a McGowan Labor government would ensure that retention moneys are held in a project trust account to protect against head subcontractor insolvency. If it occurs outside of government processes, it would be part of the party political process. I do not think that is in the scope here.

**Mr V.A. CATANIA:** I understand that there has been a change to the election commitment made in 2021. However, I will rewind and refer to the second paragraph under significant issues impacting the agency. It states —

The Act delivers on the Government's election commitment to provide better payment protections to subcontractors and suppliers in the building and construction industry and implements many of the remaining —

Not all of the —

recommendations made by Mr John Fiocco in the Final Report to the Minister for Commerce: Security of Payment Reform in the WA Building and Construction Industry.

Clearly, not all the recommendations were adhered to and legislated. Can the minister outline which recommendations from the John Fiocco report—a report commissioned by the Minister for Commerce's predecessor—were not put into the legislation?

**The CHAIR:** The minister has the call.

**Ms A. SANDERSON:** Chair —

**Mr S.A. MILLMAN:** I think the problem with that question —

**The CHAIR:** I have given call to the minister. I will hear from the minister.

**Ms A. SANDERSON:** We have fully met the terms of our election commitment and we have essentially passed that bill. We took it to the 2017 election and we took it to the 2021 election. It was not passed in the previous Parliament but it was passed as a matter of urgency in this Parliament. We have met the terms of our election commitment fully to provide security of payment for subcontractors throughout the entire chain. That was a long and lengthy process. It is a large and important sector. Part of that process was to instigate a review by John Fiocco, a very highly regarded legal practitioner in the construction sector, who was ably assisted by Hon Matthew Swinbourn, who also has very significant industrial experience in the contract sector. They provided a very thorough process to go through all the issues facing the sector and came up with a range of recommendations. It was then up to government and cabinet to draft legislation based on a range of issues that they took into consideration. Legislation was drafted that met the terms of our election commitment. I do not have with me a list of the recommendations that were accepted into that legislation and those that were not —

**Mr V.A. CATANIA:** I am happy to take it as supplementary information.

**Ms A. SANDERSON:** I recommend that the member put the question on notice.

[7.10 pm]

**Mr V.A. CATANIA:** We seem to be get that response from most ministers!

**The CHAIR:** Is there a further question?

**Mr V.A. CATANIA:** No. I am glad that the member for Mount Lawley is here because he was a strong advocate of the legislation.

**The CHAIR:** Member for North West Central, I am interested in hearing a question.

**Ms A. SANDERSON:** I might add something, if that is all right.

**The CHAIR:** If the member would like a further answer, then yes, minister.

**Mr V.A. CATANIA:** Absolutely.

**Ms A. SANDERSON:** Not all of the recommendations from the Fiocco report were election commitments. It did go quite beyond the scope of its terms.

**Mr V.A. CATANIA:** I understand that, but the 2017 election commitment was to introduce cascading statutory trusts, ultimately to protect subcontractors in situations such as were experienced at the start of this year when Pindan went into receivership. John Fiocco's report, commissioned by the previous government, clearly identified that as a key recommendation to be put into legislation. This would have protected the subcontractors who lost hundreds of thousands of dollars and who still have not heard from the program in terms of whether it is 30¢, 79¢ or 80¢ in the dollar that they are getting back. That is what the Minister for Housing indicated over a month ago, if not longer.

**Mr S.A. MILLMAN:** It is a question for the Minister for Housing.

**Mr V.A. CATANIA:** It is a question for the Minister for Housing. I have asked that question but he has not responded. This legislation would have protected all those subcontractors who lost, in some cases, hundreds of thousands of dollars. We have just seen another company go under as well.

**The CHAIR:** Member, can I ask you to get to the point of the question?

**Mr V.A. CATANIA:** You can, chair.

**The CHAIR:** I would appreciate that.

**Mr V.A. CATANIA:** Why were cascading trusts not put into the legislation? It was a 2017 election commitment and it was part of the Fiocco recommendations. Why did the minister not put it in the legislation?

**Ms A. SANDERSON:** I am not going to take advice from the member for North West Central on what was and was not in our election commitments. We made a commitment to protect subcontractors down the subcontracting chain. That is absolutely what we have done. We moved to do that in the last term of government. There had been absolutely no action in the eight and a half years of the previous Barnett government, to the point where we saw people taking drastic action. People took their lives because of this issue. It is only a Labor government that has put in place protections for subcontractors through the entire contracting chain.

The feedback I get from subcontractors is that they are very, very happy with this legislation. That is the feedback that I get. This is the first time that they can see that those protections have been put in place. The member cannot look at the legislation as a single section—just the cascading trusts or just the retention trusts. The legislation is designed to work together—all sections work together. If one section is pulled out, it is like a clock that stops working properly. A combination of mechanisms in that legislation protects subcontractors. It is the rapid adjudication, which also has not happened previously; it is the resourcing to provide that advice and that adjudication; it is the minimum monthly payments as well as the retention moneys along the chain.

I have been open about this previously, but when it comes to cascading trusts, there is concern in a sector that employs about 140 000 to 150 000 people—a significant employer, and significant in its contribution to our economic recovery and that runs on incredibly tight cash margins all the way down the chain—that if we put in place a large shock like cascading trusts, it would create issues for every single subcontractor. We were not prepared to do that. When I read the Fiocco report, I paid a lot of attention to that chapter. When I got carriage of this portfolio, I read through the evidence. There were varying points of view across the sector about the benefits or otherwise of cascading trusts. There is a divergence of opinions about the value versus the cost. When the report was released, it is fair to say that a number of subcontractors walked back their support for cascading trusts when they realised that it would apply to every single person, right down to the last subcontractor who has the smallest contract, or the second-last subcontractor. People were rightly concerned about their margins.

A better cost–benefit analysis would need to be done on the potential impact on the sector before something so significant was put in place. No other state or territory in the country has cascading trusts. It would be an appropriate move at a national level, if that is the way we were supposed to go. But for the state to go out on this significant limb, if you like, without having all the information and the cost benefit of cascading trusts, would not be appropriate. The sector has been under significant reform. Rightly, it needs reform. I do not think there is anyone in the sector who says it does not, but to impose too much, too often and too quickly would be detrimental to what is a very important sector.

**Mr V.A. CATANIA:** If the Labor Party had gone to the 2017 election with the 2025 commitment, subcontractors would know where they sit. Would the legislation that was passed by Parliament have protected those subcontractors who worked for Pindan on behalf of the government in terms of the asset maintenance contract that it held in regional WA? Would the legislation that has now passed have protected those subcontractors?

**The CHAIR:** Before I pass to the minister, I have questions about whether that question is relevant to a line item in the budget. What particularly are you tying it back to?

**Mr V.A. CATANIA:** It is subcontractors and protection legislation. How can it not be more relevant?

**Ms A. SANDERSON:** The member is seeking a legal opinion on a contract that I do not have in front of me; I cannot provide that.

**The CHAIR:** It seems to me the member is asking a very specific question about circumstances rather than about the department's implementation —

**Mr V.A. CATANIA:** The minister would have got advice on Pindan and the issue —

**The CHAIR:** Sorry, member; I will finish—about very particular circumstances rather than the implementation of this particular legislation and its implications from the budget. Unless you can tie it more securely back to the budget, I am ruling that it is not in order.

**Mr V.A. CATANIA:** Can the minister provide an example of subcontractors not being protected under the Building and Construction Industry (Security of Payment) Bill 2021?

**Ms A. SANDERSON:** Are not protected?

**Mr V.A. CATANIA:** Yes.

**Ms A. SANDERSON:** Again, the member is asking a broad-ranging hypothetical question.

**Mr V.A. CATANIA:** Am I? In what way?

[7.20 pm]

**The CHAIR:** I think that is the minister's answer, member for North West Central. Is that the further question?

**Mr V.A. CATANIA:** Does it protect all subcontractors in the way that the government claims that it protects subcontractors?

**Ms A. SANDERSON:** The bill that was passed by Parliament protects subcontractors down the chain of contracting from the head contractor.

**Mr V.A. CATANIA:** All subcontractors?

**Ms A. SANDERSON:** Yes.

**Mr V.A. CATANIA:** It protects all subcontractors. Can the minister say that again?

**The CHAIR:** Member for North West Central, wait for me to give you the call. Is that your further question?

**Mr V.A. CATANIA:** Yes. I want clarification of what the minister just said.

**The CHAIR:** Would the member for North West Central like to ask the question again?

**Mr V.A. CATANIA:** Can the minister confirm that the legislation covers all subcontractors in terms of protecting subcontractors and the moneys owed to them?

**Ms A. SANDERSON:** I will defer to the director general.

**Mr R. Sellers:** Thanks, minister. I will ask my colleague Saj, who advised on the bill, to give some detail.

**Mr S. Abdoolakhan:** The level of protection in terms of how low the threshold will be will be prescribed in the regulations, which are currently being drafted and will be out for consultation in the new year.

**Mr V.A. CATANIA:** So the new regulations will be out early in the new year?

**Ms A. SANDERSON:** For consultation.

**Mr V.A. CATANIA:** How long will that consultation period be?

**Ms A. SANDERSON:** I will ask the director general.

**Mr R. Sellers:** Typically, consultation periods, depending on the time of year, can go from six weeks to months but we have not settled on the consultation period as yet; that will be done after discussion with the government. For example, if the draft regulations were released in early January, we would want to give a little bit longer. If it is when most people are back at work, we could cut it down to a minimum.

**Dr D.J. HONEY:** I refer to page 244, budget paper No 2, volume 1, "Appropriations, Expenses and Cash Asset Sales". I am intrigued because the net appropriation for that service is extraordinarily flat across the forward estimates, much more so than for any other department. Is there a reduction in service across the forward estimates or is the department undergoing some sort of efficiency program to maintain that flat trajectory? For example, 2.5 per cent wage growth is forecast across the budget forward estimates per annum compound.

**Ms A. SANDERSON:** I defer to the director general.

**Mr R. Sellers:** The net amount appropriated to deliver services moves up and down because things come into the budget and, as the member mentioned, there are other expenses that grow over time. For example, the \$8.1 million increase in the 2020–21 budget from the 2019–20 budget is mainly due to a \$30 million increase to cover the impact of COVID licence waivers, which is partly offset by a \$1.6 million reduction due to the unwinding of

Australian accounting standard B16 for leased accommodation and previous saving measures for the revised public sector wages policy, state fleet reductions, senior executive service reductions, voluntary targeted separations—I can go on. Member, there are some ups and downs in each year. When it is looked at in toto it looks like it is flat, but when one reads into the detail, there are some things that come in and some things, as the member rightly pointed out, that grow over time and others, like efficiency dividends, that take it back down.

**Dr D.J. HONEY:** I refer to page 244, “Cash Assets” at the bottom of the table. There is an enormously growing volume of cash assets to over half a billion dollars of retained cash in the department, which seems unusual to me. Can the minister explain why so much cash is being retained by the department?

**Ms A. SANDERSON:** I refer to the director general.

**Mr R. Sellers:** A variety of accounts have expenditure limits set against them and depending on how the economy is going, some of those grow large, others are small. They were originally set up on fee structures, levies or fee for service. The service undertaken around those is set as an expenditure limit against what we predict the account is going to be. There are others that are held against bonds and other amounts of money that sit there in trust accounts that are used to refund various things that can be business activities in residential and commercial tenancies. We can go into some detail on some of those accounts if you would like, but I would need to get advice from some of my colleagues.

**Ms A. SANDERSON:** I ask Mr De Giorgio.

**Mr R. De Giorgio:** As the director general just stated, we have the special purpose accounts and, just by way of example, to mention a few of them, the Mining Rehabilitation Fund has increased by about \$34 million from the previous to the last financial year and the mines safety levy has increased. We have got a lot of special purpose accounts that have increased, which have effectively increased the cash assets of the department.

**Dr D.J. HONEY:** Would it be possible to get a breakdown of those costs—I do not need it right now—by way of supplementary information? It seems to be a habit that a lot of departments are carrying forward a lot of money.

**Ms A. SANDERSON:** I am happy for the member to put it on notice. There are very strict requirements around how the money in special purpose accounts can be spent.

**Dr D.J. HONEY:** I refer to page 246, budget paper No 2, volume 1, and the twelfth dot point, which states that the department will review the Electricity Act 1945 and the Gas Standards Act 1972, which regulate electrical safety and so forth. In August, EnergySafety expressed concerns about Western Power’s wooden pole maintenance and replacement program. Is that a matter that the department has looked into and has the department formed a view on the way that Western Power manages that power network, especially on private property?

**Ms A. SANDERSON:** I defer to the director general, who will direct the question.

**Mr R. Sellers:** Thanks, minister. There have been quite a few discussions on this topic and my colleague Saj will lead the member through some of that detail.

[7.30 pm]

**Mr S. Abdoolakhan:** I guess the member is referring to Western Power’s management of private poles. It is not to do with its own asset; it is in regard to the management of private assets. We have held discussions with Western Power and we have been reassured that it is developing a system of inspection to inspect the first poles under the consumer installations. It is a risk-based system and it has assured us that we will get to all higher risk wooden poles before the next fire season.

**Dr D.J. HONEY:** Just to give me the scale of that, what is the estimated number of properties with private poles versus the number that have been assessed in that high-risk category?

**Ms A. SANDERSON:** I suggest the member directs that question to the Minister for Energy as they are assets —

**Dr D.J. HONEY:** So did that department carry out the assessment, minister?

**Ms A. SANDERSON:** We can give the member the advice of our agency as to its obligations for safety, but for numbers of assets and the time frames, I suggest the member directs that question to the Minister for Energy.

**Mr V.A. CATANIA:** Paragraph 15.1 on page 247 states in relation to COVID-19 —

The Department’s Consumer Protection Division will continue to administer the Residential Rent Relief Grant Scheme which was initially implemented in April 2020. Originally intended to conclude on 30 June 2021, the Government extended this scheme through until 31 December 2021 for tenants who had a residential tenancy agreement in place as at 28 June 2021.

Is the minister able to let us know what is the volume of cash in that scheme and how many individuals have accessed that scheme? How many people does the department project will take up the scheme by 31 December this year?

**Ms A. SANDERSON:** Yes, I can. The residential relief grants scheme was put in place and \$30 million was provided to the department to support tenants in their tenancies under the emergency Residential Tenancies (COVID-19 Response) Act 2020, which was a requirement of national cabinet. It has been delivered in four phases. It has been amended to respond to some of the issues those tenants were having. The first phase was 1 May to 28 September 2020 and provided for grants of around \$2 000 or up to four weeks' rent. Tenants had to be in significant hardship and unemployed, that hardship had to be caused by the COVID-19 pandemic and there needed to be an agreement for reduced rent and to engage in mandatory conciliation. The second phase was up to four weeks' rent with similar parameters, and that went up to 31 December 2020. The number of payments made was 7 840 and the total amount paid was about \$10.8 million to those tenants, so significant support was provided to those tenants and landlords. The third phase then commenced from 1 January 2021 to the end of this year for up to \$4 000 or 75 per cent of rent arrears. Again, there was eligibility around COVID hardship. They had to have an agreed six months further on their lease with the landlord and essentially clear as much of those arrears as they could. There were 652 payments made at about \$1.4 million of that third tranche. The fourth phase commenced on 27 February and runs until 31 December this year. That is up to \$2 000 to assist with the payment of rent increases. This is when the moratorium fell off. Those landlords had not been able to increase their rent and those tenants were facing significant rent increases. When they were facing a rent increase of more than five per cent, they got up to \$2 000, and there was a condition on the landlord to grant them an extension. Obviously, those tenants had to be in hardship caused by COVID-19. That still has time to run, but around half a million dollars has been provided in 687 payments.

Overall, it is just under \$13 million, not including administrative costs. There is money to be spent. We cannot determine how much of that will be spent by the end of year, but it is there and available for tenants and there will be outreach and support to make sure that people are aware of it.

I will hand to the commissioner to provide a bit more detail.

**Mr G. Newcombe:** Yes, we are continuing to promote the availability of the grants. We will go out with an increased campaign later this month. A high proportion of applications are ineligible. People are being encouraged to apply by real estate agents and others without any initial assessment of whether they meet the criteria. About 70 per cent of applications do not meet the criteria. Two things we will focus on in promoting the scheme for the remainder of the year are, first, its availability and, second, being clear about the eligibility criteria, so we will try to drop the number of applications that are ineligible and that are really wasting everybody's time. We are uncertain about exactly where we will end up, but the expectation is that there will be in the order of \$5 million that will not be spent. Our aim is to promote as big an uptake of the grants as we can.

**Mr V.A. CATANIA:** Given that there will probably be some money left over, will the criteria be changed to allow more to take it up? I am sure that people may not meet the criteria that are set out, but that does not mean that there is not hardship with the increased rental costs that they are incurring. Is there any chance of reviewing the policy to ensure that more can take it up?

**Ms A. SANDERSON:** The criteria will remain because the scheme is targeted at the most vulnerable and those on the lowest fixed income. The efforts of the department will be put towards making sure that everyone who is eligible has access to that funding or an application for that funding.

**Dr D.J. HONEY:** I refer to page 244 under "Appropriations, Expenses and Cash Assets" and to the line item "Services to Industry Component (Mining Tenement Rentals (MTR))". There is a step change from the 2020–21 estimated actual to the 2021–22 budget estimate of about \$6 million. What is that step change? It seems to be consistent across the forward estimates.

**Ms A. SANDERSON:** That is a question for the Minister for Mines and Petroleum.

**Mr V.A. CATANIA:** Okay. I am sure that this comes under the Minister for Commerce. I refer to the thirteenth paragraph on page 246. Can the minister jog my memory: have we passed that legislation in this place? I think it is in the other place, because budget paper No 2 states —

Subject to the passage of legislation, the Government has committed to the implementation of Automatic Mutual Recognition (AMR) in Western Australia during the second half of 2021 as part of a national scheme.

Can the minister provide an update on where that legislation sits at present?

**Ms A. SANDERSON:** That has not been introduced into the Parliament yet.

**Mr V.A. CATANIA:** Does it look like it will be read in before the end of this parliamentary sitting?

**Ms A. SANDERSON:** That would be the aim, but it depends on the Parliamentary Counsel's Office, essentially. It has a very full workload.

[7.40 pm]

**Mr V.A. CATANIA:** How vital is this legislation? Is it correct that this legislation has not yet been drafted?

**Ms A. SANDERSON:** It has not been introduced.

**Mr V.A. CATANIA:** I thought the minister said that parliamentary counsel had a backlog.

**Ms A. SANDERSON:** This is the Premier's legislation. It was agreed to by national Treasurers. It is the legislation of the Premier; Treasurer. I cannot give the member a clear status update.

**Mr V.A. CATANIA:** Is it uniform legislation?

**Ms A. SANDERSON:** It is the result of a national agreement. I am not sure whether it is uniform. That will be determined by the Parliament. I cannot give the member its exact status, other than to tell him that it has not been introduced.

**Dr D.J. HONEY:** I turn to the spending changes on page 245 of budget paper No 2. The first line item is "Building and Construction Industry (Security of Payment) Bill 2021". A significant amount of money has been allocated across the forward estimates. What is that allocation of money for?

**Ms A. SANDERSON:** The government has allocated \$6.94 million over the next four years to implement the act. Fundamental changes have been made to payment practices in the construction industry. A range of services will be funded, including education. Significant education needs to be undertaken in the sector, in particular for subcontractors. That is something that I hear consistently. The legislation will extend the Building Commissioner's statutory role beyond the building industry to encompass the wider construction industry. That will require resourcing. The Building Commissioner's scope will expand from regulating building services to regulating commercial conduct and behaviour more generally across the building and construction industry, assisting the Building Services Board exercise its new powers to exclude directors of building service contractors with a history of financial failure and investigating and prosecuting breaches of the retention trust scheme. A majority of those new costs are recurrent in nature and cannot be absorbed into the existing budget. Essentially, FTEs will be recruited to support the implementation of the laws.

**Dr D.J. HONEY:** In that same table, there is a one-off payment of \$100 000 to Circle Green Community Legal. As the minister knows, I am familiar with that group but I am intrigued to know what the payment is for.

**Ms A. SANDERSON:** I am told that that falls under the Minister for Industrial Relations.

**Dr D.J. HONEY:** I take it that the minister does not have responsibility for fast-tracking mining approvals either?

**Ms A. SANDERSON:** No, I do not.

**Dr D.J. HONEY:** An amount of \$1 million has been allocated to mental health in the workplace across each of the forward estimates. Again, I am interested in what that money is for.

**Ms A. SANDERSON:** Again, it comes under industrial relations.

**Mr V.A. CATANIA:** Paragraph 11 on page 246 states —

The Department's work and industry consultation on major policy reform initiatives in implementing the recommendations of the Building Confidence—Improving the Effectiveness of Compliance and Enforcement Systems for the Building and Construction Industry across Australia report is continuing. It is expected that final reports on several reform proposals will be considered by the Government in late 2021.

Can the minister update us on whether those reports will be considered in late 2021?

**Ms A. SANDERSON:** I can confirm that they will be considered by the government in late 2021. A range of recommendations came out of that report. A number of them are not necessarily immediately applicable to Western Australia, unsurprisingly from a report that came from the eastern states. We are working through them with a very measured approach. I think everyone agrees that most of the recommendations are good and appropriate but it comes down to how they are implemented in WA. Yes, it will be considered and we will probably be outlining a staged approach to the implementation of those recommendations over the coming years, and working with the sector to implement those recommendations.

**Mr V.A. CATANIA:** Prior to the implementation of those recommendations, are any legislative changes required?

**Ms A. SANDERSON:** Changes will need to be made to the act and the regulations, and there will also be administrative changes.

**Mr V.A. CATANIA:** Does the minister foresee those changes coming in in 2022? What is the time frame for those legislative changes?

**Ms A. SANDERSON:** I foresee those changes occurring in this term of government.

**Mr V.A. CATANIA:** Parliamentary drafting is obviously under a huge amount of pressure because, from an opposition point of view, we cannot get anything done.

**Ms A. SANDERSON:** Then they are doing a good job!

**Mr V.A. CATANIA:** I will take that as being said tongue-in-cheek.

The government's aim is to make those changes after the report is handed down. Will any necessary changes be done in this term?

**Ms A. SANDERSON:** The government will have a report to consider this year. We will consult on the implementation of those changes. Early informal discussions have commenced. I cannot give a time frame but I would like to see the legislative changes that are required during this term of government because I think improving confidence in the sector is important.

**Mr V.A. CATANIA:** The minister said that some consultation has already been undertaken. Who is the minister consulting with and is the minister able to provide a list of stakeholders that she is consulting with now and wishes to consult with in the future?

**Ms A. SANDERSON:** I probably cannot provide the member with a formal list, but the department consults regularly with the building industry and the unions. I am happy to defer to Saj Abdoolakhan to outline some of those discussions.

**Mr S. Abdoolakhan:** Recommendations were made ranging from the powers of regulators to the integrity of buildings, surveyors, documentation requirements and a proposal for an inspection regime. The recommendations are very wideranging. We have already put out four consultation papers. We have had full public consultation. Four different papers have been publicly released. We have consulted on reforms to a building approval process for single residential dwellings. We did this between September 2019 and December 2019. We consulted publicly on an approval process for commercial buildings between September 2019 and June 2020. We have consulted on a proposal to register building engineers. We also consulted on a proposal to review inspection requirements for builders and building practitioners. We are currently examining the feedback we received during this consultation. As I said, this has been public. The public has been invited. We have had quite a few; I do not have the exact numbers on me but I can provide them if needed. Major industry stakeholders have provided comments to all these papers. We are in the process of examining the feedback we received. We will be doing a cost-benefit analysis and then putting it to the minister to have more formal discussions about the way forward.

**Dr D.J. HONEY:** I refer to paragraph 7 on page 246. Can the minister tell me whether this item is relevant to her area? Clearly, the issue of workplace harassment, and particularly sexual harassment, has been revealed as a major issue on mine sites, in particular. Can the minister inform me how many bullying and sexual harassment complaints were made in 2020–21 and in 2021–22 to date?

[7.50 pm]

**The CHAIR:** Member for Cottesloe, I suspect that is not the minister's responsibility; it is the Minister for Industrial Relations.

**Mr V.A. CATANIA:** I hope this is related to the minister's portfolio! It is the same page, 246, paragraph 10.

**Ms A. SANDERSON:** No, that is industrial relations.

**The CHAIR:** I would say that if it is to do with public sector wages policy et cetera, it is a matter for the Minister for Industrial Relations.

**Mr V.A. CATANIA:** Even wage theft?

**The CHAIR:** Yes, that would come under the Minister for Industrial Relations as well.

**Mr V.A. CATANIA:** We will get there; I will defer to my learned colleague to my left!

**Dr D.J. HONEY:** That is a challenge, dare I say, given the reduction in scope.

**The CHAIR:** I think it is important to bear in mind that the Minister for Commerce is essentially responsible for regulatory and protective matters—consumer protection and industry regulation and protection—rather than any of the industrial relations or health and safety matters.

**Dr D.J. HONEY:** Thank you for that guidance, chair. In relation to community retirement facilities, I have received a significant number of complaints in my electorate about behaviours in that area, particularly around governance. There are situations in which so-called community boards put themselves in the position of being effectively appointed for life. To explain that, they restrict who can apply for membership of a board. They have the acquiescence of residents, because the residents typically go along with whatever the board puts to them. To give the minister a particular example, boards can pay themselves handsomely—\$50 000 a year each—and they are effectively unassailable; they are there for life and have the power to pay themselves moneys. I had heard that a review was being undertaken into this sector. It seems to me that this sector is open to potential abuse, particularly of elderly and vulnerable residents.

**The CHAIR:** Member for Cottesloe, I am certainly satisfied that matters dealing with incorporated associations are within the minister's portfolio responsibilities, but you did not cite a particular line item. Nonetheless, if the minister is willing to answer, I am willing to allow the question.

**Ms A. SANDERSON:** I am happy to indulge the member, chair, because it is an important issue, and one that the member is quite right to raise about some of the most vulnerable constituents. It is also, essentially, an important aspect of the affordable housing mix for older people who want to live independently. This is a really important reform, and it is long overdue. It was started, I think, under the previous government. It has been lengthy, and I am not saying anything out of turn by saying that it has taken too long. Public consultation on the reform closed on 27 July this year. A number of issues are up for discussion, including exit fees, which is quite a hot topic for both sides. Treasury Corporation is conducting an assessment of the financial impact of exit fees, and we are hoping to put together a package to work with very soon. I would like to have that legislation drafted and passed within the next couple of years, because I certainly agree that the sector is overdue for some much-needed certainty in that regard.

**Dr D.J. HONEY:** This may be too detailed, but are changes being considered to prevent situations in which a board effectively removes itself from management by the residents and becomes almost independent of the residents and the association?

**Ms A. SANDERSON:** I will refer that question to the commissioner.

**Mr G. Newcombe:** The actual operating structure of a retirement village—which can be a variety of legal bodies—is not, of itself, the subject of the review. The review is looking at the contractual relationships and the residential relationships of residents in the villages. Consumer Protection also regulates some of those vehicles; we regulate incorporated associations. We are very active in this space. If the member had a particular issue that he would like to raise with us, I would be more than happy to receive it and we would have a look at it. There are arrangements; residents are not, in most circumstances, members of the controlling body. It is a different relationship—a contractual relationship with the provider. There is a range of structures that the provider can adopt, but we would be very happy to look at any matter or specific concern that the member wants to bring to us.

**Dr D.J. HONEY:** Are there model articles of association for incorporated bodies? Are there model rules that apply?

**Mr G. Newcombe:** We certainly offer model rules for incorporated associations. It is not incumbent upon any association to take up those model rules, but the rules have been drafted to ensure compliance with legislation so that any association that looks to amend those rules must also do so in compliance with the act—it must cover all of the requirements of the Associations Incorporation Act. The model rules are available. They are promoted but they are not mandatory; they can be deviated from in part or in whole, but in doing so, there must be compliance with the requirements of the legislation.

**Mr V.A. CATANIA:** I refer to paragraph 14 on page 247, which states —

The impact of the COVID-19 pandemic continues to increase the number of consumers seeking assistance.

There is reference to changes in the JobKeeper scheme and the effect that has had on small businesses and so forth. Does the minister have any idea about the situation that businesses are in? Is there a percentage of businesses that are still suffering because of diminished transactions with the east coast and fewer tourists, and are struggling to make ends meet? It has been difficult for a lot of businesses. Can the minister outline the support her department is providing to consumers who are vulnerable because of the businesses they are working for? What support does the minister have available?

**Ms A. SANDERSON:** I understood the first part of the question; I might ask the member to repeat the second part. I think the first part of the question was around data on struggling businesses. That is not something that the department holds. Treasury gets a range of information from banks, chambers of commerce and industry and other sources, and it puts together a pretty good scope of the state of confidence and the state of business in WA, but it is not something that the department holds. Sorry, what was the second part of the question?

**Mr V.A. CATANIA:** Some consumers may be vulnerable because they are seeking unsustainable credit and are exposed to firms purporting to provide debt management support. I suppose it is individuals who may have been taken advantage of during this very vulnerable time for a lot of people. What support is the department providing in the way of counselling or legal advice? When a consumer comes to the department, what does the department do with that information? Does it report it to the police or the commonwealth government? Perhaps the minister can describe the process.

[8.00 pm]

**Ms A. SANDERSON:** The member asked a couple of questions, one was around fraudulent activity.

**Mr V.A. CATANIA:** That last one is probably the right one.

**Ms A. SANDERSON:** The member hit on one of my pet hates—that is, those really unscrupulous debt managers as they call themselves and payday lenders. They are truly vile.

**Mr V.A. CATANIA:** Are they the ones we see on TV?

**Ms A. SANDERSON:** Yes; they wear a big fluffy dog suit and are really friendly, saying, “Here’s \$1 000 really quickly on your phone.” They target young people; they are legalised loan sharks, basically, who are regulated federally. I would like to see states collectively make very strong representations to the federal government to legislate in this space. They are very vulnerable; they lack financial literacy; and are often desperate. They are quite awful. I think debt managers are no different when they take mostly low-paid people and take a skim of their money to manage their debts and sometimes they do not even pay them. The department employs a range of non-legislative strategies to support vulnerable community members. We obviously work to influence the national agenda to try to get the federal government to do something. The department has partnerships with financial counsellors and community legal services to address debt issues and identify potential unlawful conduct. It is increasing public education, targeting vulnerable consumers with messaging and highlighting the potential detriment and inviting complaints. It is strengthening marketplace monitoring, adjusting inquiries and complaints handling processes to better identify some of the unlawful conduct and improve some referral processes to assist vulnerable consumers and it is raising compliance issues with the Australian Securities and Investments Commission in its capacity as the primary regulator, although ASIC has become increasingly ineffective at times I think it is fair to say. This is an area in which the federal government has really dropped the ball when people are quite in need.

**Mr V.A. CATANIA:** I do not know whether this is on the right path. Consumers are taken advantage of everyday. I have teenage boys who think they know everything and are happy to look on Facebook and purchase a phone and lose their hard-earned money and dad has to come up with it. Is the minister finding that there are more of these instances when consumers are being taken advantage of through social media? What ability is there from a state point of view, or is it more of a commonwealth point of view, to regulate or to legislate to put harsher penalties in place? I know it is difficult because a lot of it is overseas as well. I know of a couple of instances when the boys have been ripped off by people over east. Is there any movement towards providing stronger protections for these rogue teenagers who think they know everything?

**The CHAIR:** I suspect the member and the minister both have personal knowledge of this rather than I do but if the minister is happy to answer.

**Ms A. SANDERSON:** I could sit here and talk to you at length about rogue teenagers but I will defer to the commissioner.

**Mr G. Newcombe:** The member struck at the heart of what Consumer Protection is about. There are two elements to what the member has raised; one is scam and fraud where deliberate attempts are made to take money from people. It is not a bad business practice; it is a deliberate scam. It is very significant organised criminal activity. Consumer Protection had reports last year that equated to losses to scams of around \$12 million. That is just the tip of the iceberg.

**Mr V.A. CATANIA:** Here in Western Australia.

**Mr G. Newcombe:** That is what was just reported to us. It is about 952 reports totalling about \$11.8 million in losses. The estimate for Australia for last year that was reported to the ACCC was in excess of \$200 million. General indications are that it is more than \$1 billion of losses to scams in Australia each financial year. As the member indicated, the vast majority are overseas based and they are extraordinarily difficult to combat. We spend a lot of our time on social media, so we have very active social media accounts on Facebook, Twitter and Instagram and we are also looking at going on TikTok, which the member’s sons might tell him about, to make sure we are engaging in that space. We provide information in that space and spend a lot of our time trying to educate people on how best to avoid these sorts of issues.

In terms of behaviour by businesses in Australia that do not produce a result, we received a significant increase in the number of complaints during COVID. We are very active in that space. One of the things I have focused on since my appointment is the broader use of the Australian Consumer Law to tackle these issues. We are very focused on that. As I say, it is our bread and butter. We also offer a conciliation service to try to assist people. We have been extraordinarily successful in the travel space, for example, when people have had cancellations due to COVID and the trader has not necessarily offered a refund, and we have entered into that space and negotiated a very significant number of refunds. It is very much something we are interested in and I suggest that if the member’s sons get caught with that, we would be happy to take a complaint and deal with that directly or the member himself if he is the person paying.

**Mr V.A. CATANIA:** I am happy to complain.

Given it is a large problem, if a child had lost their money we would think that their sibling would learn not to do the same. Clearly, there is something missing in a teenager’s brain.

I imagine there are probably two ends of the spectrum—namely, the young and those at the other end of their life whereby each can be more gullible at each end. What work is the minister undertaking to work with schools to educate, because education is probably the best form of combating this illegal activity? Is the department going to schools or offering it to schools? Can it be part of the curriculum to make sure people are aware generally of the consequences of social media and, more important, that people do not hand over money to someone they do not know?

**Ms A. SANDERSON:** I will defer to the commissioner.

**Mr G. Newcombe:** The first thing is, I will have to disabuse the member of the common belief that the young and the elderly are most affected. The reality is that the statistics show that a very consistent percentage of people affected are from the age of 25 up. Those under 25 are less susceptible. The difference is that older people over 65 tend to have higher losses, partly because of accumulated assets. They are subject to scams in particular that target those assets, but it is a very consistent flat target and there are lots of reasons, but I will not go through them all or I will be talking for a long time. That is the first thing. It is very consistent and it is not younger people who are really at risk.

In the past, we have sought to be part of the curriculum—I am going back to my previous time with this organisation—but that was not successful. It is quite difficult to get on what is a very complex and busy curriculum. We do not specifically do school visits at the moment. However, we do a lot of community visits, including a lot of regional visits. One of our senior officers just finished a visit in the member for North West Central's electorate; we have been in the south west and we are in Kalgoorlie at the moment. We do a lot of that outreach. We do not specifically target schools. We would be interested in doing that, but there are two issues, one finding space in the curriculum and the other is that it is very resource intensive for us to provide curriculum material. At the moment, we would not have the resources to do that, so we would need to talk to government about that.

**Mr V.A. CATANIA:** When there are lockdowns and people are at home and they get bored and are on their phone, their computer, their iPad or whatever the case may be, is that perhaps a good opportunity to promote these concerns that one could get caught up in through social media advertising, TV or radio when there is a captive audience at home? Given what has happened today, hopefully, we will not go into lockdown. Is there an opportunity especially given ticket scalping? I imagine a lot of people have issues with handing over money for something and not receiving a ticket. The ticket scalping legislation has also been a good step towards educating people about purchasing tickets. Has the department thought about any of those avenues when—hopefully we will not—we have lockdowns and people's focus is on social media or devices?

[8.10 pm]

**Ms A. SANDERSON:** The department does a lot of proactive monitoring and engagement. I defer to the commissioner to outline the details.

**Mr G. Newcombe:** Firstly, yes, we are very focused and aware that the pandemic and lockdowns associated with that have driven a number of issues—both scams and other concerns. Our outreach is based around traditional media. We do a lot of radio—we do ABC, 6PR, every Aboriginal radio station in the state and community radio in every space that we have an office, and we have six offices. We have a combination of 20 000 followers on Facebook and Twitter. Our posts reach up to 1.9 million people, not all of them are Western Australians. We are very active in that space.

We also do physical outreach because I am a strong believer in going out to the regions. I was at the Dowerin GWN7 Machinery Field Days talking to people about scams when that was on; so, yes, we are very focused on that. We use social media for two things: firstly, for promoting information and, secondly, it is a very useful complaint receiver. We get lots of intelligence through social media.

Just briefly, we have been very aggressive in the ticket scalping space in providing information to people. Unfortunately, five people who sought to buy tickets from a reseller have been scammed. We had very strongly been advising people not to do that, but those people chose to do it. Five people were scammed; they paid their money and did not receive tickets. It is a live issue. We are combating organised criminal activity in most cases, but it is an absolute focus of what we do.

**Mr V.A. CATANIA:** The ticket scalping legislation is now in place, so any tickets being sold would be for a higher price. Is anyone monitoring the AFL grand final? Has the department found anyone who has yet to understand the new legislation and its consequences?

**Ms A. SANDERSON:** The member has not highlighted a line item, but I will indulge him.

**Mr V.A. CATANIA:** I thought the minister would indulge me. I have given her a Dorothy Dixier.

**Ms A. SANDERSON:** The legislation is in place and is active. As the member knows we amended the commencement date so that it would be in place for the grand final. I give credit to the department for doing an outstanding job to promote the law and raise awareness and engage. Indeed, a number of individuals and organisations have already been identified for being in breach. I will hand over to the commissioner to give more details.

**Mr G. Newcombe:** We were out in front of the legislation telling people not to go through resellers. As soon as the legislation was passed and came into operation, we directly contacted the seven main online resellers, one of whom has a troubled past—Viagogo. It is an international provider and has been the subject of prosecution in the eastern states. We have had a lot of trouble with it. Fortunately, it gave a commitment to not sell AFL grand final tickets, and it stuck to that commitment, which is good, as did Ticketek.

Staff monitor all online sites. The most popular one is Gumtree. The purpose of our strategy is to get Gumtree to do the compliance because we cannot monitor what it does 24/7. We asked Gumtree, not just for the grand final but for every future event, to be clear about its responsibility and to monitor its platform. To be fair, Gumtree has been very responsive; indeed, it often removes advertisements before we are even able to identify them.

We have been very active in that space. Obviously, now that people cannot buy grand final tickets anymore—they have all been sold—tickets are being purchased as resale tickets. We know that people are still in the market. The five who were scammed did something that we directly advised people not to do; that is, advertise on Gumtree for tickets. It is like a moth to a flame.

**Mr V.A. CATANIA:** It just came up on my phone. I have staff still working here. An article in the *Midwest Times* states —

A Kalbarri family whose pizza restaurant was partly destroyed by cyclone Seroja has been cheated out of \$1450 trying to buy AFL grand final tickets—one of five scams confirmed by Consumer Protection so far.

**Mr G. Newcombe:** The problem is that they have lost their money and they are not going to the footy either. It is a double problem. But, again, it is very difficult. There will always be a market for people who really want to go to something and people will be prepared to take that risk.

Our advice to people now is that if they are buying tickets for resale there are two issues: first, there is compliance with the Ticket Scalping Act—on the price and so on—but, second, there is a very real risk that they will not get a valid ticket at all. People need to be prepared to lose their money. That is the simple advice for people buying via resale. It is very difficult to determine whether a digital ticket has been sold once, twice or three times. It may never be provided to someone, which is the case with these people. Additionally, they run the risk that the AFL may, even if the transaction takes place, cancel the ticket, which it is entitled to do.

Our strong advice is not to attempt it, unless people are buying from friends and family or getting a swap with friends and family. Do not buy tickets that are scalped because there is a really strong risk that they will lose their dough and not get to the game.

**Mr V.A. CATANIA:** Given there is a full house at the AFL grand final, will any further education be provided to that captured audience to further educate and further promote ticket scalping? I was not aware that an electronic ticket could just keep being sent around. I think that education is needed. Is the department considering any further education at the AFL grand final?

**Ms A. SANDERSON:** The commissioner.

**Mr G. Newcombe:** Yes, we have been working on this with VenuesWest, Optus management and the AFL. VenuesWest is making its digital display areas available to us for display not just for the grand final but going forward with our long-term strategy on ticket scalping. We will be promoting at venues. Our staff will be present at the box office on grand final day so that if any person turns up and is denied admission because their ticket has been cancelled, they can be referred to the box office. We will deal with them there, get information off them and provide them with further advice. There will be handouts provided as well at that office.

We find that people who have been duded are often reluctant to report it because they feel either embarrassed or think that they have done something wrong. We know a lot of people are turned away and never lodge a complaint. This is really the start of the process for us. After the grand final, we will be doing a review on how effective we have been. We think we have been pretty effective, but we will be reviewing the methodologies that we use and look at other ways to educate people at a range of venues. We expect, of course, as the borders come down there will be a lot more activity at concerts and events that people really want to go to and that will, therefore, trigger demand.

We have done and are doing a lot of work. We must thank VenuesWest and the AFL who have been very cooperative in assisting us with the messaging.

**Mr V.A. CATANIA:** I have one further question, perhaps to the offside there. Is there a site that the minister thinks is a good site to buy AFL tickets? That was tongue-in-cheek.

**Ms A. SANDERSON:** The AFL website.

**The appropriation was recommended.**

*Meeting suspended from 8.19 to 8.33 pm*