

**Division 17: Mines, Industry Regulation and Safety — Services 1 to 3, Commerce, \$279 716 000 —**

Ms M.M. Quirk, Chair.

Mr J.R. Quigley, Minister for Commerce.

Mr D. Smith, Director General.

Ms K. Berger, Deputy Director General.

Ms L. Chopping, Acting Commissioner for Consumer Protection.

Mr R. De Giorgio, Chief Financial Officer.

Mr K. Bowron, Executive Director, Building and Energy.

Mr M. Banaszczyk, Executive Director, Corporate Services

Ms L.A. Markussen, Ministerial Liaison Officer.

Mr R. Sao, Principal Policy Adviser.

Mr J. Lee, Principal Policy Adviser.

[Witnesses introduced.]

**The CHAIR:** I give the call to the member for Hillarys.

**Mr P.A. KATSAMBANIS:** Thank you, and welcome to everyone. I will start with the significant issues impacting the agents on pages 224 and 225. The first one I want to raise is issue 13, which discusses the protection of subcontractors, particularly what has become known as the Fiocco report. I recognise at the outset that the minister at the table was not the minister when the report was commissioned, nor do I think he was the minister when the report was delivered.

**Mr J.R. QUIGLEY:** I am the minister responsible for its implementation.

**Mr P.A. KATSAMBANIS:** The minister certainly is responsible for its implementation.

**Mr J.R. QUIGLEY:** I copped the handpass!

**Mr P.A. KATSAMBANIS:** Yes, I agree with that.

**The CHAIR:** Minister, I do not think the member has finished his question.

**Mr P.A. KATSAMBANIS:** That is all right; we are currently in agreement. I think periods of agreement should be celebrated!

The report came down, there was a government response in December, then a change of minister and the former Minister for Commerce and Industrial Relations indicated that legislation would be provided by the middle of 2019. Is that time frame still going to be met? Are we going to see it before Parliament rises for winter?

**Mr J.R. QUIGLEY:** The answer is no, but I can comment a bit on that.

**Mr P.A. KATSAMBANIS:** Can you explain why?

**Mr J.R. QUIGLEY:** Yes. The Fiocco report, of course, contained 44 recommendations. Some of those recommendations are multi-factored in that they say things such as, “I adopt recommendations 31 to 39 of the Murray report”, which was the federal government’s report on the same subject. Then Mr Murray says, “Well, I adopt some suggestions by Mr Bruce Collins, QC,” who reported to the New South Wales government. So that is more than 44 recommendations. With the officers of the department, I have worked through all those recommendations now. After sitting down with the executive director of the Building Commission and others, we worked through those recommendations to arrive at the government’s response and the Department of Mines, Industry Regulation and Safety will prepare a cabinet submission. As the member will appreciate, it will be a lengthy cabinet submission because some issues are complex. Some members of the cabinet—as the member for Nedlands would appreciate, having sat in cabinet—may not have their heads around some of the nuanced issues of cascading trusts and the west coast versus east coast model of security of payment regime. It will be a lengthy document, and at the moment, the department is saying that it is likely that I will see it sometime in August. We were a little ambitious to say it would be out in May. The cabinet submission will probably be in proper shape by the latter half of August.

**Mr P.A. KATSAMBANIS:** If the cabinet submission will not be ready until the end of August, then is it unlikely any legislation will be tabled in Parliament before the end of this calendar year?

**Mr J.R. QUIGLEY:** There is movement on this in Parliamentary Counsel’s Office. It is trying to move things along. This is a significant piece of legislation. It will be in the hands of Parliamentary Counsel. At the election, the McGowan Labor government promised to introduce legislation, so it is very keen to push this along. As the member knows, my office has been responsible for pushing a lot of legislation through Parliamentary Counsel’s

Office. We intend to prioritise this. I want it to happen soon, so we are taking interim measures. The member could ask me about them if he would like to.

[3.30 pm]

**Mr P.A. KATSAMBANIS:** What interim measures are being introduced and how will they impact on the building industry?

**Mr J.R. QUIGLEY:** We are proceeding. This is not a full answer to the Fiocco report; this is just interim. We are proceeding, right across government, with project bank accounts on all government contracts. As the member, as a lawyer, and the member to his left, as a previous Minister for Commerce, would appreciate, project bank accounts do not protect everyone down the contracting chain; they do the head contractor and the one sitting under him, and they are about the only ones who get security protection. Nonetheless, we are doing that. The second thing we are doing is transferring—cabinet has given approval for this—the supervision of subcontractor matters to the Small Business Development Corporation. Because subcontractors are small business people, the SBDC will focus on them. These are interim measures we are talking about, but they do not address all the problems identified by Fiocco, Murray, Collins and—how could I forget him; this is where all this started—Wayne Martin, AO, QC, in his report of 1998. That is incredible, because Mr Bob Collins, QC, of Sydney said in 2012 that the Wayne Martin report of 1998 should be compulsory reading for anyone approaching this subject. I have read the lot of them.

**Mr P.A. KATSAMBANIS:** I have a further question on the same issue.

**The CHAIR:** You are a sucker for punishment; that is all I can say!

**Mr P.A. KATSAMBANIS:** The public is really interested in this. It is a very important issue, so the more clarity we get, the better. This is not about punishment or wins or losses; this is about making sure. The minister mentioned the transfer of the monitoring function to the Small Business Development Corporation. What stage is that at? I believe it was happening during the current financial year. Has it happened or is it about to happen?

**Mr J.R. QUIGLEY:** It has happened.

**Mr P.A. KATSAMBANIS:** Do we have any clarity around when the drop-dead date, if you like, was for the transfer from commerce to the Small Business Development Corporation?

**Mr J.R. QUIGLEY:** I ask the director general to answer.

**Mr D. Smith:** The transfer of funds from the Department of Mines, Industry Regulation and Safety to the Small Business Development Corporation has happened, and that is reflected on page 224 of these budget papers. There is a line item there for the transfer of that monitoring unit to the Small Business Development Corporation. As the minister described it, some expansion of the powers of the Small Business Commissioner is also required, which I think is being progressed by the commissioner and the minister.

**Mr J.R. QUIGLEY:** Those increased powers have been approved by cabinet, but the legislation has not been introduced yet. This is to give the Small Business Commissioner the power to compel the production of documents and to compel answers.

**Mr P.A. KATSAMBANIS:** Is it, in hindsight, a little bit of a cart-before-the-horse situation, having transferred those powers to the Small Business Commissioner without the analogous powers that the Building Commissioner has had to compel the production of such documents? Secondly, does the minister foresee that this could be a risk in the interim to people who are seeking this protection?

**Mr J.R. QUIGLEY:** I will let the director general answer.

**Mr D. Smith:** Obviously, I would not want to speak for the Small Business Commissioner, but my understanding is that the transfer of funds that has occurred has allowed the Small Business Commissioner to develop both systems and processes that will allow for the continued monitoring. I am not aware that more powers were available to the Building Commissioner than are currently available to the Small Business Commissioner, but I have confirmation from my colleague that that is the case. I do not think a gap has occurred as a result of this transfer. The Small Business Commissioner feels that he requires further powers to perform the functions.

**Mr P.A. KATSAMBANIS:** But that is beyond the scope that we have now, is it not?

**Mr D. Smith:** It is the next stage, yes.

**Mr P.A. KATSAMBANIS:** I mean that it is beyond our scope in this estimates committee, so I cannot ask when we will see this legislation. Obviously, the minister has some background.

**Mr J.R. QUIGLEY:** Off the record, soon.

**Mr P.A. KATSAMBANIS:** Further to this theme, in one of the minister's earlier answers, he indicated that he had sat down with the department and worked out a government response. Is that a subsequent response to the response that the previous minister gave back in December, I think—I do not have the press release in front of me?

**Mr J.R. QUIGLEY:** No, and I do not want to foreclose what cabinet decides. I have been discussing this with the Master Builders Association and the Construction Contractors Association of Western Australia. I will give the member an example, because it is already out there; I have already discussed it with them. Because the recommendations of Mr Fiocco, once introduced, might affect the capitalisation of some builders, in that they will not be able to hang onto subbies' payments forever to meet their other liabilities—that will be in a trust account for subbies—and that may require some recapitalisation by some builders. The member might recall that Mr Fiocco recommended that the legislation be passed and then, 18 months later, it should kick in for contracts valued at \$20 million, so that big contractors would have an 18-month lead time to think about their capital. Then, 12 or 18 months after that, it should kick in for contracts valued at \$10 million, and then, after a further 18 months, to step it.

We have been discussing this and we think that that is probably too complex. A subcontractor down the line will not necessarily know what the head contract is worth; therefore, he will not know whether he is protected by the new scheme because he will never have vision of the top contract. This is the sort of thing we have been kicking around the table. We have said that it would be better to go on the contract value rather than the project value. If the contract is for \$5 million, the subbie will know he is protected—in other words, go on contract value, not on project value. I will say to the Master Builders Association and the Construction Contractors Association that we will come back to them when our cabinet submission is finally in shape. There will be no surprises in this. We will work with industry. The industry employs over 200 000 Western Australians. We do not want any electric shocks out there. They accept it now; they can see that. We have been discussing those sorts of issues about the practical implementation of the principles of Fiocco.

[3.40 pm]

**Mr P.J. RUNDLE:** I am doubtful that the legislation will get through before early next year. I hope I am not right. What does the Attorney General foresee for subcontractors and so on during this period that we are in now—for the whole of 2019? Where will they go?

**Mr J.R. QUIGLEY:** It will be longer than that. Once the legislation passes, as I have just explained, there will still be an 18-month lag for the legislation to become operative so that construction houses can get their systems and their capital in place to meet it. We are talking about a minimum of 18 months to two years. That is why, in the interim, we are moving to project bank accounts. It is not perfect, but it is something we can do without legislation, and, administratively, do it now. We are moving to project bank accounts across all government agencies. I just had a meeting up at Dumas House, with every government agency involved, led by the deputy director general of the Department of the Premier and Cabinet, making sure they are all up to speed so that in July we can fire up these project bank accounts. As the member for Nedlands will appreciate, it will not protect subbies right down the line, but at least it protects the head contractor from defalcations from the principal and that first layer of subbies. We are doing that as an interim measure. I just repeat: we are also sending across the superintendents of these small subcontractors from the Department of Mines, Industry Regulation and Safety to the Small Business Development Corporation.

It is not perfect, but this has been kicked around since Wayne Martin's Law Reform Commission report of 1998. Every inquirer who has looked at this, from Wayne Martin and Bruce Collins, QC, who is perhaps one of the leading building silks on the east coast, to Mr Murray for the federal government, and now Fiocco, has recommended this system. We will be the first jurisdiction in Australia to implement it; they will all be watching us. I have had discussions with other jurisdictions, including New South Wales just before its recent election. The NSW minister was very, very keen to see our development. I think that others will come on board.

**Mr P.J. RUNDLE:** I gather there will be no retrospectivity. Can the Attorney General explain his thoughts on that? Will anything below the threshold of \$1.5 million be transferred to the SBDC?

**Mr J.R. QUIGLEY:** I am looking at a piece of paper about project bank accounts. Project bank accounts are for contracts of \$1.5 million or above. I am not saying the member is confused, but I think there is a bit of confusion happening here. The \$1.5 million is relative to which projects the government will require a project bank account to be run on. That will be any project of \$1.5 million or above. The Small Business Commissioner is not limited to matters like that.

**Mr P.J. RUNDLE:** If it is below \$1.5 million —

**Mr J.R. QUIGLEY:** The Small Business Commissioner can still look at it, and soon will have enhanced powers to look at it. As I said, it is an interim solution, but it is far better than what has happened in the past 20 years. We hope the opposition will support this when it comes to Parliament. This is for all small subcontractors throughout Western Australia who, once upon a time, were employed tradies. Now, they are often businesses run by one or two people.

**Mr P.J. RUNDLE:** At this stage I am certainly generally supportive. Obviously, I have not seen the legislation, but I am supportive of the concept. In my short couple of years in Parliament, I have heard a substantial amount

of grief from some contractors in my constituency. What about contractor to contractor, when no government project is involved—is that an SBDC scenario as well?

**Mr J.R. QUIGLEY:** Yes, that is an SBDC scenario but it will not mandatorily involve a project bank account because that will be up to the principal. The principal on all government jobs is the government, and we are saying, “If you’re going to engage in a government job of \$1.5 million or above, you will be required to run a project bank account to protect your subbie”, but not the subbie’s subbie, unfortunately. I will leave it there.

**Mr W.R. MARMION:** This is a really important topic and I would like the Attorney General to comment. In the general conditions of contract way back in 1980, when I ran contracts —

**The CHAIR:** Member, is there a question?

**Mr W.R. MARMION:** Yes, I am getting to it. I want to know whether it was covered in the Fiocco report. In the general conditions of contract—the Australian standards that Main Roads used in 1980—there was a clause that allowed the superintendent’s rep who was looking after the principal, which happened to be me on this occasion, to withhold money, basically from the subcontractor. If the subcontractor came to me and said, “I haven’t been paid for last week’s work” —

**Mr J.R. QUIGLEY:** By the subcontractor?

**Mr W.R. MARMION:** Yes.

**Mr J.R. QUIGLEY:** That is correct. The member is saying that he was the principal.

**Mr W.R. MARMION:** I was working for the principal, as the superintendent’s representative, say, for Thiess. Thiess is the main contractor. One of the subbies for Thiess was delivering gravel in his truck —

**Mr J.R. QUIGLEY:** He has come to the member and said, “Thiess hasn’t paid.”

**Mr W.R. MARMION:** Correct. Every month I worked out how much they had done and gave them their monthly payment. I would take off 10 per cent, which was held until the end of the contract, until project completion, but if a subcontractor came to me and said, “I haven’t been paid”, I would take that off. The subcontractor probably got paid within the next week. There was an in-built mechanism to look after the subbie. I admit there were not too many down there, but if there had been, it might have been pretty hard to manage. It was very easy to handle that situation on the site. Has that been looked at as a possible solution?

**Mr J.R. QUIGLEY:** The situation the member described is analogous to what is happening with a project bank account, because it is only going down to Thiess. The member was the principal and Thiess was the head contractor. The member was dealing with Thiess’s first-rung subcontractor. That situation is analogous to a project with a project bank account.

**Mr W.R. MARMION:** Correct. But the benefit was that there did not need to be any legislation because the general conditions were an Australian standard that everyone could adopt.

**Mr J.R. QUIGLEY:** Correct, and that is why we are able to move to project bank accounts without legislation. We are very, very keen. The nature of the building industry is such now that often the head contractor is an aggregator. He puts the price in and then aggregates all the subbies. Beneath him or her, or it, more likely there is a further rung of subbies. Sometimes it is the big houses that go under. The real issue at the heart of all this is insolvency. What happens upon insolvency to a subcontractor? When we are looking at it, it is often not the big houses that are going bust—there have been a couple—but it is the next rung down. Beyond them, it is the subcontractor’s subcontractors who suffer the pain.

[3.50 pm]

**Mr C.J. TALLENTIRE:** I am very keen to learn about the situation with ticket scalping legislation, and I refer to page 226 of volume 1 of the *Budget Statements* and the continuation of “Significant Issues Impacting the Agency”, paragraph 16. The ticket scalping legislation is currently before the Parliament. Could the minister inform the house about the need for this legislation?

**Mr J.R. QUIGLEY:** We have had this debate recently in the Assembly, and this is important legislation. I hope it is not going to be held up in the other place, because we are not that far out from football finals season; although, the prospect of a Dockers fan having to go out to buy a scalped ticket for the final is diminishing! With the football finals season coming on, we would like to see this legislation progressed through the Parliament speedily. We have some big debates happening in the latter half of the year around voluntary assisted dying and such, but that will occupy this chamber for quite a while and there should be time in the other place for the debate to be had. I am encouraging our parliamentary colleagues who sit in another chamber to deal efficiently with the ticket scalping legislation. We have not cleared this because Mr McGrath, the member for South Perth, wanted to ask a couple of questions in consideration in detail and his wife was sick so we deferred the consideration in detail stage. We are going to bring it back —

**Mr P.A. KATSAMBANIS:** We did not defer it; we kept at it.

**Mr J.R. QUIGLEY:** Yes, I know. We found our own way to defer it. We are going to get back on to that quickly, because the forthcoming football season is when it always becomes controversial. We want to see it happen.

**Mr P.A. KATSAMBANIS:** On the significant issue of ticket scalping, in paragraph 16, we are all on the same page. We do not want to see consumers ripped off. As we keep saying, consumers basically get ripped off in three ways: they buy a ticket that does not let them in at all; they buy a ticket at a way too inflated price; or they do both and pay a way too inflated price and still do not get in. It has been indicated through the debate and in paragraph 16 that the powers conferred on the Commissioner for Consumer Protection by the bill, which is anticipated to become an act sometime in 2019, will require some significant resources. Is the minister or the department in a position to tell us what additional resources will be required and whether those resources will be provided from existing appropriation or will there be a need for further appropriation?

**Mr J.R. QUIGLEY:** That is a fair question, but I will defer to the director general as to his appropriation of resources.

**Mr D. Smith:** Thank you, minister. Thank you, Chair. Thank you for the question, member.

The ticket scalping legislation will have an impact on the department, and I am happy to defer to the Commissioner for Consumer Protection to explain what that will be. In terms of resourcing, the answer to the member's question is that it will be a mixture of both existing resources and new resources. The new resources will come in the first instance from the line item "Streamlined Budget Process Incentive Funding" on page 224. There is \$1 199 000 for 2019–20. This is the arrangement that Treasury has provided for agencies that did not come forth with other budget requests in the budget process to have an automatic one per cent increase in the resourcing, so we will supplement the existing resources within Consumer Protection with some of the funds from that amount for the ticket scalping. If I may, I will invite Lanie Chopping to provide an explanation about the resourcing required.

**Ms L. Chopping:** In the first year, we anticipate that there will be new funds allocated for community education and an awareness campaign and that the collateral developed as part of that campaign will then be used in the longer term for ongoing education as part of our normal program so that we have full community awareness. We anticipate a need for a new compliance officer or officers. We are yet to exactly establish the extent of the compliance program that will be required. The education alone may well have a deterring factor on individuals selling tickets on platforms such as Gumtree at a price above the original ticket price.

**Mr P.A. KATSAMBANIS:** Plus 10 per cent.

**Ms L. Chopping:** Yes, plus 10 per cent. At the moment, we are anticipating a minimal impact in terms of compliance officers. Our teams are very passionate about people being ripped off in relation to tickets, and so there is no shortage of people willing to undertake surveillance during football season or for an Ed Sheeran concert. We receive tipoffs and information from the public, as well as through online surveillance that we do ourselves. We also need to make forensic allocation, which is part of professional services, so we have looked at what we think will be a cost for that in the first year, but it will depend on the degree of difficulty associated with the bot detection. We are working with our partners in New South Wales to try to look at any collaborative effort that we might do in that space to minimise the ongoing costs there. I think that is sufficient information.

**Mr P.A. KATSAMBANIS:** That is quite helpful. There are three strands to that: education, compliance and the more forensic stuff beyond the ordinary compliance. Are there currently any figures or FTE numbers around each of those three groups the commissioner just identified, in both dollar terms and additional FTE terms?

**Mr J.R. QUIGLEY:** I defer to the director general.

**Mr D. Smith:** At this stage, we have not gone to that level of detail.

**Mr P.A. KATSAMBANIS:** Is the minister confident that the \$1 199 000 allocation indicated under the "Streamlined Budget Process Incentive Funding" line item would be sufficient to meet the additional resource requirements for this matter, and would the other additional resource requirements mentioned earlier be incorporated into that?

**Mr J.R. QUIGLEY:** I will ask the director general to respond.

**Mr D. Smith:** Yes.

**Mr P.A. KATSAMBANIS:** I have other questions, but I think I will leave those for consideration in detail on this legislation.

**Mr J.R. QUIGLEY:** I will not have as big a platoon around me to help me with the member's questions then!

**Mr P.A. KATSAMBANIS:** My new question relates to the significant issues impacting the agency. I refer to page 225, paragraphs 14 and 15. Grenfell and Lacrosse are names that have come into our consciousness for all the very wrong reasons.

**Mr J.R. QUIGLEY:** Or cladding.

**Mr P.A. KATSAMBANIS:** Yes. In relation to building cladding, it is obviously a significant issue. It is a significant issue not only in Western Australia, but also across Australia and across the world. Firstly, in paragraph 15, the commentary states —

This has required ongoing allocation of significant departmental resources to a widespread audit of building cladding in Western Australia and the development of a plan to accelerate reforms and improvements to building regulation.

Can the minister quantify what is meant by “significant departmental resources”, again, in terms of both dollars and FTE allocated, and for what period of time have those resources been allocated?

[4.00 pm]

**Mr J.R. QUIGLEY:** When we drill down to that level, I have to ask the department to respond. I ask the director general to respond to the question about those resources.

**The CHAIR:** Mr Smith.

**Mr D. Smith:** Thank you, minister and Chair, and I thank the member for the question. Again, I may defer to the Building Commissioner in a moment to provide more detail. The resourcing has been a significant task for the department, which was undertaken, as the member described, in response to the fires in London and Melbourne. It was not an anticipated activity of the department so we have had to reprioritise our resources. We have set up a special audit team, which was announced in July 2017. The then Building Commissioner announced that an audit would be undertaken to cover 449 high-rise, high-risk buildings with cladding in Western Australia. That activity has been resourced. We have set up a special team within the Building and Energy division to undertake that audit. We have allocated resources and full-time equivalents to that task. As yet, we have not sought any additional funding for that; rather, we have met those requirements from within the existing allocation. I will take on notice the amount of resources that have been put into that task.

**Mr P.A. KATSAMBANIS:** Is the minister prepared to provide —

**The CHAIR:** I think the director general deferred to the Building Commissioner.

**Mr D. Smith:** Yes, who has an answer to that.

**Mr K. Bowron:** The anticipated expenditure is approximately \$1.8 million over that two-year period to now. That is primarily internal resources and some backfilling of people who were taken offline to undertake it, and recently to employ a panel of fire engineers to help us with the risk assessments.

**Mr D. Smith:** I meant to add that, on our website, we provide fortnightly reports on the conduct or progress of that audit. We expect to complete it in the next month. We have made good progress in recent times and expect to have it completed soon.

**Mr P.A. KATSAMBANIS:** We are all working towards the same outcome here—that is, real clarity for the public about something that could present a heightened threat of fatality or serious injury to mass numbers of people. The director general indicated that the audit is ongoing and that the department has been reporting quite regularly on the progress of the audit. Is the director general in a position to tell us how many buildings in Western Australia have to date been identified as at risk of containing this cladding—perhaps not a building-by-building assessment but an indication of what action the department takes to inform building owners and residents when such a building is identified?

**Mr J.R. QUIGLEY:** I could answer that question from my briefing notes but I will not. I will defer because the numbers change daily. I defer to the director general, who has the up-to-date figures.

**Mr D. Smith:** As I said, we provide a fortnightly report and we have an update of the figures from the last fortnightly report. As I mentioned earlier, of the 449 high-rise, high-risk buildings with cladding in Western Australia that were initially identified, we have undertaken an extensive assessment, both desktop and with an expert fire panel that the Building Commissioner referred to a moment ago, and at this stage we have identified 31 high-risk buildings and they have been referred to the relevant local government permit authority to issue a building order in response to the dangerous cladding. As I said, we have not quite finished the audit so there may be a further increase in coming weeks as the final fire engineering risk assessments are completed.

**Mr P.A. KATSAMBANIS:** Is the director general, through the minister, in a position to provide us with an indication of which local government authorities have received referrals for the 31 buildings and perhaps the number for each local government authority, whether today or by supplementary information?

**Mr J.R. QUIGLEY:** Yes, we can. It is in the fortnightly report.

**Mr P.A. KATSAMBANIS:** Mr Smith indicated that he has an update on the last monthly report.

**Mr J.R. QUIGLEY:** It is a fortnightly report, so by the time the member puts in a question on notice, another fortnightly report would have been posted!

**Mr P.A. KATSAMBANIS:** That is fine. I will look at that. Upon referral to the relevant local government authority, what process takes place? Does the department oversee the action taken by the local government authority? Does the department or commission directly liaise with building owners and tenants or is that left up to each local government authority?

**Mr J.R. QUIGLEY:** I defer to the director general.

**Mr D. Smith:** And, if I may, I will defer to the Building Commissioner to explain that process.

**Mr K. Bowron:** We work very closely with local governments and the Western Australian Local Government Association representing them. The process is that we have done the audits. The report that says whether a building is low risk, medium risk or high risk is given to the appropriate local government and the building owner. Local governments will put a building order on all those that are medium or high risk that says to the building owner, “This is what the risk assessment has assessed. It’s up to you to do a detailed assessment and tell us what remedial actions you intend to take.”

**Mr P.A. KATSAMBANIS:** Does the department have a protocol with WALGA so that all local government authorities are acting in the same time frames and pursuing this in, I guess, a manner that is consistent across all local government authorities? I ask that because, as we know, the capacity in local governments varies and response times in local governments can vary, sometimes because of capacity and other times because of workload. It is not always the case that the local government with lots of capacity does things quickly; it is a combination of factors. Is there a consistent protocol between the commission and all local government authorities in dealing with this really important matter?

**Mr J.R. QUIGLEY:** To the Building Commissioner, Mr Bowron.

**Mr K. Bowron:** We have established a working force with the major local government authorities and WALGA representing. Not all local authorities will have these buildings; most of the smaller ones will not. One of the roles of WALGA is coordinating the legal advice and processes, but we do that in a cooperative manner so that we can keep reporting on and keep an eye on what is happening.

**Mr P.A. KATSAMBANIS:** Excellent. Thank you. I note that a cost recovery implementation statement will come out, hopefully before the end of July 2019. Have there been any changes to building regulations since the Grenfell and Melbourne incidents that directly deal with the issues that have arisen from the cladding matter or will they all be dealt with through the CRIS process?

**Mr J.R. QUIGLEY:** CRIS is about private certification. A regulation introduced in October 2018 restricts the use of combustible materials on the facades of high-risk buildings such as hospitals, schools, residences and the like. That regulation came in back in October last year.

[4.10 pm]

**Mr P.A. KATSAMBANIS:** Is there any restriction on the sale, or the offer for sale, of this product in Western Australia?

**Mr J.R. QUIGLEY:** I believe not. We had this out at the Building Ministers’ Forum. I believe the answer is no, there is a prohibition on its use. The New South Wales building minister at the time, Mr Matt Kean, sought to introduce a motion at the last Building Ministers’ Forum to ban its importation and sale. The commonwealth arced up against that and said that the states could not move such a motion because importation was the sole province of the commonwealth. I think there is no prohibition on its importation or sale, but the prohibition is on its usage.

**Mr P.A. KATSAMBANIS:** That is informative. I thank the minister for that. There are other ministerial councils; I am not sure what the acronym is for the commerce ministers’ ministerial council at the moment. Given that banning the importation of this product is the province of the commonwealth and given how important this is to all states, including our state and the people living in our state, would the minister contemplate requesting, at a further ministerial council, that the commonwealth look into this? I ask this because, yes, we restrict the use, but often the user is a user in good faith in this regard, especially if a representation has been made when the builder buys the product from the supplier. I know the minister might say that they then have other resources, but that is cold comfort to the public, especially if something as horrible as Grenfell happens. Based on that, would the minister undertake to request that the commonwealth look into this, now that a new commonwealth ministry will be formed very shortly?

**Mr J.R. QUIGLEY:** I am happy to do that, but that is for combustible cladding. However, the problem—it is the same issue that struck the previous government in the building of Perth Children’s Hospital—is that the builders buy materials and manufacturers in other jurisdictions put a bit of asbestos in there to guts it up a bit. We had to

rip all the roof cladding out of Perth Children's Hospital. I suppose that that is the same sort of issue, but I am happy to ask the commonwealth to consider it.

**Mr P.J. RUNDLE:** What liaison has the minister or his department had with the other states in relation to this? Is there a national impetus to make sure that every state is on the same page?

**Mr J.R. QUIGLEY:** There certainly is. I will answer at a ministerial level and leave the director general to answer at a departmental level, although I am a bit of a Johnny-come-lately to this department, having been elevated to this ministry on 15 December. I have been to only one Building Ministers' Forum; however, how to deal with this issue was certainly front and centre at that forum. There had been a fire in Melbourne not long before the forum that concentrated the attendees' minds. We will discuss it again in Adelaide in July at the next Building Ministers' Forum. I will let the director general or the Building Commissioner talk about liaison with the other states at a departmental level.

**Mr D. Smith:** Yes, as the minister has indicated, a lot of discussion has occurred, and is occurring, between jurisdictions. The Building Ministers' Forum, which the minister described, is supported by an officials group—forgive me, I cannot remember the acronym—that Ken Bowron, our Building Commissioner, attends. As the minister indicated, the forum has had discussions on this issue. It has probably been its highest priority issue since those fires. In that context, the Building Ministers' Forum commissioned the work of the so-called Shergold and Weir report, "Building Confidence", which identifies a range of issues in building regulation and its application, which is informing both the Building Ministers' Forum's agenda of issues and the department as we consider how best to advise the government on areas of that process that need to be reformed.

**Mr W.R. MARMION:** Of the 31 buildings identified as possibly medium to high risk, are any government-owned or occupied buildings?

**Mr D. Smith:** The 31 that I mentioned before are only private buildings. The fortnightly reports on our website include both private and public building lists. Those 31 are only private buildings.

**Mr P.A. KATSAMBANIS:** Are there any on the publicly owned list?

**Mr D. Smith:** I do not have the most up-to-date figures on that—or perhaps I do!

**Mr P.A. KATSAMBANIS:** I am happy for the most recent figures.

**Mr D. Smith:** The most recent figures on our website identify that the number of public buildings requiring remedial action thus far is 25. Two of those had remedial action completed.

**Mr P.A. KATSAMBANIS:** Just to clarify, 25 public buildings require some remedial action, of which two have been completed so far?

**Mr D. Smith:** Yes.

**Mr P.A. KATSAMBANIS:** Is the director general able to provide us with a list of those buildings?

**Mr D. Smith:** To date, there has been a reluctance to name buildings because of the potential risk in relation to arson or otherwise.

**Mr P.A. KATSAMBANIS:** I understand reluctance from some perspective, but remember that this is a matter that concerns occupants of the buildings primarily. It obviously concerns owners or tenants as well. Is there at least a recommended time frame for the completion of identified remedial action, and is that reported on on a regular basis?

**Mr J.R. QUIGLEY:** I will ask the director general or the Building Commissioner to answer that one.

**Mr D. Smith:** I am a little confused as to whether the question is about private buildings or —

**Mr P.A. KATSAMBANIS:** It is about public buildings. Public buildings are dealt with by the local government authority; we know that.

**Mr D. Smith:** Yes. The agencies that are responsible for those public building assets obviously have responsibility for managing the risk and remedial action. As our report indicates, the agencies are working through those. It is progressive, based on their assessment of the risks that are involved. In two cases, full remedial action has been undertaken, but there are many cases in which interim arrangements have been put in place to ensure that there is sufficient protection, both for the assets and for those using those assets.

[4.20 pm]

**The CHAIR:** Minister, the second part of that question deals with the time frame.

**Mr D. Smith:** No time frame has been specified that I am aware of. I will ask the Building Commissioner.

**Mr K. Bowron:** No. As the director general mentioned, each agency is taking responsibility for its own buildings. Most of the agencies have expanded the scope to be more than what we have applied to private buildings, so they are looking at any of their buildings, and that is why sometimes the numbers seem a bit higher. We have undertaken to provide technical advice when required and to coordinate a report to the public that we update every fortnight. We list by agency the number of buildings that are being looked at, have been cleared and still need to be dealt with.

**Mr P.A. KATSAMBANIS:** I have a further question.

**The CHAIR:** The section of the form for this division is not big enough for all these questions.

**Mr P.A. KATSAMBANIS:** I am sorry to do that to the Chair, but, again, it is an important issue.

These public buildings could be a government office building, a hospital, a school, a fire station or a police station. We know that the worst-case scenario is that these buildings are a real, serious threat to the occupants. Why not publish such a list so the public can be fully aware of the risks in a building and, more importantly, so the people who occupy the other thousands of public buildings that are not on this list of 25 can be assured that there is no risk to their building? If we know that 25 buildings are a risk but we do not know which buildings they are, no-one knows whether any building is safe.

**Mr J.R. QUIGLEY:** The website indicates how many public buildings there are per agency, but not the name of the building.

**Mr P.A. KATSAMBANIS:** I understand that, but the risk remains. We are still searching for a needle in a haystack with some agencies, and we do not know which needle in which haystack. The public is being left in the dark on what is a really serious risk if the worst-case scenario were to happen before remedial action is taken.

**Mr J.R. QUIGLEY:** If the member were to look at the website, he would see, for example, Curtin University's detailed risk assessments, and I will let the director general explain that.

**Mr D. Smith:** I might pass that question to the Building Commissioner.

**Mr K. Bowron:** I think, going into some detail, that most departments and agencies have cleared their buildings. Those that have found any problems have taken immediate steps to ensure safety. That will range from advice to the Department of Fire and Emergency Services on the buildings they are concerned about to something as simple as removing any combustible materials from around the perimeter. They have all done those activities. We are left with the Department of Health, which is still looking at five buildings; the Department of Education has three; the Department of Training and Workforce Development has two to be confirmed as requiring remediation; the Department of Local Government, Sport and Cultural Industries has one; and the Department of Fire and Emergency Services has one building that needs to be looked at. We are providing that information. As those departments find them, they usually make a public announcement on that and what they are doing about it. The Department of Health did that recently with Fiona Stanley Hospital.

**Mr P.A. KATSAMBANIS:** Further to that, are any of the Department of Education's three buildings schools?

**Mr J.R. QUIGLEY:** I will refer that to the Building Commissioner.

**Mr K. Bowron:** For the Department of Education, there are three buildings that require investigation in detail for remedial action.

**The CHAIR:** The question was: are any of those three buildings schools?

**Mr J.R. QUIGLEY:** I will ask the Building Commissioner to respond.

**Mr K. Bowron:** I believe so, but I do not have the names of them on me.

**Mr P.A. KATSAMBANIS:** Would it be possible to get those names?

**Mr J.R. QUIGLEY:** I will ask the Building Commissioner to answer that, but it might have to come through the Minister for Education and Training.

**Mr K. Bowron:** We can provide it; otherwise, it would be through the Department of Education.

**Mr P.A. KATSAMBANIS:** Is the minister indicating that he can provide it as supplementary information?

**The CHAIR:** Member, the minister has already given evidence that they have a policy of not disclosing the building names, so it may well be out of order to persist on this line of questioning.

**Mr P.A. KATSAMBANIS:** I heard the word "reluctance" rather than some policy.

**Mr J.R. QUIGLEY:** It is really for the owner of the building in these public agencies. If a question on notice is aimed right at the Minister for Education and Training, she will elicit the information.

**Mr W.R. MARMION:** I think the Building Commissioner pretty much answered this question but, specifically, have any buildings had interim fire-remediation measures put in place, such as extra pumps or an increase of the pressure, before more work can be done?

**Mr J.R. QUIGLEY:** The director general.

**Mr D. Smith:** I am sorry, can we have that question again?

**Mr W.R. MARMION:** Have any specific fire-remediation measures been put in place on any of the buildings that have been identified as an interim response before any full-scale evaluation is done? Is the risk so high in any buildings that the building owner has put in interim measures to make sure that if there is a fire, it can be put out quickly?

**Mr J.R. QUIGLEY:** I will leave that to the Building Commissioner.

**Mr K. Bowron:** I am not aware of specific buildings, but activities that people have done, as I mentioned before, have included making sure that they restrict public access, removing any sources of ignition around the buildings, alerting the local fire brigades and, if they are places that have functions, making sure they have more egress routes than they would normally have. Those are the typical types of things building owners undertake.

**Mr P.J. RUNDLE:** I refer to page 224 of budget paper No 2 and the spending changes table, specifically the line item “Royalties for Regions Funding Update”. Can the minister enlighten me on the situation there and what the larger figure for the 2022–23 forward estimates is all about?

[4.30 pm]

**Mr J.R. QUIGLEY:** Which item is this, member?

**Mr P.J. RUNDLE:** In the spending changes table on page 224, under “Ongoing Initiatives”, the line item three lines down is “Royalties for Regions Funding Update”. For 2022–23, there is a larger amount.

**Mr J.R. QUIGLEY:** I will ask the director general to comment on that.

**Mr D. Smith:** This adjustment spending change, which is a reduction in spending, relates to funding that we get from the Department of Primary Industries and Regional Development through royalties for regions funding from 2018–19 onwards. It is used to finance the district allowances paid to eligible employees of the Department of Mines, Industry Regulation and Safety. There was an adjustment—I do not think it was exclusive to us—across all agencies that have staff who are eligible for that regional allowance. Some come down; that is all that that reflects.

**Mr P.J. RUNDLE:** Thanks.

**Mr W.R. MARMION:** I do not know whether this relates to this agency, so it may not be a relevant question. I just noted the reference to fatal injuries.

**Mr J.R. QUIGLEY:** What page was that?

**Mr W.R. MARMION:** It is page 224.

**Mr J.R. QUIGLEY:** That is WorkSafe.

**Mr W.R. MARMION:** That is fine.

**Mr P.A. KATSAMBANIS:** We are still struggling with that delineation because the Attorney General has the Department of Communities but the Minister for Industrial Relations has WorkSafe.

**Mr J.R. QUIGLEY:** Any problems are with the other side of the department!

**The appropriation was recommended.**

*Meeting suspended from 4.34 to 4.40 pm*