

**STANDING COMMITTEE ON ESTIMATES AND
FINANCIAL OPERATIONS**

2015–16 BUDGET ESTIMATES HEARINGS

**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
TUESDAY, 23 JUNE 2015**

**SESSION THREE
BUILDING COMMISSION**

Members

**Hon Ken Travers (Chair)
Hon Peter Katsambanis (Deputy Chair)
Hon Martin Aldridge
Hon Alanna Clohesy
Hon Rick Mazza**

Hearing commenced at 3.18 pm**Hon MICHAEL MISCHIN****Minister for Commerce, examined:****Mr PETER GOW****Executive Director, Building Commissioner, examined:****Ms ANNE DRISCOLL****Acting Director General, examined:****Mr GLEN RADICA****Director of Information Technology, examined:****Mr MATHEW SQUIRES****Acting Chief Finance Officer, examined:****Mr JEREMY LEE****Principal Policy Adviser, Office of the Minister for Commerce, examined:**

The CHAIR: Welcome to the session. I start by asking the witnesses whether they can confirm they have read, understood and signed the document headed “Information for Witnesses”.

The Witnesses: Yes.

The CHAIR: Witnesses need to be aware of the severe penalties that apply to persons providing false or misleading testimony to a parliamentary committee. It is essential that all your testimony before the committee is complete and truthful to the best of your knowledge. This hearing is being recorded by Hansard and a transcript of your evidence will be provided to you. The hearing is being held in public, although there is discretion available to the committee to hear evidence in private either of its own motion or at the witness’s request. If for some reason you wish to make a confidential statement during today’s proceedings, you should request that the evidence be taken in closed session. Government agencies and departments have an important role and duty in assisting the Parliament to scrutinise the budget papers on behalf of the people of Western Australia and the committee values your assistance with this.

[Witnesses introduced.]

The CHAIR: Are there any questions? Hon Kate Doust.

Hon KATE DOUST: I will just ask the first couple and kick it off from there. I refer to page 502 and the “Efficiency Indicators”. I just want to know: why does it take 20 weeks on average to resolve a complaint? That seems to me an extraordinarily lengthy period of time to pursue a complaint through your agency.

[3.20 pm]

Hon MICHAEL MISCHIN: Thanks for that question. I will ask Mr Gow to expand on what is involved in the investigation of these complaints and the sorts of complaints that are received by the commission and the variety in them, which might go towards explaining why the average may be at that length.

Mr Gow: Thank you, minister. The complaints process that this refers to is for what we call building service complaints or homebuilding contracts complaints. They are typically consumer complaints against residential builders; in theory they can go broader than that, but that is the bulk of what we deal with. The process that has to be followed, which is prescribed in the act and is also necessary to provide a degree of natural justice in the process, is that the person lodges the complaint with us. We then have to notify the other party that a complaint has been lodged, what that complaint is about and whether that party wishes to accept the complaint and deal with it straightaway or whether they wish to challenge the basis of the complaint. So there is a period of two or three weeks while that process takes place. Then, depending very much on the nature of the individual complaint, there can be a process of negotiation between the parties. We can have a formal conciliation process, we may send one of our inspectors out to examine the situation, and then, eventually, we come to a point as to what is the appropriate resolution of that complaint. If it is being conciliated and the parties have agreed, it is relatively straightforward, we can just issue an order to give effect to that decision. If, however, it is not an agreed outcome, then we determine what order may be appropriate to be made in those circumstances and we provide the parties with a draft of that order and give them the opportunity to comment on the order before it is made final. So again, to give the parties some form of natural justice, there is a couple of weeks while people are given the opportunity to respond to that. So, depending on the complexity of the complaint, we have found that on average from when it first comes into the door to the final issuing of an order to finally deal with the complaint, it takes 20 weeks. This is a substantial improvement on the process that used to operate under the Building Disputes Tribunal where the average time was about 18 months.

Hon KATE DOUST: That is quite disheartening, is it not? I wonder whether the minister has given any thought to how this time period could be shortened and what measures could be taken? I think from a consumer's point of view, there are costs associated with a delay in their house being finished, and given that the department is getting additional staff—we have already had that discussion—there must be some way of expediting the process for both the consumer and the builder involved. We have just seen an example of this type of thing happen with that company Benchmark in which I understand it took quite some time to get to that point. There must be a better way of doing it, surely?

Hon MICHAEL MISCHIN: I am always in the search for ways of creating a more efficient process. One thing I have learnt over the years in my capacity in a previous life as a prosecutor is that the length of time that any matter takes to get to court or even be investigated depends very much on the circumstances of a particular case and the complaint involved. The member should bear in mind this is only an average. As Mr Gow has indicated, some issues may be resolved fairly quickly if there is an acceptance of responsibility and there is no dispute about it. The others that may be complex and may be the subject of dispute will take longer and may involve quite some complex complaints about a history of malfeasance or alleged malfeasance against a particular builder. There may be disputes as to the rights and wrongs of it and there is a need in any investigation or inquiry to accord the respondent to that complaint some degree of natural justice so they have an opportunity to answer that complaint or correct the work involved. I think the Building Commission has achieved quite a number of efficiencies. In the old days of the building disputes tribunal, consumers were looking at an average of about 18 months, and to drop it down to 20 weeks as an average is a considerable improvement. We are never going to get it down to an immediate response, and I stress again that we are talking about an average, so some things may take several years for a variety of reasons and some things are resolved quickly. Insofar as the recent building company collapses are concerned, I am not sure the member can draw analogies between them and what was happening and the averages in this case.

Hon KATE DOUST: I think that the reason I raised that is because I understand that people were raising those matters for quite some extended period of time prior to the actual collapse.

Hon MICHAEL MISCHIN: That is right. It depends on the number of complaints, the degree of complaints and the nature of complaints. Insofar as those particular cases are concerned, we need to explain, I suppose, more about the history of those particular builders and the responses that were taken by the Building Commission in each of those. It is my understanding that in broad terms, for example, in the case of Benchmark there had been complaints from time to time over a period of years. Some of those complaints were abandoned, some were found to have no substance and some were found to have substance and required particular action that was taken by the Building Commission and to which Benchmark had responded. I understand there would have been no routine failures of such a nature that would have warranted a judgement that that builder ought to be denied registration or have their licence removed. Perhaps Mr Gow can expand on that and explain just how the Building Commission responded to those two particular builders. I take it the member is looking at Benchmark in particular and Capital Constructions in its various iterations, which is the other one that achieved notoriety recently.

Hon KATE DOUST: I think there are a couple of others floating around as well.

Mr Gow: Thank you, minister. Can I add, too, to my previous response that it is also worth keeping in mind that most of the complaints that we get are multiple complaints about a number of things and very often we will sort out almost all of those very quickly, but there will be a few that drag on. Consumers do often get a quite quick response to many of the issues that they raise, but it may be that the final one or two take a long time to finalise, which has an effect on the average time. With the two builders who went into administration earlier this year, we had a number of complaints raised about them in the period leading up to their collapse. Broadly, they were two types. One was quality of work, which was the normal sort of complaint that we get where the process is followed determining whether there is evidence that the work is faulty and what remedy should be issued and that is put in place. The more complex ones are where the builder stops work and that happened with these two. As they got into financial difficulty, they stopped work on a number of projects and people came to us with a complaint about that.

[3.30 pm]

Now, while we can simply issue an order to a builder to start work again, if they do not have the capacity to do so, it tends to be a bit of a pointless order. So, in respect of those, our complaints people do a lot more investigation about what are the circumstances behind the builder. We were doing that at the time, and in both those cases they were looking to get additional funding so that they could continue the work. So, we held off completing those complaints by the issuing of an order until the builder had been able to come up with some satisfaction to us that they were in fact able to continue the work. That, again, tends to drag out the time, but, as I said, there is, to some extent, no point in giving an order that we know cannot be complied with unless that is a step on the path to a different remedy, such as an insurance claim or something down the track.

Hon KATE DOUST: I just have a follow-up question to that. As a result of the collapse of Benchmark, a number of the people who were involved there—the customers—have had to seek new builders to finish their homes, and now are being required by the respective councils on a couple of occasions to resubmit their plans as though they were new constructions. Some of them are being potentially charged up to \$4 000 to do so, which seems to me inherently harsh when this is happening through no fault of their own. Are they covered? Is there any sort of support for them from the commission, or can they seek those additional funds from the indemnity insurance to cover that cost that they would not have foreseen because their builder collapsed?

Mr Gow: Yes, that is covered by the indemnity insurance, as you can imagine, depending on the exact circumstances of the partly completed building and what the new builder needs to do and perhaps needs to re-document to call in new subcontractors and so on. That re-documentation cost and the cost of new permits, fees et cetera are all covered by the indemnity insurance up to the maximum \$100 000 payout.

Hon KATE DOUST: Was that advice provided to those individuals who sought their claim—that if they had to go through and resubmit, they would be able to apply for that money as well?

Mr Gow: I believe it would have been by the indemnity insurers, who are the ones who deal directly with the clients on that. I can check if you would like.

Hon KATE DOUST: I would appreciate that; thank you.

Hon MICHAEL MISCHIN: I do not want to get in the way of asking questions, but it might be helpful to put it in a context if the commissioner could explain the support that the Building Commission provides to householders where a builder collapses and what the Building Commission helps them with and can do for them to facilitate that process.

Hon KATE DOUST: I appreciate that, minister, and the Building Commissioner and I have actually met. I just wanted to raise this specific matter because it has been raised with me in the last day or so by email from one of those families. I am happy to have that discussion with the commissioner out of here or in a briefing for other members. We have only another half an hour; I know I have got other questions and others have as well. So I do appreciate that, and if you were able to find that information, that would be helpful.

The other question I wanted to know about was the Instant Start announcement that was made some time ago in relation to building approvals that, minister, you said would commence sometime in mid-June. Where is that at? When is that actually going to start?

Hon MICHAEL MISCHIN: That was expected to commence by July this year. It requires some cooperation from the Department of Planning, and I understand that although a form of that can be introduced through the auspices of the Building Commission, in order to have a more coordinated approach requires changes to some regulations that are under the control of the Department of Planning. So there is likely to be a delay for a couple of months in order to implement that in the form that it was originally intended. Simultaneously, we are exploring with the Western Australian Local Government Association a proposal that they have advanced that will allow for certain efficiencies to be achieved in obtaining building approvals. That is currently being explored with the Building Commission to see whether they can run in parallel to each other. I do not know if Mr Gow wishes to expand on those comments and give some more detail.

Mr Gow: Yes, I am happy to. The broad thing with Instant Start is that it allows a building that has been shown to comply with the standards through certification to commence work while the processing of that application is done by the local government. There are both building requirements and planning requirements, and under the R-codes at the moment, which are the planning requirements, if a building complies with the acceptable development provisions of the R-codes, it does not require formal consent from the local government; but if it does not, there is a formal consent process. So, Instant Start really only works effectively in those areas where you are applying the acceptable development provisions of the R-codes. Two things are happening here. Firstly, as the minister said, we are having discussions with the WA Local Government Association. They have put forward a proposal for local governments to issue what they call clearance certificates to confirm that all their requirements, not just in planning, which is the core one, but also the health and engineering ones, have been met by the proposal before the building permit application is made. That gives everybody confidence that the proposal will comply with all the rules and it then will make it easy for the local government to process the final application.

The other part of it is with the Department of Planning. They are providing, through planning regulations, a specific certificate, which is called a verification certificate, which verifies that the building complies with the relevant parts of the R-codes which are to be signed. The Minister for Planning and the Department of Planning are doing some substantial changes to the R-codes, with the intention of making, effectively, all single residential buildings able to comply with the R-codes, so that it expands the scope of Instant Start quite considerably. There are substantial regulation

amendments to the planning regulations required, and they are expected to be done over the next two or three months—sometime probably in September or October—and the verification instrument is part of those regulation changes. So, effectively, whichever one comes first gives us the necessary paperwork and processes then to bring on Instant Start.

The CHAIR: Earlier in the exchanges, I think there was a commitment to go away and look for some information; I just did not give it a number, so I could not work out whether that was going to be now or whether you were indicating you were going to take it on notice. I am getting faces that everyone feels happy that the exchange covered everything, so if that is the case, I will not give it a number. I am talking about the previous question.

Mr Gow: I will provide the information.

The CHAIR: I am talking about the previous question. We will move along; I have Hon Alanna Clohesy next.

Hon ALANNA CLOHESY: I am just going to go really quickly through because I have a number of questions. I refer to page 494 under “Spending Changes” and “Agency Expenditure Review Savings Measure”. How will the savings measures of \$1.560 million for the next financial year be achieved?

Hon MICHAEL MISCHIN: Mr Gow will address that.

Mr Gow: The general suite of savings is to be delivered in the long term through a large amount of use of electronic lodgement and electronic processing. In this coming financial year, we will not be able to deliver all of that, so we are gathering some of the savings through slowing down some of our project work. The \$1.5 million, very roughly is made up of around \$400 000 from voluntary severances, which have just happened during this financial year, so they continue on. There will be savings from re-examining the way that we assess the builder registration requirements so that we can be more efficient, particularly in the renewal of builder registration applications, which will save us something in the order of \$300 000 or so. The rest of the \$1.5 million, which is about \$800 000, is, I think, to come from slowing down the rate at which we do a number of the projects that we have planned, which include things such as electronic lodgement of building permits and extension of the building regulation process uniformly across the whole state et cetera.

[3.40 pm]

Hon ALANNA CLOHESY: So the projects that you had anticipated achieving by the end of next financial year you will not have achieved because of that?

Mr Gow: These are long-term projects that involve a fair bit of policy consultation, technical investigation work, and then building of often quite large electronic systems, so the processes that deliver the savings into the out years will not really be in place for two or three years, so what we will be doing is slowing down some of that early consultation process in order to achieve those savings.

Hon ALANNA CLOHESY: Does that include the audit program?

Mr Gow: No.

Hon ALANNA CLOHESY: Has the audit program been completed with builders?

Mr Gow: The audit program that we have is an ongoing program. It has been ramped up over the last 12 to 24 months as a specific program; before that, all the building inspectors that we inherited off the Builders’ Registration Board effectively only dealt with complaints, so there was no general audit program. We have managed to free up resources now to carry out that audit, and that has been underway now for 12 or 18 months. That will continue and some of the additional funding we are getting from an increase in the building services levy from next year enables us to take on an extra

couple of building surveyors and potentially an extra plumbing inspector to ramp up that audit program, so it is getting bigger, not less.

Hon ALANNA CLOHESY: In the last 12 months, how many builders were audited?

Mr Gow: I cannot give you that off the top of my head, but I can take it on notice.

Hon ALANNA CLOHESY: This is on notice: how many builders were audited in the last 12 months?

[Supplementary Information No C1.]

Hon ALANNA CLOHESY: Is there any correlation between the audit program and the complaints received regarding builders? That is, the audit program that audit the finances in particular, and the financial capability of builders—is there any connecting up the outcomes of those audit programs with the kinds of complaints that were being received; and, if not, why not?

Mr Gow: The audit program is quite new so we do not have the number of statistics and the length of time to really be able to make that connection, though we are, ideally, looking to find it, but it is very early days yet to be able to make any useful report on whether there is a correlation between what we find in audit and either whether a particular builder is more likely to, say, get into financial difficulties or, alternatively, as a result of our audit, that they now do not because they are able to turn their business around. But we have had some, I think, encouraging feedback from our discussion with builders that they appreciate the fact that someone is coming in, having a look at their business and raising, from time to time, issues of concern. But it is too early to make a good statistical correlation between the audits and the outcomes.

Hon ALANNA CLOHESY: Was BDH Homes one of those builders that was audited in the last 12 months?

Mr Gow: BDH Homes? Again, I would have to seek advice on that.

[Supplementary Information No C2.]

Hon ALANNA CLOHESY: Are there any plans to make the outcomes of the audits have an impact on some systemic issues that you might find in your complaints? Are there any plans to make those two things connect up so that you have early warning of builders that are going to collapse?

Mr Gow: Yes, we are doing audits in a number of areas and, to some extent, we are trialling this to see where we get the best bang for buck. We carry out audits of builders' business practices and that looks into how they supervise how their finances are et cetera. We are also just beginning—although there is not a lot of track record on this yet—doing audits based on builders' registration and re-registration requirements. Although they give us information and paperwork when they seek registration, we are now starting a process of going back and auditing a sample of those to make sure that the information was accurate. From the point of view of financial stability, those two audits will start to give us some idea of builder likelihood of failure, but bear in mind that there are well over 1 000 and near enough to 2 000 operational building organisations and we audit a sample each year, so it will take a while to get a really good idea. The other area that we audit is compliance with building standards and building practices, and we are in the final phases of completing an audit on domestic roof construction for roofs clad with metal decking, which are particularly susceptible to blowing off in strong winds. We have audited a number of builders and found some cause for concern there; they are being considered by the industry associations at the moment so that we can get their responses back and then that may well show some evidence of systemic issues in the industry. So, we will be going back with the various industry associations to address that. We are picking up some systemic issues in building standards, which we are dealing with.

Hon ALANNA CLOHESY: What was the actual cost of implementing the audit program in 2014–15?

Mr Gow: The audit program, again, to give you an accurate number, I would need to take that on notice.

[*Supplementary Information No C3.*]

Hon ALANNA CLOHESY: Sorry; I know I am rushing, but there are a lot of questions, and other members have questions as well. When was the last compliance report tabled? Has the third quarter compliance report for the Building Commission been produced? There was a first quarter report for 2014–15 and a second quarter report for 2014–15; has the third quarter report been produced?

Mr Gow: No, I have not seen it yet. It is in production. It has not been finalised.

Hon ALANNA CLOHESY: When can we expect that to be finalised?

Mr Gow: I would think imminently.

Hon ALANNA CLOHESY: Will it be tabled in Parliament? Perhaps the minister might make a statement about it.

Hon MICHAEL MISCHIN: Once I have seen it, if that has been the practice in the past, I see no reason why it ought not to be tabled in future.

Hon ALANNA CLOHESY: What has the delay been in producing the compliance report?

Mr Gow: The people who produce the compliance report have been pulled off some of those issues to deal specifically with the insolvencies of Benchmark Designer Homes and Freelifie Homes, and that has caused a little bit of delay in getting this more bureaucratic work done, but it is imminent to be completed.

Hon ALANNA CLOHESY: Some of the bureaucratic work which improves transparency and accountability for the agency.

Hon MICHAEL MISCHIN: Was that a question?

Hon ALANNA CLOHESY: Is that what you mean—transparency and accountability is bureaucratic work?

Hon MICHAEL MISCHIN: I just did not hear it all. Were you asking a question or just making a statement?

[3.50 pm]

Hon ALANNA CLOHESY: You may take it as a comment, minister.

The CHAIR: In my best Tony Jones' voice: "I'll take that as a comment."

Hon ALANNA CLOHESY: The voluntary severance scheme will be about \$400 000 for this year. For the sake of trying to be speedy, can I take on notice the number of positions and the level of those positions that took up voluntary severance last year?

Hon MICHAEL MISCHIN: What page are we looking at?

Hon ALANNA CLOHESY: Page 502.

Hon MICHAEL MISCHIN: Where is that on page 502?

Hon ALANNA CLOHESY: That is KEIs, is it not—efficiencies? What did we do with voluntary redundancies? Page 494 has the spending changes. So there were no voluntary redundancies?

Hon MICHAEL MISCHIN: Page 494 or 495?

Hon ALANNA CLOHESY: I have not got it in front of me now. I did do this in a genuine attempt to speed up the process so that other members could get questions. If you are not able to answer it, I will put it on notice after the hearing.

Hon MICHAEL MISCHIN: I think Mr Gow can answer.

Mr Gow: The severances were one level 7 policy officer and two level 6 and one level 4 registration officers.

The CHAIR: Are you finished? I might move on. I go to Hon Rick Mazza, then Hon Kate Doust and then Hon Peter Katsambanis.

Hon RICK MAZZA: Minister, considering that home indemnity insurance is basically the safety net for consumers who are entering into building contracts, I am having some difficulty reconciling the premiums that are collected for home indemnity insurance and the claims on page 507. If you look at the actual for 2013–14, you see that premiums are some \$20 million, but there does not seem to be a corresponding amount, or any amount at all, in that year for claims. Then we have \$7 million in the 2014–15 year and claims of \$5.25 million. Then we jump to \$19.7 million and then we jump to \$42 million for this budget estimate. I am just wondering where are these extra premiums coming from in such a sharp spike. Are we expecting a building boom or have we got a major increase in premiums? Then we look into the forward estimates and in the 2016–17 year, we have \$18.7 million in premiums but you estimate claims to be \$23.5 million. I would not see any prudent underwriter taking on that risk. I am just wondering where these numbers have come from and how you are actually reconciling them.

Hon MICHAEL MISCHIN: That is a good question. I will ask Mr Gow and Mr Squires to address those issues in turn.

Mr Gow: The figures here, which Mr Squires can give you a more detailed accounting treatment of, reflect the fact that from November 2013, the state has provided 100 per cent reinsurance for the two home indemnity insurers that are currently in the market, and that arrangement will now run until 31 October 2016.

Hon RICK MAZZA: Are you saying that the state is actually propping this up at the moment?

Mr Gow: Yes. That arrangement is due to end in November next year and therefore there is a tail-out of liability as a result of that arrangement having a finite life. So it has only recently come on, runs effectively for three years and then runs out. There are particular accounting treatments for insurance, which I think Mr Squires is better qualified than I to explain to you.

Hon RICK MAZZA: The actual claims in the forward estimates are still running over \$20 million a year. That would suggest to me that there must be a number of failed builders for these claims to arise for consumers. What steps have been taken to try to reduce the number of failed builders and people coming to grief over a building contract? Further to that question, one thing that has always concerned me is it is my understanding that if I secure a building licence, there is nothing stopping me from registering a plethora of business names—I could be from Budget Builders to Blue Ribbon Constructions and six or seven different business names in between, which makes it very hard for a consumer to determine who they are actually dealing with. Has there been commentary or discussion around what you can actually do to rein that in?

Mr Gow: Can I take your question in two parts—firstly, the indemnity insurance and the claims and then, secondly, the one about the business names? With the claims, the figures that are in the budget papers are based on actuarial assessments of the long-term average likely claims from the building industry in Western Australia. In practice, in the first year and a bit of operating the reinsurance scheme, we have had much lower claims. So, in theory, the claim rate is around \$20 million to \$25 million a year. On exposure in practice in the last year, we spent only \$3 million or \$4 million in claims. That will go up this year because we have got a couple of larger ones with

Freelife and Benchmark, but the amount that is put there is the actuarial average; it is not necessarily the amount that will be spent, and that obviously would vary with circumstances.

In terms of the business names, that has been an issue that has been raised with us. We have a very broad building industry in Western Australia, particularly housing. There are over a thousand individual building operators that are operating in the area, ranging from very small businesses that might do one or two houses or renovations through to, as I previously said, we have got the biggest home builders in the country here which will be doing many thousands of houses per year. The circumstances that apply in each part of the market are a little bit different; for example, the very big builders—BGC, ABN Group and the like—operate under a number of business names; they have different brands.

Hon RICK MAZZA: I am aware of that, but what we are talking about here is consumer protection, and in my view this could be a problem, because I know in the real estate industry and the settlement agency industry, you can have only one business name per licence, whereas in the building industry, you can have multiple business names.

Mr Gow: If I could —

Hon RICK MAZZA: One other question I have is: if I go and register or get a shelf company for \$1 500, ABC Pty Ltd, and get a builder's licence registered with that company and set up four or five different business names and all of those fail, and then I come back to you in three months' time and want to register another shelf company, what restrictions would there be on me to actually re-register a new building company and then start up again?

Mr Gow: To just backtrack a little also to complete the answer to the previous question, while you can have a number of trading names, it is the legal entity that we register, it is the legal entity that is named on the building permit, and it is the legal entity that gets the home indemnity insurance. Even though people may have a plethora of brands that they operate under, when it comes to the scrutiny, it is always the legal entity that is under there.

Hon RICK MAZZA: Sure; I understand that, and it is the same with real estate agents, too.

[4.00 pm]

Mr Gow: If a particular legal entity—typically, it would be a company with a couple of directors rather than a publicly listed company—goes broke, then we are aware of the people who have stood behind that. They are directors, their nominated supervisor et cetera. If they immediately come back and ask to register again an entirely different company, the advice we would give to the Building Services Board would be to look very carefully before they were willing to register a new name for those people. There is a formal process that can also be gone through, which is to have directors named as ineligible people so that they are not able to become an officer or to register a new company. So there are checks there, both the informal ones and the formal one of an ineligible person.

Hon RICK MAZZA: What you are saying is it is still possible for me to have a company go bankrupt and then in a few months' time start up again.

Hon MICHAEL MISCHIN: Reapply perhaps.

Hon RICK MAZZA: Reapply?

Mr Gow: It is possible for you to reapply, but —

Hon RICK MAZZA: You said look at carefully, not reapply.

Mr Gow: Yes, but depending on the circumstances, which ultimately is the decision made by the Building Services Board, so I cannot say you would never get re-registered, but there would be very strong grounds for the board to say no, and I believe in most cases they would.

Hon RICK MAZZA: I have one last question. If I enter into a building contract, could you tell me what is the limit where a builder has to have building indemnity insurance? I think above a certain amount you do not require it; is that right?

Mr Gow: No.

Hon RICK MAZZA: For a residential home?

Mr Gow: No.

Hon RICK MAZZA: So, if I build a house for \$2 million, I still need home indemnity insurance?

Mr Gow: Yes.

Hon RICK MAZZA: If I enter into a building contract for something more modest like, say, \$500 000, and somewhere through that contract I have made progress payments, the builder has not completed the work for those progress payments and they fail, does the building indemnity insurance cover me for all of my loss or only a percentage of that loss?

Mr Gow: The indemnity insurance covers you for the cost of completing the work.

Hon RICK MAZZA: Right; so that will bring me up to where that progress payment was paid?

Mr Gow: Whatever is the cost to complete, it covers that up to a limit of \$100 000. So, there is a cap on the insurance.

Hon RICK MAZZA: There is a cap of \$100 000.

Mr Gow: Yes, but in most cases that is sufficient to cover any gap.

Hon RICK MAZZA: If the building contract that I entered into for \$500 000, and the builder fails, is only halfway completed, then I go to another builder to complete that contract. However, I cannot get a price less than \$700 000 from another builder to complete that work. Does the building indemnity insurance cover that extra \$200 000 to get the job done?

Mr Gow: Perhaps I can unpick and be a touch more realistic on the figures. If you have a \$500 000 house and half the work has been done and you have paid out \$250 000, then nominally it should cost \$250 000 to complete it. In reality, the new builder will have to pick up some extra risk and do some works that will cost more than 250, but it probably will not cost more than 350. And the fact is you have not paid out 250, so you would still pay your final 250 to complete, and the insurance would cover the extra \$100 000.

The CHAIR: That is different from what you said earlier, which is they complete the work up to the 250. So you are saying if it then incurs a cost of completing the work so the 250 now becomes 350 to finish the second half of the building, not the insured bit, that will also be covered, or only the cost to finish the first \$250 000 worth of work?

Mr Gow: No. I can probably clarify my answer. It is a \$500 000 house. You, the consumer have to pay out \$500 000 to get it. You have paid out \$250 000 to builder 1; you still have to pay out —

The CHAIR: To bring it to, say, lockup stage.

Mr Gow: Yes.

Hon MICHAEL MISCHIN: Half the job is done.

The CHAIR: Yes.

Mr Gow: So, half the job is done at \$250 000. You have paid \$250 000 for that.

The CHAIR: The insurance will take you to complete half the job done, but if the second half now costs you 350 to complete, does the insurance cover that extra \$100 000?

Mr Gow: The insurance covers the difference in cost that you would have paid to have it done originally and what it actually costs you to have it completed at the end.

Hon RICK MAZZA: If I can be clear, using that example, the first half of the building contract, if you have made progress payments, however that first half has not been completed, you will pay up to \$100 000 to complete that first half of the contract. Then if you have to go and engage another builder where it costs \$100 000 more to complete the second half of the building contract, you will cover that too.

Mr Gow: I think you might be using the wrong language somewhere here.

Hon RICK MAZZA: No; I thought it was pretty clear.

The CHAIR: I understood the question. It is the answer I am having difficulty with.

Mr Gow: The first builder does an amount of work and you pay for that in your initial progress payments.

Hon RICK MAZZA: Yes.

Hon MICHAEL MISCHIN: Which is paid upon completion of the work.

Hon RICK MAZZA: Yes, the progress payments are paid; that is right. But I am saying if some of the work has not been done for that progress payment.

Mr Gow: Okay. So, let us say you have paid \$250 000 in progress payments, but only \$200 000 worth of work has been done.

Hon RICK MAZZA: Yes; okay.

Mr Gow: You then get another builder to come in and complete, so that builder has to complete \$300 000 worth of work, plus all the additional stuffing around costs of bringing an additional builder in, so that might come to a \$350 000 contract. So, of that, the insurance will pay the \$100 000 and you will pay the final \$250 000 that you were always going to pay anyway.

Hon RICK MAZZA: So the consumer should not be out of pocket?

Mr Gow: Should not be, unless there is a very big gap in the amount that is being paid versus the value of work that is being done. That does happen from time to time but it is not the normal case.

Hon ALANNA CLOHESY: Is there a cap on deposits, so no work is being progressed? A deposit has been paid; no work has been progressed; the builder goes under. Is there a cap in the insurance on deposits?

Mr Gow: There is a cap under the Home Building Contracts Act. There is a cap of six and a half per cent on the deposit, so they are not allowed to charge more than that. If you have paid the deposit and the builder goes broke, the insurance —

Hon ALANNA CLOHESY: And you have paid more than the six and a half per cent?

Mr Gow: The insurance, I do not think, would cover anything other than the six and a half per cent statutory.

Hon KATE DOUST: Two of these questions I would appreciate on notice, because I know that you will not have the detail today. Referring to page 502, the line item “Employees (Full Time Equivalents)”, I note that there has been a significant change in the number of staff and FTEs, and we note that in 2015–16 there will be a notional increase of 20 additional FTEs. I would like a list of those 157 FTEs and a breakdown of what they actually do, what their roles are within the department, and their levels. My second question, which also you can take on notice, goes back to my original question today about the average of the 20 weeks taken to resolve a complaint. Are you able to provide a list of each complaint made to the commission during the last 12 months, the last financial year, that is a building-related complaint, and the amount of time taken to resolve each of those complaints?

Mr Gow: These are building sales complaints?

Hon KATE DOUST: Yes.

The CHAIR: We will make the two parts of that question C4.

[*Supplementary Information No C4.*]

Hon KATE DOUST: I have a third question, and it is in relation to the plumbing area, which is listed on page 496 under “Review of Plumbing Regulation”. I know that a consultation paper was issued in February of this year about basic plumbing repairs in remote Aboriginal communities. Are you able to provide an update as to the status of that document or the progress of any proposed changes in that area?

The CHAIR: What has been the cause of any blockages!

Hon KATE DOUST: No; not funny!

Hon ALANNA CLOHESY: That is not even funny; or runny!

Hon MICHAEL MISCHIN: That has my mind working on something else!

[4.10 pm]

Mr Gow: The plumbing discussion paper to do with remote Indigenous communities was put out. We have had a number of written submissions. In May we went back up to Broome and had a number of face-to-face consultations with people representing the communities, local governments and local operators up there. That information is now being considered within the department with a view to making a recommendation to the minister in the next month or so. To the extent that there will need to be an amendment to the plumbing regulations, that would then have to be processed later in the year.

Hon PETER KATSAMBANIS: I just have a few questions about the figures on page 502 in relation to the commission’s budget, particularly around the efficiency indicators. I know that some of it was covered before, but I notice that the average cost per ordered inspection or investigation between budgeted and estimated actual for this current financial year is about 20 per cent higher, the average cost for registration or licence issued is about 28 per cent higher than budgeted, and the targeted figures for the forthcoming financial year remain around the estimated actual rather than any reference to the previously budgeted figures. I have read some of the explanations here and they revolve around a slowdown of building approvals and a general increase in the Building Commission’s costs et cetera, but given that this is all cost recovered, what emphasis has been made to actually reduce the cost within the Building Commission so that these average costs stay down and the cost recovery to business also slows down?

Mr Gow: The primary cost minimisation efforts are focused around using electronic systems to make it more efficient both for users and within the Building Commission. We have a registration or a licensing system for plumbers which requires people to put in paper-based applications; they are processed by paper. We have a program that we expect now to run over the next two to three years to make that electronic; that will make it more efficient for us in terms of time and the number of people we need to run those processes and we believe it will also be a lot more efficient for the users. The other areas that we are looking to try to get some efficiency from is plumbing notices, because at the moment, plumbers are required to give notices of intent when they want to do major plumbing work and then notices again when they have completed that work.

Hon PETER KATSAMBANIS: Are we going to get rid of all those?

Mr Gow: We are not getting rid of them, but we are working down an electronic process, not a paper-based process, so it is, again, much more efficient to get the information in. We get it in an electronic form that we can do a lot more with in terms of monitoring and the like, and it takes out a lot of manual processing of paperwork that we do at the moment. That is our main focus on getting efficiencies into these registration and audit processes.

Hon PETER KATSAMBANIS: When are we likely to start seeing those efficiencies and will they lead to a reduction in costs and, therefore, fees to industry?

Mr Gow: We will see these evolve over the next two to three years. Some of these are substantial IT projects that will take some time to get in place. The department has given some priority to electronic licensing systems at the moment and we hope to be able to have them online in 12 months or so. They will come on over the next 12 to probably 36 months. Will they end up in a reduction in fees? We believe so.

Hon PETER KATSAMBANIS: I have one final question given the time. The increase in FTE in the forthcoming 2015–16 budget year of 20 people is partly explained by the additional FTE to implement reforms for the building and plumbing industries, which has been funded by an increase in the building services levy. Could that not have been done without increasing the overall FTE in the agency? Given that it is being done for a specific project, in what time frame are we likely to see the requirement for that additional FTE not be there any more so that we can see a further reduction in the FTE sometime in the future?

Mr Gow: As I said previously, we have a number of IT systems that we need to put in place to deliver the efficiencies; that is going to happen over one to three years roughly. At the end of that time, yes, we believe we can operate with a significant reduction in FTEs. In the meantime, these figures allow for not only the paperwork processing that we have got, but also the project people who will be needed to come on to deliver those projects. The FTE numbers also include a proportion of corporate overheads—our HR, finance et cetera people—and there has been an adjustment in the proportion of that allocated to the Building Commission, so some of that increase is an allocation of internal overheads, but, again, they will probably come down as we become more efficient.

Hon PETER KATSAMBANIS: On notice or as supplementary information, are you able to give me a breakdown between how many increased FTEs are as a result of this reallocation of overheads and how many are as a result of these two projects specified?

Mr Gow: I think that will come out of the answer to the previous question from Hon Kate Doust as to the numbers and positions.

Hon PETER KATSAMBANIS: The fear with all of these things is, of course, that you bring on people to do a specific project and then you find new ways of keeping them employed when the whole idea has been to reduce costs. It is incongruous to say that you are reducing costs at the same time as you are increasing FTEs. We want to see that it comes to a finality.

The CHAIR: Are you saying that what Hon Peter Katsambanis asked for is going to be included in the earlier information and I do not need to give it a new number?

Mr Gow: I believe so.

The CHAIR: I make it clear that that is included in the earlier information.

With that, I conclude the hearing. The committee will forward any additional questions it has to you in writing in the next couple of days through the minister, together with the transcript of evidence, which includes the questions you have taken on notice. Responses to these questions will be requested within 10 working days of receipt of the questions. Should you be unable to meet this due date, please advise the committee in writing as soon as possible before the due date. The advice is to include specific reasons as to why the due date cannot be met. If members have any unasked questions, I ask them to submit these to the committee clerk at the close of this hearing. On behalf of the committee, I thank you for your attendance today.

Hearing concluded at 4.17 pm
