

Public Accounts Committee Report No 3, March 2018

PCH - A Long Waiting Period
A critique of the State's management and oversight
of the Perth Children's Hospital project

Government Response to Recommendations

Government response to Recommendations of Public Accounts Committee Report No 3, March 2018

Recommendation 1

The Premier and the Cabinet review the quality and standard of briefing notes provided by departments to ministers to ensure improvements in the consistency of structure and adequacy of content across the public sector.

The Department of the Premier and Cabinet will work with the Public Sector Commission to examine approaches to improve standards of briefing notes provided by agencies to Ministers. In the case of steering groups overseeing large projects, a single briefing from the steering group to all accountable Ministers will be encouraged. This practice is already occurring on some major projects.

Recommendation 2

The Premier take the appropriate actions to ensure that the findings of gateway reviews undertaken by agencies are the subject of detailed briefing notes provided to any relevant minister.

It is proposed that the Gateway Review Steering Committee write to the relevant agency(ies) Director(s) General following any Gateway Review that identifies a significant issue requiring immediate attention (that is, where the status of a project and/or any recommendation is rated as 'red').

The Director General will then be required to provide detailed advice on the issue(s) identified through the Gateway Review process to the relevant Minister, including the actions to be undertaken to address the issue of concern, the proposed risk mitigation strategies, timeframe the action is to be undertaken and when a report back will be provided to close out the red rating to the Gateway Independent Panel and Gateway Review Steering Committee. These requirements will be reinforced through a revised Premier's Circular.

It is recommended that existing *Premier's Circular 2016/05 Improving the Outcomes of Major Projects Through Gateway Reviews* is updated to reflect and reinforce these new requirements.

Recommendation 3

The Minister for Works (currently the Minister for Finance) amend the Public Works Act 1902 (WA) to remove dual governance structures by vesting overarching asset delivery responsibility with client agencies.

The Government acknowledges the difficulties associated with the delivery of the Perth Children's Hospital project and is committed to improving aspects of the dual governance model, such as agency accountability and ministerial reporting, which has served the State well in the past. While broadly supportive of a review of the *Public Works Act 1902 (WA)* and a move towards a consolidated procurement framework across the public sector, the Act is not the primary driver for having central agency involvement in the delivery of major projects.

The benefits of this approach were detailed in the Special Inquiry into Government Programs and Projects, as well as the Service Priority Review. The issues raised with respect to the governance arrangements for the Perth Children's Hospital project will be addressed consistent with the recommendations of these sector-wide reviews.

Recommendation 4

The Government appoint independent chairs with appropriate expertise to multiagency steering committees for the oversight of major projects in future.

The Government supports the need for major project steering committees to have independent chairpersons. It is important to note that serving as a chairperson of a major project is a significant

undertaking, particularly for very senior agency officers who already have many high level responsibilities, beyond their oversight role for major projects.

The Department of the Premier and Cabinet, the Department of Finance and relevant agencies will work together to establish a panel of appropriately skilled and qualified public sector senior officers and private sector representatives to enable the management of major projects to transition to an independent chair model.

The Department of the Premier and Cabinet will work with the Public Sector Commission to establish appropriate training and support for senior public sector officers who are likely to be engaged as chairs of major project steering committees.

Recommendation 5

The Minister for Finance engage an independent expert to evaluate the efficacy of the commercial levers within the construction contract for Perth Children's Hospital and the manner in which they were utilised.

The findings and recommendations from this evaluation should be used to ensure future contracts provide greater leverage and confidence to the State in its commercial dealings.

The Government will engage an independent expert, as recommended by the Public Accounts Committee. The independent expert will be asked to consider the findings of two previous independent reviews of the construction contract and determine the extent to which the matters raised by the Public Accounts Committee have not been adequately addressed.

To the extent that these earlier responses do not satisfy the concerns raised by the Public Accounts Committee, the Inter-Agency Working Group (which will be established to implement the responses to the Public Accounts Committee Report) shall obtain further independent advice which can be used to improve the commercial efficacy of Government construction contracts.

Recommendation 6

The Minister for Finance ensure that Strategic Projects and, where applicable, Building Management and Works, implement more robust assurance measures for the commissioning of water supplies on future projects.

The inclusion of water quality testing is now standard practice on all major projects managed by Strategic Projects, in addition to strict commissioning procedures. A similar approach is not feasible on all projects managed by Building Management and Works due to their varying scale and complexity. A risk-based approach has therefore been adopted with an initial focus on health and education facilities.

These processes, along with the pre-installation testing and inspection requirements for building materials that are already applied to projects managed by the Department of Finance, will be refined over time, in line with emerging industry practice and changes to the relevant Australian Standards.

More generally, the Government established an Inter-Agency Working Group (IAWG) on water quality matters for schools and other public buildings in early 2018. The purpose of this group was to develop a higher level of assurance for water quality in schools, hospitals and other public buildings. A range of procedures to ensure that water quality in new and existing buildings was maintained to relevant national standards have now been implemented. Representation on the IAWG included the Department of Health (in relation to testing standards and a nationally consistent approach); Department of Education (in relation to water quality matters specific to schools); Department of Finance (in relation to general building engineering and system matters); and Department of the Premier and Cabinet (as policy coordinator).

Recommendation 7

The Minister for Finance ensure that Strategic Projects and, where applicable, Building Management and Works, conduct risk-based pre-installation testing and inspection of materials on future projects.

See response to Recommendation 11.

Recommendation 8

The Minister for Commerce and Industrial Relations review Queensland's Building and Construction Legislation (Nonconforming Building Products – Chain of Responsibility and Other Matters) Amendment Bill 2017 and determine its appropriateness for Western Australia's regulatory framework.

This is being progressed as part of Western Australia's engagement with the Building Minister's Forum (BMF) actions on non-conforming building products.

Enhanced powers for the Building Commissioner to deal with non-conforming products, based on the Queensland model legislation, will be included in the review of building services legislation.

Recommendation 9

The Minister for Commerce and Industrial Relations work with the Australian Building Codes Board to establish the national requirement that the WaterMark certification system apply at the point of sale of plumbing products.

In February 2018, the Australian Building Codes Board (ABCB) released a *Discussion Paper: Feasibility of Point of Sale Regulation for the WaterMark Certification Scheme* for public comment and a final report was considered by the ABCB at its June 2018 meeting.

At this time, the Board agreed that before further consideration is given to the potential introduction of point-of-sale legislation, other action was to be undertaken, including increased education and awareness about the WaterMark scheme, and monitoring the implementation and effectiveness of the recently-implemented point-of-sale legislation in Queensland (*the Building and Construction Legislation (Non-conforming Building Products – Chain of Responsibility and Other Matters) Amendment Act 2017*).

The issue was further considered by the Building Ministers' Forum (BMF) (of which the Minister for Commerce is a member) at its August 2018 meeting. At that meeting, Ministers endorsed the ABCB's position and agreed to pursue other actions to strengthen the existing arrangements before considering point-of-sale regulation. The matter remains on the ABCB's work plan and is also an action item for the Senior Officials Group of the BMF.

It is recognised that significant work in relation to this matter was undertaken under the oversight of the previous Minister for Commerce and Industrial Relations. Since December 2018, following the Ministerial portfolio reshuffle, this work has progressed under the oversight of the current Minister for Commerce.

Recommendation 10

The Minister for Commerce and Industrial Relations report to Parliament on the status of the Building Commissioner's April 2017 recommendation, which sought national action to determine whether lead leaching from brass plumbing fittings is contributing to lead levels above the Australian Drinking Water Guidelines (ADWG) in Australian buildings.

The BMF endorsed the ABCB 2017/18 Business Plan on 30 June 2017, which made provision to carry out research in relation to lead leaching from plumbing fittings (plumbing research project). This followed a verbal briefing by the Building Commissioner in June 2017 to the ABCB on this issue following the release of his audit report into Perth Children's Hospital (PCH).

The research report was completed in mid-2018 and was considered by the ABCB at its meeting of 22 November 2018. The report confirmed that a range of plumbing fittings and materials can leach lead into drinking water and that multiple factors can influence the release of lead from these products and materials. This includes different pH levels, the chemical composition of the drinking water, galvanic reactions, temperature, disinfection treatments and flow rates. Concentrations can also be influenced by the length of time water has remained unflushed in pipes and fixtures that have low use resulting in increased retention time.

The report concluded with a recommendation that in order to limit the release of lead in drinking water, consideration should be given to low to lead free plumbing products being used in association with drinking water systems. This report is publicly available.

The ABCB has agreed to progress with a Regulatory Impact Statement (RIS) that will examine feasible options, including the potential of 0.25% of lead in plumbing products, consistent with the level recently set in the United States of America and Canada. This work will be undertaken in consultation with Standards Australia, given that it would likely involve a change to the relevant Australian Standard referenced in the *National Construction Code*, and with *Environmental Health Standing Committee*.

The preparation of the RIS will also require close engagement with industry, particularly manufacturers and distributors of plumbing products, given that any change in the lead level would likely impact on stocked product, international supply chains and availability of technology. The RIS is listed on the ABCB's work plan for 2019/20. When ready, it will be released for public consultation.

As noted in the response to Recommendation 9, it is recognised that work was progressed under the oversight of the previous Minister for Commerce and Industrial Relations. This work is now overseen by the current Minister for Commerce and will be continued to be implemented under this Ministerial oversight.

Recommendation 11

The Building Commission should conduct proactive audits on major state government building projects.

The general intent of this recommendation is supported.

The Department of the Premier and Cabinet, the Department of Finance and the Building Commissioner (and other government works agencies as required) will work collaboratively together to develop a combined strategy on a proactive audit regime, in line with other Government initiatives at a State and National level.

Next Steps – Implementation

The Government will establish an Inter-Agency Working Group (IAWG) in order to ensure the effective implementation of the recommendations (to the extent that they are supported by the Government response). Initial membership of the IAWG will consist of Department of Premier and Cabinet, Department of Finance and the Building Commission. This membership may be altered if specific expertise is required over time.