

WESTERN AUSTRALIA

# LEGISLATIVE COUNCIL

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## QUESTIONS

**No. 019**

**Thursday, 8 August 2013**

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Questions appear according to the date on which notice was delivered.  
When a question has been answered it is removed from the postponed list.

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### POSTPONED QUESTIONS

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*Notice Given*            *Tuesday, 18 June 2013*

- 118. Hon Darren West to the Parliamentary Secretary representing the Minister for Tourism
- 119. Hon Stephen Dawson to the Parliamentary Secretary representing the Minister for Tourism
- 120. Hon Alanna Clohesy to the Parliamentary Secretary representing the Minister for Health

*Notice Given*            *Wednesday, 19 June 2013*

- 125. Hon Sally Talbot to the Minister for Disability Services

*Notice Given*            *Tuesday, 25 June 2013*

- 127. Hon Alanna Clohesy to the Minister for Agriculture and Food representing the Minister for Housing
- 128. Hon Alanna Clohesy to the Minister for Agriculture and Food representing the Minister for Housing
- 129. Hon Alanna Clohesy to the Minister for Agriculture and Food representing the Minister for Housing
- 130. Hon Alanna Clohesy to the Minister for Agriculture and Food representing the Minister for Housing
- 133. Hon Sally Talbot to the Minister for Mental Health
- 134. Hon Darren West to the Minister for Agriculture and Food representing the Minister for Mines and Petroleum
- 136. Hon Adele Farina to the Minister for Agriculture and Food representing the Minister for Housing

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**Postponed Questions**

137. Hon Adele Farina to the Minister for Agriculture and Food representing the Minister for Housing
138. Hon Adele Farina to the Minister for Child Protection
145. Hon Adele Farina to the Attorney General representing the Minister for Police
146. Hon Adele Farina to the Attorney General representing the Minister for Police
147. Hon Adele Farina to the Attorney General representing the Minister for Police
148. Hon Adele Farina to the Attorney General representing the Minister for Police
149. Hon Adele Farina to the Attorney General representing the Minister for Police
152. Hon Adele Farina to the Parliamentary Secretary representing the Minister for Health
153. Hon Adele Farina to the Minister for Mental Health
154. Hon Adele Farina to the Parliamentary Secretary representing the Minister for Health
155. Hon Adele Farina to the Minister for Mental Health
160. Hon Adele Farina to the Parliamentary Secretary representing the Minister for Health
162. Hon Adele Farina to the Minister for Agriculture and Food representing the Minister for Housing
163. Hon Robin Chapple to the Minister for Agriculture and Food representing the Minister for Regional Development

**Notice Given**                      **Wednesday, 26 June 2013**

164. Hon Adele Farina to the Minister for Mental Health representing the Minister for Community Services
165. Hon Darren West to the Minister for Agriculture and Food representing the Minister for Mines and Petroleum
166. Hon Alanna Clohesy to the Leader of the House representing the Minister for Energy
167. Hon Amber-Jade Sanderson to the Minister for Agriculture and Food representing the Minister for Housing
168. Hon Stephen Dawson to the Minister for Agriculture and Food representing the Minister for Fisheries
169. Hon Samantha Rowe to the Leader of the House representing the Minister for Finance
170. Hon Alanna Clohesy to the Minister for Commerce
171. Hon Samantha Rowe to the Minister for Mental Health representing the Treasurer
172. Hon Amber-Jade Sanderson to the Parliamentary Secretary representing the Minister for Water
173. Hon Darren West to the Minister for Mental Health representing the Minister for Planning
174. Hon Adele Farina to the Parliamentary Secretary representing the Minister for Health

**Notice Given**                      **Thursday, 27 June 2013**

176. Hon Sally Talbot to the Parliamentary Secretary representing the Minister for Health
177. Hon Sally Talbot to the Minister for Mental Health
178. Hon Sally Talbot to the Minister for Mental Health
179. Hon Sally Talbot to the Minister for Child Protection

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**Postponed Questions**

180. Hon Sally Talbot to the Minister for Mental Health
181. Hon Nick Goiran to the Parliamentary Secretary representing the Minister for Health
182. Hon Nick Goiran to the Parliamentary Secretary representing the Minister for Health
183. Hon Sue Ellery to the Parliamentary Secretary representing the Minister for Health
184. Hon Robin Chapple to the Minister for Agriculture and Food representing the Minister for Mines and Petroleum
185. Hon Stephen Dawson to the Minister for Agriculture and Food representing the Minister for Housing
186. Hon Sally Talbot to the Minister for Mental Health

***Notice Given Tuesday, 6 August 2013***

187. Hon Robin Chapple to the Minister for Aboriginal Affairs
188. Hon Robin Chapple to the Minister for Agriculture and Food representing the Minister for Housing
189. Hon Ken Travers to the Parliamentary Secretary representing the Minister for Transport
190. Hon Sally Talbot to the Minister for Child Protection
191. Hon Robin Chapple to the Minister for Aboriginal Affairs
192. Hon Robin Chapple to the Minister for Aboriginal Affairs
193. Hon Robin Chapple to the Minister for Mental Health representing the Minister for Environment
194. Hon Sally Talbot to the Minister for Child Protection
195. Hon Sally Talbot to the Minister for Child Protection
196. Hon Sally Talbot to the Minister for Child Protection
197. Hon Sally Talbot to the Minister for Child Protection
198. Hon Robin Chapple to the Minister for Agriculture and Food representing the Minister for Mines and Petroleum
199. Hon Robin Chapple to the Minister for Agriculture and Food representing the Minister for Regional Development
200. Hon Lynn MacLaren to the Minister for Agriculture and Food representing the Minister for Forestry
201. Hon Kate Doust to the Minister for Commerce
202. Hon Lynn MacLaren to the Minister for Agriculture and Food representing the Minister for Forestry
203. Hon Lynn MacLaren to the Minister for Mental Health representing the Minister for Heritage
204. Hon Kate Doust to the Minister for Commerce
205. Hon Kate Doust to the Minister for Commerce
206. Hon Kate Doust to the Minister for Commerce
207. Hon Kate Doust to the Minister for Commerce

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**Postponed Questions**

*Notice Given*                      *Wednesday, 7 August 2013*

- 208. Hon Kate Doust to the Minister for Commerce
- 209. Hon Kate Doust to the Minister for Commerce
- 210. Hon Amber-Jade Sanderson to the Attorney General representing the Minister for Corrective Services

## LEGISLATIVE COUNCIL

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**QUESTIONS ASKED TODAY**

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*Notice Given*                      *Thursday, 8 August 2013*

**211. Hon Kate Doust to the Minister for Commerce:**

I refer to the EnergySafety division within the Department of Commerce and I ask, for the 2012-13 reporting period:

- (a) how many consumer related complaint investigations were carried out;
- (b) how many accident investigations were carried out;
- (c) how many:
  - (i) advices;
  - (ii) warnings;
  - (iii) infringement notices; and
  - (iv) prosecutions; and
- (d) in the case of licence holders, disciplinary actions were given/undertaken?

**212. Hon Kate Doust to the Minister for Commerce:**

I refer to the EnergySafety division within the Department of Commerce for the 2012-13 financial year, and I ask:

- (a) what was the Budget Actual for the division;
- (b) how much, if any, was spent on safety promotion; and
- (c) how much, if any, was spent on legal action?

**213. Hon Kate Doust to the Leader of the House representing the Minister for Finance:**

I refer the Minister to the Small Business Commissioner's report into the Construction Subcontractor Investigation Page 38 to 39, and I ask:

- (a) why did Building Management and Works issue both the Warwick Police Station and Sutherland School Dianella Government contracts in late 2011 to Briklay, when the company had at that time a Dunn and Bradstreet rating of "Very High Risk", a current court action for \$22,928.42, a history of occupational health and safety prosecutions, no submission of contract performance reports, a net asset to turnover ratio of 0.44 per-cent, a negative working capital ratio of -23.73 per-cent as well as a balance sheet analysis indicating that Briklay was trading outside its financial capacity; and
- (b) does the Minister think it is appropriate for insolvent companies to receive and carry out government contracts?

## LEGISLATIVE COUNCIL

**Questions Asked Today**

*Notice Given*                      *Thursday, 8 August 2013*

**214. Hon Kate Doust to the Minister for Commerce:**

I refer to the EnergySafety division within the Department of Commerce for the 2012-13 financial year, and I ask:

- (a) how many EnergySafety full time equivalent employees (FTE) were allocated to inspections and investigations;
- (b) where are each of the FTE in (a) located;
- (c) how many of these positions were vacant;
- (d) where were the vacant positions located;
- (e) of the FTE in (a), how many were:
  - (i) ongoing public sector employees; and
  - (ii) employed under fixed-term contracts; and
- (f) for each of those employed under contract, what is the term of their contract?

**215. Hon Kate Doust to the Leader of the House representing the Minister for Finance:**

I refer the Minister to the Small Business Commissioner's report into the Construction Subcontractor Investigation, page 17, and I ask:

- (a) does the Minister accept that there is a culture of administering inadequate prequalification processes for builders undertaking Building Management and Works managed works; and
- (b) does the Minister accept that there is a culture of poor risk analysis upon award of specific projects to head contractors?

**216. Hon Kate Doust to the Leader of the House representing the Minister for Finance:**

I refer the Minister to the Small Business Commissioner's report into the Construction Subcontractor Investigation, page 17, and I ask:

- (a) does the Minister acknowledge that Building Management and Works failed to immediately report contractors to the police for submitting false statutory declarations;
- (b) does the Minister concede that if immediate action had been taken by Building Management and Works certain subcontractors would have been better off; and
- (c) does the Minister now recognise that his department failed to listen and act appropriately to the warnings being given by subcontractors about non-payment by contractors?

## LEGISLATIVE COUNCIL

**Questions Asked Today**

*Notice Given*                      *Thursday, 8 August 2013*

**217. Hon Kate Doust to the Leader of the House representing the Minister for Finance:**

I refer the Minister to the Small Business Commissioner's report into the Construction Subcontractor Investigation, page 24 which states "As a consequence, this situation created a gap in the market place which was filled by smaller, less experienced head contractors that in some cases did not have the adequate expertise to manage the volume or complexity of construction projects," and I ask:

- (a) was a similar view held by Building Management and Works at the time of the Building the Education Revolution scheme rollout; and
- (b) if some head contractors, who received government contracts, did not have the expertise in order to fulfil the requirements of an issued tender, why were they granted the contract?

**218. Hon Kate Doust to the Leader of the House representing the Minister for Finance:**

I refer the Minister to the Small Business Commissioner's report into the Construction Subcontractor Investigation, page 15 which states that at the time of the investigation, Building Management and Works (BMW) had prequalified 110 building companies, and I ask:

- (a) what were the names of each of these companies;
- (b) what was the pre-qualification level of each company;
- (c) why were these companies pre-qualified by BMW when some clearly weren't financially stable;
- (d) how many of these companies have gone insolvent; and
- (e) which companies, who have received BMW managed tenders, have gone insolvent since 1 January 2011?

**219. Hon Kate Doust to the Leader of the House representing the Minister for Finance:**

I refer the Minister to the Small Business Commissioner's report into the Construction Subcontractor Investigation, page 15 to 16, dealing specifically with Business Risk Assessments, and I ask:

- (a) what are the various formulae applied by Building Management and Works when undertaking a Business Risk Assessment for a company seeking to apply for a Government tender;
- (b) what documentation does a company need to provide in order to prove its financial capacity to undertake a particular project; and
- (c) does the outcome of the Business Risk Assessment have any direct influence over the decisions made by Project Managers in awarding a contract to a particular builder?

## LEGISLATIVE COUNCIL

**Questions Asked Today**

*Notice Given*                      *Thursday, 8 August 2013*

**220. Hon Kate Doust to the Leader of the House representing the Minister for Finance:**

I refer the Minister to the Small Business Commissioner's report into the Construction Subcontractor Investigation, page 17, and I ask:

- (a) does the Minister acknowledge that subcontractors were treated unfairly by Building Management and Works in circumstances where projects were re-tendered when there had already been a supply of nominated materials;
- (b) will the Minister issue a public apology to those subcontractors who were left out of pocket and exposed after the retender was issued; and
- (c) will the Minister ensure that these particular subcontractors are reimbursed for their expenses?

**221. Hon Kate Doust to the Leader of the House representing the Minister for Finance:**

I refer the Minister to the Small Business Commissioner's report into the Construction Subcontractor Investigation, page 17, and I ask:

- (a) when did the then Minister for Finance first know that sub-contractors were not being paid by head contractors; and
- (b) what was the immediate action taken by the then Minister for Finance at the time to try and resolve this issue?

**222. Hon Kate Doust to the Leader of the House representing the Minister for Finance:**

I refer the Minister to the Small Business Commissioner's report into the Construction Subcontractor Investigation, page 20, Insolvent Head Contractors, and I ask:

- (a) will the Minister table the Business Risk Assessments undertaken by Building Management and Works for the seven building companies identified on page 20 of the report;
- (b) if no to (a), why not; and
- (c) will the Minister please explain why these companies were granted government contracts?

**223. Hon Kate Doust to the Leader of the House representing the Minister for Finance:**

I refer the Minister to the Small Business Commissioner's report into the Construction Subcontractor Investigation, page 23, Building Management and Works's Procurement for BER Projects, and I ask:

- (a) will the Minister outline all the companies that were awarded Government tenders who were not subject to the Builders' Prequalification Scheme; and
- (b) which of these companies, if any, went insolvent during the contract process or after the contract was awarded?



## LEGISLATIVE COUNCIL

**Questions Asked Today**

*Notice Given*                      *Thursday, 8 August 2013*

**224. Hon Kate Doust to the Leader of the House representing the Minister for Finance:**

I refer the Minister to the Small Business Commissioner's report into the Construction Subcontractor Investigation, page 30, Prequalification Funds, and I ask:

- (a) are Building Management and Works aware of any head contractors that made an application for prequalification beyond their financial capacity;
- (b) if yes to (a):
  - (i) who were these companies; and
  - (ii) what actions have been taken to ensure this does not happen in the future; and
- (c) if no to (a), why not?

**225. Hon Kate Doust to the Leader of the House representing the Minister for Finance:**

I refer the Minister to the Small Business Commissioner's report into the Construction Subcontractor Investigation, page 30, and I ask:

- (a) will the Minister ensure that future companies applying for the Government's Builder's Pre-Qualification Scheme are required to provide all relevant documents;
- (b) does the Minister acknowledge the need to have a weighting system in the evaluation of information supplied by applicants for prequalification; and
- (c) will the Minister implement a weighting system to the prequalification process?

**226. Hon Kate Doust to the Leader of the House representing the Minister for Finance:**

I refer the Minister to the Small Business Commissioner's report into the Construction Subcontractor Investigation, page 30, Prequalification Findings, which states that "consideration of financial matters appears to be limited. Financial material supplied by the builders is generally taken at face value," and I ask:

- (a) does the Minister think this is an appropriate way in determining the financial viability of companies undertaking State run projects; and
- (b) what changes is the Minister making to the current Building Management and Works processes and procedures to ensure due diligence is taken on future projects?

**227. Hon Kate Doust to the Leader of the House representing the Minister for Finance:**

I refer the Minister to the Small Business Commissioner's report into the Construction Subcontractor Investigation, page 30, which states "one contractor received certification on the day after an administrator was appointed," and I ask:

- (a) which contractor was this; and
- (b) why was the contractor awarded the contract when it was clearly not a financially stable company?

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**Questions Asked Today**

*Notice Given*                      *Thursday, 8 August 2013*

**228. Hon Kate Doust to the Leader of the House representing the Minister for Finance:**

I refer the Minister to the Small Business Commissioner's report into the Construction Subcontractor Investigation, page 32, and I ask:

- (a) do Business Risk Assessment Teams for Building Management and Works take into account how many contracts a building company currently has when making their assessments;
- (b) if no to (a), why not; and
- (c) will the Minister ensure that changes are made so Business Risk Assessment Teams in Building Management and Works no longer take at "face value" the workload information given to them by a head contractor to calculate their capacity?

**229. Hon Kate Doust to the Leader of the House representing the Minister for Finance:**

I refer the Minister to the Small Business Commissioner's report into the Construction Subcontractor Investigation, page 32 and I ask what processes were followed that allowed Building Management and Works project managers to issue government tenders to companies who, according to Building Management and Works Risk Assessment documents, had been awarded more projects than they can handle?

**230. Hon Kate Doust to the Leader of the House representing the Minister for Finance:**

I refer the Minister to the Small Business Commissioner's report into the Construction Subcontractor Investigation, page 33 which states "without expert opinion the investigation is unable to assess the reasonableness or otherwise of the pre-tender estimates," and I ask:

- (a) will there be an investigation to determine if pre-tender estimates were purposefully low; and
- (b) if no to (a), why not?

**231. Hon Kate Doust to the Leader of the House representing the Minister for Finance:**

I refer the Minister to the Small Business Commissioner's report into the Construction Subcontractor Investigation, page 36 to 37, and I ask:

- (a) why did Building Management and Works issue the contract of capital works to be done at Aveley Primary School to Oostveen whose tender bid was significantly lower than the Building Management and Works estimate for the project, at 26.2 per cent below; and
- (b) why did Building Management and Works issue the contract of capital works to be done at Aveley Primary School to Oostveen when it was clear that the company was not able to meet the minimum financial criteria or have the adequate financial capacity to undertake the project?

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**Questions Asked Today**

*Notice Given*                      *Thursday, 8 August 2013*

**232. Hon Kate Doust to the Leader of the House representing the Minister for Finance:**

I refer the Minister to the Small Business Commissioner's report into the Construction Subcontractor Investigation, page 36 to 37, which outlines Building Management and Works's dealings with Oostveen during late December 2010 and early January 2011, and I ask:

- (a) were minutes taken during any discussions between Building Management and Works and Oostveen detailing Oostveen's financial statements;
- (b) if no to (a), why not;
- (c) if yes to (a), will the Minister table these minutes;
- (d) is it a policy in Building Management and Works to keep minutes of all meetings with private companies; and
- (e) if no to (d), why not?

**MALCOLM PEACOCK**

Clerk of the Legislative Council