

40TH PARLIAMENT



Public Accounts Committee

Report 14

BUILDING SLOWLY

Department of Mines, Industry Regulation and Safety's regulation of builders and building surveyors

(Follow-up of agency response to Auditor General's Report No. 12 of 2016)

Presented by
Dr A.D. Buti, MLA

June 2020

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Published by the Parliament of Western Australia, Perth.
June 2020
ISBN: 978-1-925724-57-8

(Series: Western Australia. Parliament. Legislative Assembly. Committees.
Public Accounts Committee. Report 14)

328.365

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(Follow-up of agency response to Auditor General's Report No. 12 of 2016)

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Presented by

Dr A.D. Buti, MLA

Laid on the Table of the Legislative Assembly on 18 June 2020

Chair's Foreword

This report summarises our Committee's follow-up of the responses of the Department of Mines, Industry Regulation and Safety (DMIRS) to the recommendations in the Office of the Auditor General's Report No. 12 of 2016, *Regulation of Builders and Building Surveyors*.

As the PAC, we have the power to examine the financial affairs and accounts of government agencies, statutory bodies and government trading enterprises. We also have the power to inquire into and report to the Legislative Assembly on any matter which: (a) we deem necessary to investigate; (b) is referred to us by a Minister; or (c) is referred to us by the Auditor General. This work is assisted by our good working relationship with the Auditor General and her office, and our shared commitment towards improving the quality of public administration in Western Australia.

Considering the Auditor General's finding of limited progress in implementing a regulatory reform program first developed in 2011, we believed it was prudent and necessary to follow up how DMIRS (the responsible agency since 2017) had progressed the 2016 Auditor General's recommendations. It should be noted that at the time of the 2011 reform initiative and the 2016 audit, the responsible agency was the Building Commission within the Department of Commerce.

We are dealing with an important area of regulatory policy, that is the regulations of 15,000 builders and building surveyors, and the monitoring and enforcing of compliance with building regulation and codes.

In our follow-up with DMIRS, we found some of the Auditor General's recommendations had been progressed satisfactorily, such as requiring National Police Clearance checks from Western Australian builders and building surveyors as part of licence applications and renewals. There was also satisfactory progress in the area of auditing. The Department has increased the number of proactive auditors beyond the original targets and now ensures that audit findings are resolved adequately, and that local governments are appropriately informed. This is pleasing to see.

However, a number of recommendations remain unfulfilled. For example, while there has been satisfactory progress in seeking appropriate background checks for all Western Australian applications from builders and building surveyors, there are concerning gaps in relation to interstate applicants. And two of the most important Auditor General's recommendations still have not been implemented.

First, an online licensing system that Commerce agreed would be finalised by December 2017 remains outstanding. We acknowledge that DMIRS recently sought industry and public feedback on its licensing system, but it still relies on manual form-based systems.

Second, a broader reform program first identified in 2011 remains to be satisfactorily progressed. We acknowledge that in part this is the consequence of changing priorities, and the need to deal with the particular risks of potentially life-threatening building materials, as

evidenced by the disastrous Grenfell Tower fire in London. Also, the machinery of government changes in 2017 has to some degree impacted the reform progress. DMIRS has, with good reason, focused on streamlining its entire industry regulation process. However, important parts of the 2011 reform program need to be progressed.

Finally, I comment on the issue of reallocating and reprioritising resources. This is not uncommon and often is welcomed. But it should occur only with the appropriate approval by the relevant minister. We have some concerns with this particular issue which we articulate in Finding 9. We have recommended that '[t]he Minister should determine what funds allocated for the 2011 reform project have been applied to other activities, and what implication this has on DMIRS' ability to finalise the outstanding reforms' (Recommendation 5). And it is somewhat obvious to say, as we have in Recommendation 6: 'DMIRS should ensure it has clear processes established for seeking ministerial or Cabinet approval for the reallocation of specified funds.'

We hope DMIRS finds our report useful and a timely reminder of the need to progress all the recommendations of the Auditor General's Report no.12 of 2016, *Regulation of Builders and Building Surveyors*.



DR A.D. BUTI, MLA
CHAIR

Contents

Chair's Foreword	iii
Executive Summary	vii
Ministerial Response	ix
Findings and Recommendations	xi
1 Audit reports slow progress in reforming builder and building surveyor regulation	1
<hr/>	
Auditor General reports mixed findings and slow progress	2
Auditor General recommends finalising reforms and improved analysis of information	3
2 Committee follow-up of agency response	5
<hr/>	
While DMIRS has made progress in some areas, it has not actioned the most important recommendations	5
The Department has improved character checks of applicants, but limitations remain	6
DMIRS's improved proactive audit program meets the Auditor General's recommendation	7
DMIRS has improved how it resolves audit findings with local governments	8
DMIRS has made no material progress since 2016 in implementing an online licensing system	8
The processing of licence applications takes longer than it did when the Auditor General reported	9
Much of the 2011 review program remains to be completed	10
DMIRS has used funds specifically designated to complete the reform program for other activities without clear ministerial approval	12
Appendices	15
<hr/>	
1 Committee's functions and powers	15
2 Public Accounts Committee's role in following up reports from the Auditor General	17
3 Correspondence received from DMIRS 5 July 2018	19
4 Correspondence received from DMIRS 8 October 2018	25
5 Correspondence received from DMIRS 7 January 2019	33
6 Correspondence received from DMIRS 9 April 2019	35
7 Correspondence received from DMIRS 19 May 2020	39

Executive Summary

This report concludes the Public Accounts Committee's follow-up of the Auditor General's Report No. 12 of 2016, *Regulation of Builders and Building Surveyors*. The Auditor General found that there had been limited progress in implementing a regulatory reform program first developed in 2011. He therefore made some key recommendations, agreed to in full by the Department of Commerce (Commerce) which was then the responsible agency.

Our follow-up with the Department of Mines, Industry Regulation and Safety (DMIRS) has found that while some areas have progressed satisfactorily, a number of the most important recommendations remain unfulfilled. There has been progress in seeking appropriate background checks for all Western Australian applicants, for example, even though there are still concerning gaps where interstate applicants are concerned. The approach to auditing builders and surveyors has improved to meet the Auditor General's expectations, which gives the committee increased comfort.

However, what the Auditor General identified as the two most important recommendations remain to be implemented. The Auditor General recommended that an online licensing system, which had been planned for several years, should be finalised by December 2017, which Commerce agreed to. As we write this report in June 2020, there has been little material progress in bringing licensing online. DMIRS has recently sought industry and public feedback on its licensing system, but still relies on manual form-based systems. It is not surprising in this situation that the time to process applications has increased since the Auditor General tabled his report in 2016.

There was a broader reform program first identified in 2011, which has also stalled. In part this is in response to changing priorities and the need to deal with the particular risks of potentially life-threatening building materials, as evidenced by the disastrous Grenfell Tower fire in London. There has also been a major shift in responsibility for regulating domestic and other builders and building surveyors. This responsibility moved from the Building Commission, at the time of the audit within Commerce, to the Building and Energy Division of DMIRS. DMIRS informed us that it is focusing on streamlining its entire industry regulation process, which is understandable. But the fact remains that many important parts of the 2011 reform program remain incomplete.

Our last major issue concerns the lack of transparency in how the reprioritisation of policies has impacted previously allocated funding. In 2015 Commerce secured what in 2016 was estimated to amount to \$14 million in funding specifically to complete the 2011 reform program, although DMIRS now contests the figure and how formally it was tied to completing the reforms. During the original phase of this follow-up process it became apparent that portions of that funding had been reallocated without appropriate approval by the relevant minister or even their clear knowledge. The decision to reallocate and reprioritise is one for government to make, but Parliament and the public must be assured that funds allocated by Parliament for one purpose can only be reassigned with appropriate approvals.

Ministerial Response

In accordance with Standing Order 277(1) of the Standing Orders of the Legislative Assembly, the Public Accounts Committee directs that the Minister for Commerce report to the Assembly as to the action, if any, proposed to be taken by the Government with respect to the recommendations of the Committee.

Findings and Recommendations

Finding 1**Page 6**

DMIRS now requires National Police Clearance checks from Western Australian builders and building surveyors as part of its initial and renewal application process.

Finding 2**Page 7**

DMIRS is limited by national mutual recognition legislation in its ability to require National Police Clearance checks from interstate applicants who are already licenced in their home jurisdictions. This means that it continues to rely heavily on interstate applicants' self-notification of adverse or problematic findings about their character.

Recommendation 1**Page 7**

DMIRS should explore all options to require interstate applicants to provide evidence of National Police Clearance checks.

Finding 3**Page 8**

DMIRS has increased the number of proactive auditors beyond its original targets, thus fulfilling the recommendation made by the Auditor General.

Finding 4**Page 8**

DMIRS now ensures that audit findings are resolved adequately, and that local governments are appropriately informed.

Finding 5**Page 9**

DMIRS has made no material progress in implementing an online licensing system, nearly three years beyond the date it agreed to have this completed. Although it has established a Digital Strategy, it provided no evidence as to any expected timing or costings for completing this process.

Recommendation 2**Page 9**

DMIRS should by December 2020 publicly establish firm timelines and expectations for completing online licensing systems.

Finding 6**Page 10**

The processing time for license applications has increased since the Auditor General's report of 2016. Fewer licenses are processed within the target of 10 days, and more take longer than the expected maximum of 42 days.

Finding 7**Page 11**

Beyond the online licensing system, DMIRS has failed to finalise six projects from the Building Commission's 2011 reform program. Most importantly, the establishment of a

central database for all building permits approved by local governments was not expected to be finalised until at least the end of 2019.

Recommendation 3

Page 12

DMIRS should establish a clear and reportable program for finalising the reform program established in 2011.

Finding 8

Page 12

In the absence of completing the reform program, the legislative review expected to occur in 2017 could not take place. Currently DMIRS is planning a 'targeted' review of building registration requirements, which it expected to be completed in mid-2020, but due to the impact of COVID-19 this has been put on hold before public consultation started.

Recommendation 4

Page 12

DMIRS should establish clear timelines for a full legislative review.

Finding 9

Page 14

A significant portion of \$14 million expected to finalise the 2011 reform program has been reallocated to emerging high priority activities with no clear approval from the Minister. The committee does not question the prioritising of emerging issues (including inspections and surveys to identify potentially dangerous cladding in response to the London Grenfell Tower fire). However, we are concerned that DMIRS had not followed the appropriate process for reallocating specified funds and had apparently neither sought nor obtained Cabinet or Ministerial approval to do so.

Recommendation 5

Page 14

The Minister should determine what funds allocated for the 2011 reform project have been applied to other activities, and what implication this has on DMIRS' ability to finalise the outstanding reforms.

Recommendation 6

Page 14

DMIRS should ensure it has clear processes established for seeking ministerial or Cabinet approval for the reallocation of specified funds.

Chapter 1

Audit report finds slow progress in reforming builder and building surveyor regulation

Audit report scope: licensing builders and building surveyors

- 1.1 In June 2016 the Auditor General tabled a report on his performance audit of the regulation of the residential building industry in Western Australia (WA). It focused on the activity of the Building Commission in regulating 15,000 builders and building surveyors, and how it was carrying out its role in monitoring and enforcing compliance with building regulation and codes.
- 1.2 Residential building work was valued at \$8.3 billion in 2014-15, making up more than half of all building expenditure across the state. All builders and surveyors involved with home building projects valued at \$20,000 or more must be licensed under the legislation listed below, either as a contractor or a practitioner, or as both. The difference between the two is that while a contractor can contract the construction of homes, only a practitioner can build them. Licences must be renewed every three years.¹
- 1.3 The Building Commission (the Commission) was created as division of the Department of Commerce (Commerce) in 2009. It replaced several separate and independent Boards. Changes to legislation in 2011 made the Commission the principal regulator of builders and surveyors throughout WA, and made it responsible for implementing a set of significant reforms,² which we refer to throughout this report as the 2011 reform program.
- 1.4 The key acts were the *Building Services (Registration) Act 2011*, *Building Services (Complaints Resolution and Administration) Act 2011*, *Building Services Levy Act 2011*, and the *Building Act 2011*.³ The Commonwealth *Mutual Recognition Act 1992* made it possible for any holder of an equivalent licence from another state or territory to be entitled to receive a WA licence.⁴
- 1.5 As part of its role, the Commission was empowered to carry out various compliance functions to help ensure that builders comply with the applicable standards, including the Building Code of Australia. These compliance functions included conducting audits of individual builders and surveyors, and general audits of a broad selection of builders and surveyors. Where faulty work was found, the Commission could issue warnings, penalties or suspensions. It could also refer matters to the relevant local government that had issued the

1 Office of the Auditor General, *Regulation of Builders and Building Surveyors*, Report 12, June 2016, p. 5.

2 *ibid.*

3 *ibid.*, p. 23.

4 *ibid.*, p. 5.

building permit. Local governments could also inspect buildings, monitor complaints, and issue orders, although the Auditor General did not look at this activity.⁵

- 1.6 While at the time of the Auditor General's report the Commission was a division of Commerce, the Machinery of Government changes in 2017 saw Commerce merge with the Department of Mines and Petroleum to form the Department of Mines, Industry Regulation and Safety (DMIRS). The Commission is now part of the Building and Energy Division of DMIRS.

Auditor General reports mixed findings and slow progress

- 1.7 The Auditor General concluded in his report to Parliament that while licensing and complaints processes were reasonable, they took too long to complete. Further, the Commission had been slow to use powers granted in 2011 to proactively review builders and building surveyors. Finally, he concluded that only four of the 11 reform program steps had been completed.⁶
- 1.8 Of the 11 reform steps, five were in progress, and two had yet to begin. The steps which the Auditor General thought the most important but which had not been completed were:
- A database of building permits granted by local governments. This would ensure that the Commission had sound evidence to base its compliance and monitoring program on; and
 - An online licensing system for builders and surveyors. As a result, the Commission was still 'reliant on inefficient paper-based systems'.⁷
- 1.9 The audit found that the Commission checked qualifications, experience and financial status of applicants for new or renewed licences satisfactorily. It also assessed the character of new applicants through a National Police Clearance check. However, applicants seeking license renewal and applicants from interstate who already held a comparable licence, were not required to provide a National Police Clearance. Renewing applicants would require the National Police Clearance once the online system was in place, which was expected at the time to be finalised by 2018.⁸
- 1.10 Timeliness of application processing had improved but was still longer than departmental targets. Sixty-three percent of applications took more than 10 days, against a target of 80 percent within 10 days. Forty-five percent of all cases took more than 42 days (with the longest case tested by audit taking 148 days), against a target for all cases to be processed within 42 days.⁹

5 Office of the Auditor General, *Regulation of Builders and Building Surveyors*, Report 12, June 2016, pp. 5-6.

6 *ibid.*, p. 6.

7 *ibid.*, pp. 6-7.

8 *ibid.*, p. 7.

9 *ibid.*

- 1.11 The Commission generally took satisfactory action to assess the merit of complaints, and to investigate those that merited such action. It received 927 complaints against builders (and none against building surveyors) in 2014-15, an increase of 58 percent since 2012-13.¹⁰
- 1.12 However, the Commission did not ensure that builders had complied with remedial orders. Nor did it collect payment for fines arising from complaints until the Auditor General raised the matter during the audit. In December 2015, the total value of unrecovered fines was \$377, 121.¹¹
- 1.13 The Auditor General found that the Commission had not acted on powers provided in 2011 to undertake proactive compliance inspections until 2014. Since then it had undertaken two general audits and 54 'occupation-based' reviews. While the audit report found that the Commission was committed to this proactive regime, it was not following up matters with local governments, so it could not be assured that faulty work was being rectified.¹²

Auditor General recommends finalising reforms and improved analysis of information

- 1.14 As part of his report, the Auditor General made three major recommendations to the Building Commission. The Commission should:

1. By December 2016:
 - a. Improve character checks of applicants. This may include doing National Police Clearance checks on all applicants and confirming misconduct history of interstate applicants with other building regulators.
 - b. Develop a sound risk-based proactive audit program to improve its knowledge of builders and building surveyors' compliance with the applicable standards and overall quality of new WA homes.
 - c. Ensure it adequately resolves findings from proactive audits in a timely manner, in particular, establish processes for referring and resolving findings with local governments.
2. By June 2017, implement an online system to improve processing time for licences.
3. Fast-track implementation of the remaining reforms to ensure the 2017 legislative review can be meaningfully completed.¹³

- 1.15 In its response, which as per usual was included in the report, Commerce accepted 'each of the Auditor General's recommendations.'¹⁴

10 Office of the Auditor General, *Regulation of Builders and Building Surveyors*, Report 12, June 2016, p. 7.

11 *ibid.*, p. 8.

12 *ibid.*, pp. 8-9.

13 *ibid.*, p. 9.

14 *ibid.*, p. 10.

Chapter 2

Committee follow-up of agency response

- 2.1 Given the importance of domestic building both in economic and in personal terms to the people of WA, we determined to examine the Department's response to the 2016 performance audit report. The Public Accounts Committee's role in following up performance audit reports is outlined in Appendix Two.
- 2.2 After deciding that this report warranted further attention, the committee wrote to DMIRS in April 2018, asking for its response to the Auditor General's recommendations. The Department's response to that letter is included in Appendix 3. The committee's consideration of the information provided led to a series of further requests and responses, with the last reply from DMIRS coming in April 2019. These responses are included in Appendixes 4, 5 and 6. Following further consideration, the committee resolved to report on the actions taken by DMIRS. A final request for clarification led to a final letter from DMIRS in April 2020, included at Appendix 7.

While DMIRS has made progress in some areas, it has not actioned the most important recommendations

- 2.3 There has been considerable change in the administrative situation surrounding builders and building surveyors since the Auditor General reported in 2016. In part, DMIRS couched its responses in terms of dealing with the increased regulatory load it has borne under the 2017 Machinery of Government changes. The committee recognises that DMIRS has endeavoured to effectively manage what it described as 'a broader range of occupational licences such as: real estate agents; land valuers; motor vehicle repairers; to name a few'.¹⁵ We note, however, that most, if not all, of these occupations were previously regulated by Commerce.
- 2.4 Notwithstanding the challenges of seeking to simplify and improve its processes, we found that DMIRS had completed actions to resolve two sub-recommendations made in the Auditor General's report, namely, dealing with improving its proactive audit program, and resolving findings from that program. It had also improved the collection of national Police Clearances from Western Australian applicants, although it still relied on self-reporting of issues by interstate applicants.
- 2.5 However, it had made no material progress towards what the Auditor General identified as the two most important recommendations: to implement an online system to improve processing of applications, and to complete the rest of the reform program first defined in 2011.

¹⁵ Mr David Smith, Director General, Department of Mines, Industry Regulation and Safety, Letter, 5 July, 2018, Attachment A, p. 1.

The Department has improved character checks of applicants, but limitations remain

- 2.6 The first recommendation made by the Auditor General was that DMIRS (then the Building Commission) should ‘improve character checks of applicants. This may include doing National Police Clearance checks on all applicants and confirming misconduct history of interstate applicants with other building regulators.’¹⁶ This followed from a finding that character checks had been weak. Although there were reasonable application processes in the main, the area of character checks lagged. Indeed, they were not required before reforms initiated in 2011. The report noted that the Commission believed that an online processing system would integrate National Police Clearance checks as a mandatory step.¹⁷
- 2.7 In its responses to our request for information from July 2018, DMIRS told us that it supported this recommendation, and was in the process of making ‘fit and proper’ assessment policy standardised across all occupational licenses it administered.¹⁸ In October it confirmed that this was compulsory for all Western Australian applicants for either a new or renewed licence for builders or building surveying.¹⁹
- 2.8 However, the situation was not so robust for interstate applicants. The report noted that it stopped requiring National Police Clearance checks from interstate applicants in 2014, following what it described as internal legal advice.²⁰ In response to our questions, DMIRS made the case that the *Mutual Recognition (Western Australia) Act 2010* made it impossible for it to require interstate applicants who were already registered in another jurisdiction to provide a National Police Clearance document. It believed, as it noted in its original response to the audit report, that it could and would follow up instances when it became aware of issues with the character of particular applicants.²¹
- 2.9 The committee makes no finding about the effects of the Commonwealth legislation, and does not want to overplay how often serious problems with interstate applicants might arise. However, we remain uneasy that the system relies so heavily on self-notification or ad hoc notification by others about adverse findings.

Finding 1

DMIRS now requires National Police Clearance checks from Western Australian builders and building surveyors as part of its initial and renewal application process.

16 Mr David Smith, Director General, Department of Mines, Industry Regulation and Safety, Letter, 5 July, 2018, Attachment A, p. 9.

17 *ibid.* pp. 12-13.

18 *ibid.* p. 1.

19 Mr David Smith, Director General, Department of Mines, Industry Regulation and Safety, Letter, 8 October, 2018, Attachment A, p. 1.

20 Office of the Auditor General, *Regulation of Builders and Building Surveyors*, Report 12, June 2016, p. 13.

21 Mr David Smith, Director General, Department of Mines, Industry Regulation and Safety, Letter, 5 July, 2018, Attachment A, p. 1.

Finding 2

DMIRS is limited by national mutual recognition legislation in its ability to require National Police Clearance checks from interstate applicants who are already licenced in their home jurisdictions. This means that it continues to rely heavily on interstate applicants' self-notification of adverse or problematic findings about their character.

Recommendation 1

DMIRS should explore all options to require interstate applicants to provide evidence of National Police Clearance checks.

DMIRS's improved proactive audit program meets the Auditor General's recommendation

- 2.10 Recommendation 1(a) of the original audit report called on DMIRS to 'Develop a sound risk-based proactive audit program to improve its knowledge of builders and building surveyors' compliance with the applicable standards and overall quality of new WA homes'.²² DMIRS informed us that it had fully implemented this recommendation, and the information it provided showed that it had exceeded its own targets.
- 2.11 The audit report found that the then Building Commission underused its audit powers. Having been empowered to conduct proactive audits under the *Building Services (Complaint resolution and Administration) Act 2011*, it did not exercise that power until 2014 for builders and 2015 for surveyors. By December 2015 it had carried out 56 such audits.²³
- 2.12 In the Auditor General's report, Commerce committed to conducting 100 builder and 25 surveyor audits annually.²⁴ In response to the committee's questions, DMIRS provided figures showing that its efforts had exceeded those targets in 2016 and 2017, and was well on track to exceed them in 2018, shown in Table 1.²⁵

Table 2.1: Proactive building audits 2016-2018

Audit type	2016	2017	2018 (until 30 June)
Builder audits	325	180	81
Building surveyors	55	33	72

- 2.13 In addition to the increased number of audit, DMIRS had improved its selection process. This included a mix of random and targeted selections, including vulnerable and high risk providers.

22 Office of the Auditor General, *Regulation of Builders and Building Surveyors*, Report 12, June 2016, p. 9.

23 *ibid.*, pp. 16-17.

24 *ibid.*, p. 19.

25 Mr David Smith, Director General, Department of Mines, Industry Regulation and Safety, Letter, 8 October, 2018, Attachment A, p. 2.

Finding 3

DMIRS has increased the number of proactive auditors beyond its original targets, thus fulfilling the recommendation made by the Auditor General.

DMIRS has improved how it resolves audit findings with local governments

- 2.14 The Auditor General found that the Building Commission did not ensure that builders and surveyors complied with remedial orders. The report therefore recommended that the Department 'ensure it adequately resolves findings from proactive audits in a timely manner. In particular, establish processes for referring and resolving audit findings with local governments.'²⁶
- 2.15 In its response of 5 July 2018, DMIRS told us that its processes now met the recommendation. Based on a 'risk-based philosophy', it would require proof of rectification of issues identified in an audit. Where no proof was provided, it would refer the matter to the relevant 'permit authority' (predominantly the relevant local government). DMIRS would also consider whether to impose disciplinary action.

Finding 4

DMIRS now ensures that audit findings are resolved adequately, and that local governments are appropriately informed.

DMIRS has made no material progress since 2016 in implementing an online licensing system

- 2.16 In his report to Parliament, the Auditor General found that the Commission had not yet implemented an online licensing system, which was one of the key reforms outlined in the 2011 program. The report recommended that an online system be implemented by June 2017. The Department of Commerce responded in the report that such a system was 'currently under development' and that it expected registration to be brought online by June 2017.²⁷
- 2.17 The report noted that the absence of an online system meant that Commerce was 'still reliant on inefficient paper-based systems'.²⁸ The report also noted that \$14 million had been secured to implement the remaining reform steps, including the online licensing system, and that Commerce had originally expected the licensing function to be completed by 2014.²⁹
- 2.18 When responding in July 2018 to the committee's request for an update, DMIRS reaffirmed its support for this recommendation 'in full'. Although it had not yet implemented the

26 Office of the Auditor General, *Regulation of Builders and Building Surveyors*, Report 12, June 2016, p. 9.

27 *ibid.*, p. 10.

28 *ibid.*, p. 7.

29 *ibid.*, pp. 21-22.

system, it told us it had finalised and released a ‘Digital Strategy 2018-22’. This set out ‘new processes for planning and implementing technology projects, including online licensing.’ It also stated that it was considering appropriate technology to ‘meet the merged Department’s new needs’.³⁰

2.19 However, in response to our further questions on the new system, DMIRS informed us in October 2018 that it had ‘suspended implementation [of] an integrated online licensing system’.³¹ It gave no particular explanation for the change.

2.20 We recognise that DMIRS has a wide-ranging regulatory function, and that improving online services has a fraught history. We also note the national review of (mainly) commercial regulation that was carried out in response to the Grenfell disaster, and that this has undoubtedly impacted how agencies must respond. Nonetheless, it is disappointing that nearly nine years after it was first mooted, and nearly four years after agreeing to implement the change, there is no online licensing system in place.

Finding 5

DMIRS has made no material progress in implementing an online licensing system, nearly three years beyond the date it agreed to have this completed. Although it has established a Digital Strategy, it provided no evidence as to any expected timing or costings for completing this process.

Recommendation 2

DMIRS should by December 2020 publicly establish firm timelines and expectations for completing online licensing systems.

The processing of licence applications takes longer than it did when the Auditor General reported

2.21 In supporting his recommendation that the Department implement an online system, the Auditor General found that processing of licence applications failed to meet timeliness targets. Commerce aimed to process 80 percent of applications within 10 days, with none taking longer than 42 days. Audit testing found that 63 percent took longer than the target of 10 days, and 45 percent took more than 42 days, with the longest taking 148 days.

2.22 In its response to our questions, DMIRS provided figures that showed times had got significantly longer, and further from its own targets, since the audit. It believed that this was due to two main causes: incomplete applications being submitted; and increased rigour within assessments. Table 2.2 shows the figures for 2016-17 and 2017-18.

30 Mr David Smith, Director General, Department of Mines, Industry Regulation and Safety, Letter, 5 July, 2018, Attachment A, p. 4.

31 Mr David Smith, Director General, Department of Mines, Industry Regulation and Safety, Letter, 8 October, 2018, Attachment A, p. 2.

Table 2.2: Application processing time 2016-17 and 2017-18

Reporting period	Builder (practitioner and contractor) applications		Building surveyor (contractor and practitioner) applications	
	Processed within 10 days	Processed outside 42 days	Processed within 10 days	Processed outside 42 days
2016-17	1,238 (39%)	454 (14%)	53 (27%)	20 (10%)
2017-18	292 (7%)	3,194 (73%)	44 (17%)	144 (55%)

Finding 6

The processing time for license applications has increased since the Auditor General's report of 2016. Fewer licenses are processed within the target of 10 days, and more take longer than the expected maximum of 42 days.

Much of the 2011 review program remains to be completed

2.23 In addition to the online system, another six reforms arising out of the 2011 reform program were still to be completed when the Auditor General reported. Four reforms had begun but not been completed, and two reforms were yet to begin. The six incomplete reform steps were:

Underway but not completed:

- Registration of technical specialists
- Permit authority reporting
- Risk-based regulation program
- Electronic lodgement and assessment of building approvals

2.24 The two yet to begin were:

- Tiered registration of builders
- Uniform coverage of the State.³²

2.25 In updating the committee, DMIRS informed us that registration of technical specialists, tiered registration of builders, and uniform coverage of the state would now be undertaken as part of a 'targeted review of Building Services Acts'. This review was expected to be completed in two phases. The first, planned for completion by mid-2020, would focus on key registration requirements for building contractors and practitioners, including considering the need for tiered registration and whole-of-state coverage. Following the first review

32 Office of the Auditor General, *Regulation of Builders and Building Surveyors*, Report 12, June 2016, p. 21.

phase, a second phase would look at requirements for surveyors and extend to architects and building designers.³³

- 2.26 Recent correspondence from DMIRS stated that it had prepared two ‘Consultation Regulatory Impact Statements’ (CRIS) for public consultation, but it had deferred the release for comment because of the effects of the COVID-19 crisis. One CRIS deals with the registration scheme for builder practitioners and contractors; the other covers building surveyors.³⁴
- 2.27 With regard to risk-based regulation, DMIRS told us that while ‘work on implementing a comprehensive risk based framework for building regulation has not been finalised, general risk based principles are applied across the broad range of Building and Energy activities and operations.’ Further, it told us that its current reforms would ‘consider the Auditor General’s recommendation’.³⁵
- 2.28 The last matter concerns permit authority reporting. This was one of the key parts of the reform process. DMIRS told us in 2018 that it had succeeded in large part in bringing the relevant information together for this reform. However, by May 2020, its opinion had changed, and it had ‘ceased further work on the Building Database (BPD) project’. Rather, it was looking towards broader regulatory change to amend the ‘role of local government, including the data collection through the BPD.’³⁶
- 2.29 In October 2018, 91 out of 139 local government permit authorities were providing information to the Building Permit Database project. DMIRS informed us that it could not mandate authorities to provide information without amendment to Building Regulations. However, most of the 48 non-participating authorities were ‘the larger metropolitan permit authorities which hold the greatest amount and most useful building data.’³⁷ Ensuring the participation of the largest data sources would improve the value of the database project.

Finding 7

Beyond the online licensing system, DMIRS has failed to finalise six projects from the Building Commission’s 2011 reform program. Most importantly, the establishment of a central database for all building permits approved by local governments was not expected to be finalised until at least the end of 2019.

33 Mr David Smith, Director General, Department of Mines, Industry Regulation and Safety, Letter, 5 July, 2018, Attachment A, pp. 4-6; Letter, 8 October, 2018, Attachment A, pp. 2-3.

34 Ms Kristin Berger, Deputy Director General, Department of Mines, Industry Regulation and Safety, Letter 19 May 2020, Attachment A.

35 Mr David Smith, Director General, Department of Mines, Industry Regulation and Safety, Letter, 5 July, 2018, Attachment A, p. 5.

36 Ms Kristin Berger, Deputy Director General, Department of Mines, Industry Regulation and Safety, Letter 19 May 2020, Attachment A.

37 Mr David Smith, Director General, Department of Mines, Industry Regulation and Safety, Letter, 8 October, 2018, Attachment A, p. 4.

Recommendation 3

DMIRS should establish a clear and reportable program for finalising the reform program established in 2011.

Finding 8

In the absence of completing the reform program, the legislative review expected to occur in 2017 could not take place. Currently DMIRS is planning a ‘targeted’ review of building registration requirements, which it expected to be completed in mid-2020, but due to the impact of COVID-19 this has been put on hold before public consultation started.

Recommendation 4

DMIRS should establish clear timelines for a full legislative review.

DMIRS has used funds specifically designated to complete the reform program for other activities without clear ministerial approval

- 2.30 As we noted above, the audit found that government had provided \$14 million to fund the completion of the 2011 reform program.³⁸ As we have also noted, DMIRS has had to deal with a changing set of priorities since it became responsible for this area of regulation. In its letter of 5 July 2018, DMIRS told us that it and its predecessor agency had ‘re-prioritised the use of its resources to respond to emerging issues and policy priorities relating to the regulation of the building industry in Western Australia.’³⁹
- 2.31 The most obvious emerging issue it had to deal with concerned the risk that Western Australian public buildings might be fitted with similar inflammable cladding to that identified with the Grenfell Tower disaster in London and the Lacrosse Apartment fire in Melbourne.⁴⁰
- 2.32 After those events, a Commonwealth-appointed review led to the release of the report *Building Confidence: Improving the effectiveness of compliance and enforcement systems for the building and construction industry across Australia*.⁴¹ As a result of this review, there has been an increased focus on improving the regulation of the building industry. This report and the ensuing activity has focused heavily on the commercial rather than home building industry.
- 2.33 We note that the 2018-19 *Annual Report of State Finances* referred directly to the work the Department had done in this area. It reported that the then latest ‘published results are that of the buildings within scope that were reviewed, 50 buildings have been cleared after

38 Office of the Auditor General, *Regulation of Builders and Building Surveyors*, Report 12, June 2016, p. 20.

39 Mr David Smith, Director General, Department of Mines, Industry Regulation and Safety, Letter, 5 July, 2018, Attachment A, p. 4.

40 *Ibid.*, p. 2; and Letter, 8 October, 2018, Attachment A, p. 7.

41 Peter Shergold and Bronwyn Weir, *Building Confidence: Improving the effectiveness of compliance and enforcement systems for the building and construction industry across Australia*, 2018.

detailed risk assessment, 14 buildings require remedial action and remedial action has been completed for 2 buildings.’ It defined this ensuing risk to the State as an unquantifiable contingent liability.⁴²

- 2.34 The committee has no issue with the former and current departments carrying out such important work. And we also understand that the broader impacts of the Commonwealth report might impact its operations. But we expected that any changes to the use of the \$14 million committed to the 2011 reform program would be transparent and appropriately approved by the relevant minister. Unfortunately, this appears not to have been the case. Importantly, these weaknesses were evidenced by both DMIRS and the Department of Commerce.
- 2.35 When we sought an explanation from DMIRS for the change of fund allocation, it provided advice to the relevant ministers as support to the annual Estimates hearings, in 2016-17 and 2017-18. These briefings supported policy initiatives. The first note related to the decision to increase the Building Services Levy. The notes from 2017-18 related to the building cladding audit and work to increase the security of payment for building sub-contractors. Both outlined the cost of carrying out this new work.⁴³
- 2.36 The notes demonstrate that the relevant ministers were aware of the work being carried out, and indeed that it might have been newly prioritised. But they do not provide any assurance that the funding shift from previously funded activity to new activity was approved by the minister, which we expected to see. They were general briefing notes, rather than Contentious Issue briefings or Specific Issue Briefing Notes. Nor did they require ministerial sign-off.
- 2.37 Another issue concerning this question of funding arose during the process of clarifying details with DMIRS in the preparation of this report. In that correspondence the Department introduced an interpretation of the audit report and the funding of the reform process that had not been raised previously.
- 2.38 In its letter of 19 May 2020 DMIRS informed us that it no longer accepted the notion that government had provided \$14 million to carry out the reform process. Contrary to its stated position in October 2018, it told us that it now believed that no funds had been specifically appropriated for the reform process, and that the Building Services Levy had raised only an extra \$6 million. This was due to falling values of building work since 2014-15, notwithstanding the Building Services Levy rate being raised from 0.09 per cent to 0.137 per cent.⁴⁴ While the Department’s argument seems plausible, its late appearance did not increase our level of comfort with the its handling of this matter.

42 Government of Western Australia, *2018-19 Annual Report on State Finances*, Appendix 1, fn 30 (3), p. 137.

43 Mr David Smith, Director General, Department of Mines, Industry Regulation and Safety, Letter, 9 April 2019, Attachments A, B, C.

44 Ms Kristin Berger, Deputy Director General, Department of Mines, Industry Regulation and Safety, Letter 19 May 2020, Attachment A.

Finding 9

A significant portion of \$14 million expected to finalise the 2011 reform program has been reallocated to emerging high priority activities with no clear approval from the Minister. The committee does not question the prioritising of emerging issues (including inspections and surveys to identify potentially dangerous cladding in response to the London Grenfell Tower fire). However, we are concerned that DMIRS had not followed the appropriate process for reallocating specified funds and had apparently neither sought nor obtained Cabinet or Ministerial approval to do so.

Recommendation 5

The Minister should determine what funds allocated for the 2011 reform project have been applied to other activities, and what implication this has on DMIRS' ability to finalise the outstanding reforms.

Recommendation 6

DMIRS should ensure it has clear processes established for seeking ministerial or Cabinet approval for the reallocation of specified funds.

Appendix One

Committee's functions and powers

2.39 The Public Accounts Committee inquires into and reports to the Legislative Assembly on any proposal, matter or thing it considers necessary, connected with the receipt and expenditure of public moneys, including moneys allocated under the annual Appropriation bills and Loan Fund. Standing Order 286 of the Legislative Assembly states that:

2.40 The Committee may -

- 1 Examine the financial affairs and accounts of government agencies of the State which includes any statutory board, commission, authority, committee, or trust established or appointed pursuant to any rule, regulation, by-law, order, order in Council, proclamation, ministerial direction or any other like means.
- 2 Inquire into and report to the Assembly on any question which -
 - a) it deems necessary to investigate;
 - b) (Deleted V. & P. p. 225, 18 June 2008);
 - c) is referred to it by a Minister; or
 - d) is referred to it by the Auditor General.
- 3 Consider any papers on public expenditure presented to the Assembly and such of the expenditure as it sees fit to examine.
- 4 Consider whether the objectives of public expenditure are being achieved, or may be achieved more economically.
- 5 The Committee will investigate any matter which is referred to it by resolution of the Legislative Assembly.

Appendix Two

Public Accounts Committee's role in following up reports from the Auditor General

- 2.41 The Office of the Auditor General plays a key role in public administration by examining how effectively public sector agencies implement government policies and programs. To do this, the Auditor General routinely conducts performance audits, which can highlight examples of good practice or identify deficiencies in agency operations and procedures.
- 2.42 Performance audit reports generally include recommendations designed to help the audited agency address any identified shortcomings, thereby facilitating a more efficient use of public money. Yet there is no formal requirement for agencies to provide a response to these recommendations and the Auditor General has no authority to demand one.
- 2.43 Consequently, public accounts committees across most Commonwealth jurisdictions provide some form of support to their audit offices to ensure performance audit recommendations receive due consideration. In Western Australia, this committee and its predecessors have followed up agency response to audit reports since 1996, although the approach has changed across the six parliamentary sessions that have ensued.
- 2.44 Our approach is based on a triage methodology that assigns a follow-up rating based on five criteria:
- program or policy cost;
 - public interest;
 - criticality of audit findings;
 - level of urgency; and
 - level of commitment and detail provided by the audited agency in its initial response (which is usually included in the audit report).
- 2.45 In March 2018, following the conclusion of our inquiry into the management and oversight of the Perth Children's Hospital project, we triaged 25 performance audit reports from 2015 and 2016. Of these, nine reports fell within our 'low-priority' triage range. For these nine, we decided to conclude our follow-up while reserving the right to open correspondence with the audited agencies should circumstances warrant interrogation in future. Nine other reports fell within our 'medium-priority' range. With one of these reports, we chose to conclude our follow-up. For the remaining eight, we have sought and received written responses from the audited agencies. These follow-ups remain open while we consider the adequacy of the responses.
- 2.46 Seven reports received a 'high-priority' triage score. For one of these, we decided to write to the audited agencies, as they appeared to have already addressed the most pressing issues identified by the Auditor General. In the other six cases, we thought it appropriate to call the

audited agencies in for a public hearing where we could discuss their response to the audit reports in depth. These hearings were conducted over three sitting weeks in June 2018 and we followed-up each agency with a series of further written questions.

- 2.47 This report concludes finalises the review process for this group of audit reports. It is the fifth stand-alone report arising from the sequence of assessments. It follows Report No. 6, *No (More) Time to Waste*, on agencies' responses to the Auditor General's 2016 report on the Western Australian Waste Strategy; Report No. 7, *Further Along the Path*, on how the relevant agencies responded to the 2015 audit report on efforts to make cycling a safe and viable method of transport in the Perth metropolitan area; Report No. 8, *Setting the stage for improvement*, on the Department of Education's response to the 2015 report on its management of student attendance, and; Report No. 9 *Where to from here?*, on agency responses to the 2016 report on the Ord-East Kimberley Development Plan.
- 2.48 As part of our continuing oversight of audit reports, following the tabling of Report No. 13, *Knowing what good looks like: Challenges in managing major public sector contracts*, the committee has assessed another 10 audit reports. We may decide to table reports on the outcomes of these assessments and ensuing inquiries as the year unfolds.

Appendix Three

Correspondence received from DMIRS 5 July 2018

Aud Gen 60

ATTACHMENT A

Implementation of Auditor General's Recommendations – Report No. 12 of 2016

Response from the Building and Energy Division (formerly Building Commission)

Auditor General recommendations:

The Building Commission should:

1. *by December 2016:*

- a. *improve character checks of applicants. This may include doing National Police Clearance (NPC) checks on all applicants and confirming misconduct history of interstate applicants with other building regulators*

Building and Energy Response:

The Department of Mines, Industry Regulation and Safety (DMIRS) supports this recommendation as it relates to Western Australian based applicants and has been making progress in its implementation.

In June 2017, the Department of Commerce (of which the Building Commission was a part) was amalgamated with the Department of Mines and Petroleum to form DMIRS. The former Building Commission is now part of the DMIRS - Building and Energy Division (Building and Energy). As part of those changes, the registration or licensing of builders and building surveyors is no longer a part of Building and Energy and now sits within the a service delivery group that deals with a broader range of occupational licences such as: real estate agents; land valuers; motor vehicle repairers; to name a few.

DMIRS is in the process of implementing a standardised 'fit and proper' assessment policy across all occupational licences that it administers, either directly or on behalf of statutory boards. That policy includes requirements for national police history checks.

Separate 'fit and proper' person assessments, including the imposition of NPC checks are not undertaken for applicants under the mutual recognition scheme as this would be inconsistent with the State's obligations under that scheme. Under the scheme, the requirements for initial registration in the recipient jurisdiction (Western Australia) cannot be imposed on persons seeking registration under the *Mutual Recognition (Western Australia) Act 2010*.

As such, DMIRS cannot legally implement the recommendation of the Auditor General (AG). To do so will require amendments to mutual recognition legislation which is not within DMIRS's jurisdiction. Where DMIRS identifies concerns with interstate applicants, it will continue to raise these concerns with the applicant's home jurisdiction, as noted in the Auditor General's Report (page 13).

Page 1 of 6

- b. *develop a sound risk-based proactive audit program to improve its knowledge of builders and building surveyors' compliance with the applicable standards and overall quality of new WA homes*

Building and Energy Response:

This recommendation has been fully implemented by Building and Energy.

Building and Energy developed and introduced a risk-based audit program for registered building service providers (e.g. registered builders and registered building surveying contractors) in March 2015.

The objective of the audit program is to gather information about how building standards are being applied and how contractors and practitioners are meeting their obligations under the *Building Act 2011* (Building Act), the *Building Services (Registration) Act 2011* (BSR Act) and the *Building Services (Complaint Resolution and Administration) Act 2011* (BSCRA Act).

This information is then used to further direct and target Building and Energy's audit operations, as well as to relay findings to industry stakeholders. From the audit results, the Building and Energy's Audit Branch organises and runs industry information sessions to inform and educate builders and building surveyors.

Building service providers are chosen to be audited based on risk in accordance with the following categories:

- Random - generated via database or excel randomiser;
- Targeted – referred for audit due to concerns of suspected non-compliance with the legislation;
- Vulnerable – registered as a building service provider within the last three years; or
- High risk – more than \$5 million in home indemnity insurance eligibility.

The choice of building service providers to audit is chosen and ratified by the compliance management team every quarter.

The audit branch also reacts to requests to audit building service providers and/or specific buildings when there is a public interest and/or community safety concerns, such as in relation to Perth Children's Hospital and currently with the cladding audit for public buildings (arising out of the Grenfell disaster in London and the Lacrosse Apartments fires in Melbourne).

- c. *ensure it adequately resolves findings from proactive audits in a timely manner. In particular, establish processes for referring and resolving audit findings with local governments*

Building and Energy Response:

This recommendation has been fully implemented by Building and Energy.

The BSCRA Act defines the functions and responsibilities of the Building Commissioner. Audit branch officers are delegated to carry out these functions, including monitoring and auditing the work and conduct of registered service providers. Permit authorities (predominately local governments but includes some state government departments) are tasked through the Building Act with the enforcement of building standards under the National Construction Code.

Audits carried out under the Building Commissioner's functions include technical inspections relating predominantly to applicable building standards but also concerns relating to the quality of work or 'workmanship'.

On completion of an inspection a report is generated for the registered building service contractor. This report will include areas that were assessed as 'satisfactory' and 'unsatisfactory'. Using a risk-based philosophy, inspectors ask for 'proof of rectification' when an 'unsatisfactory' element is deemed 'high risk'. In the majority of cases, and especially more recently, the registered contractor rectifies the building element and provides proof.

If building service providers do not provide 'proof of rectification' the matter is referred to the relevant permit authority, which may issue a building remedy order under the Building Act. Building and Energy will also consider whether to refer the building service provider to the Enforcement Branch for disciplinary action.

Some initial difficulty was experienced in implementing a process with permit authorities due to concerns about their liability and costs in engaging in such a process. However, in recent months this relationship has significantly improved as Building and Energy carries out the initial work in every instance, including making an attempt to resolve non-compliance issues with building service providers. In most cases, building service providers comply with Building and Energy officer requests, thereby allaying permit authority concerns. There are, however, a small number of permit authorities who continue to voice concerns with this process in relation to liability and costs.

Notwithstanding the development of the data collection from local governments, which remains ongoing, the audit co-ordinator is tasked with gathering approval documents from relevant permit authorities prior to Building and Energy officers carrying out technical inspections. To give some perspective on how many that might be, each scheduled audit includes one administration audit and inspections of between three to nine buildings.

2. *by June 2017, implement an online system to improve processing time for licences.*

Building and Energy Response:

DMIRS supports this recommendation in full.

The creation of DMIRS in June 2017 has brought together a wide range of licensing and related services, creating broader issues than those faced by the former Department of Commerce (of which the Building Commission was a part) in terms of creating consistent, unified digital pathways for clients. While DMIRS has implemented a range of online services for clients, it has not yet implemented an integrated online licensing system.

DMIRS has finalised and released a new Digital Strategy 2018-22, which sets out new processes for planning and implementing technology projects, including online licensing. Appropriate technology for meeting the merged Department's new needs are being considered.

3. *fast track implementation of the remaining reforms to ensure the 2017 legislative review can be meaningfully completed.*

Building and Energy Response:

The remaining reforms referred to in this recommendation are:

- Registration of technical specialists;
- Tiered registration of builders;
- Uniform coverage of the State;
- Risk based regulation program;
- Permit authority reporting; and
- Electronic lodgement and assessment of building approvals.

Since the release of the Auditor General's report in June 2016, the former Building Commission re-prioritised the use of its resources to respond to emerging issues and policy priorities relating to the regulation of the building industry in Western Australia.

In particular, the issue of subcontractor losses due to builder insolvencies became a significant issue of public and government concern in late 2016. Building and Energy has had to pause the tiered registration of builders' project in order to provide resources to respond to security of payments issues for subcontractors. This culminated in the passage through Parliament of legislative amendments to Building and Energy's principal security of payments legislation, the *Construction Contracts Act 2004*. Reforms relating to security of payments are high on the government's agenda and have attracted a higher priority.

In June 2017, the Grenfell Tower tragedy in London has led to the appointment by the Building Ministers' Forum (BMF) of Professor Peter Shergold and Ms Bronwyn Weir to carry out an expert assessment of compliance systems across Australia to ensure such a tragedy does not occur in Australia.

The final report of the Shergold and Weir review was released in April 2018. The report contained 24 recommendations. Building Ministers are due to give further consideration to the findings of the report at the next meeting of the BMF scheduled for August 2018.

In the meantime, Building and Energy has carried out an in depth examination of the recommendations and its current policy priorities. A Western Australia Building Plan 2018-19 (the Building Plan) has been drafted which outlines Building and Energy's policy priorities, as well as details on its response to the Shergold and Weir report in this term of government and beyond. It is expected that the Building Plan will be finalised and released before 30 September 2018.

A key component of the Building Plan aims to meet Building and Energy's requirement to carry out statutory reviews of the BSR Act and the BSCRA Act. Preliminary work and internal consultation on this project commenced in 2018. It is proposed that a discussion paper/Consultation Regulatory Impact Statement be released in the fourth quarter of 2018.

The paper will cover proposed models for the implementation of tiered registration of builders, for public and industry comment. The discussion paper on the statutory reviews will also consider the issue of whether registration requirements should be extended to the whole of the state.

A key focus of the Shergold and Weir recommendations relates to fire safety. The Building Plan proposes that following the completion of the statutory reviews (Phase one), that a second phase of reform will be carried out to consider the recommendations of Shergold and Weir as they relate to the registration of fire safety practitioners. This initiative will effectively incorporate the project referred to in the Auditor General's Report titled 'registration of technical specialists' (primarily fire engineers or fire safety practitioners).

In relation to the 'risk based regulation program' project, work commenced in 2016. While work on implementing a comprehensive risk based framework for building regulation has not been finalised, general risk based principles are applied across the broad range of Building and Energy activities and operations, such as in relation to its audit program, as outlined above. The reforms proposed under the Building Plan will consider the Auditor General's recommendation.

In relation to permit authority reporting, this recommendation has been partially implemented, with 89 of 137 local governments now reporting to Building and Energy. Data transfer system upgrades are due to commence in July 2018, which will introduce a hybrid machine-to-machine and web-based data entry process that will assist more permit authorities to provide data to the Building Commissioner.

In relation to electronic lodgement and assessment of building approvals, the former Building Commission had considered several options. A September 2017 report by the Department of Treasury making it easier to build and renovate a single residential dwelling (Treasury report) have recommended an electronic lodgement system be developed to make the building approvals application process more efficient. The Treasury report recommendations were endorsed by Cabinet in December 2017. The

specific recommendation is to "Report to Government on options for an e-lodgement system for home building approvals processes". This project commenced in March 2018, after the restructure of DMIRS.

Project approvals and reporting required under DMIRS governance frameworks for the project have now been completed. A business analyst was appointed in May 2018 to scope changes to business processes to improve the process for applying for building permits.

Appendix Four

Correspondence received from DMIRS 8 October 2018

Aud Gen Corro 80

ATTACHMENT A

Further information for the Public Accounts Committee on the implementation of Auditor General's Recommendations – Report No. 12 of 2016

Response from the Building and Energy Division - Department of Mines, Industry Regulation and Safety (DMIRS) (formerly the Building Commission Division of the Department of Commerce)

1. *(Regarding Recommendation 1a): In the absence of an online licensing system does DMIRS nonetheless impose NPC checks on WA-based applicants for builders and surveyors licenses?*

DMIRS Response:

Yes, WA-based building and building surveying practitioners are required to provide a current NPC as part of their initial and/ or renewal application for registration.

2. *(Regarding Recommendation 1a and further to page 1 of your response): When does DMIRS expect to implement its standardised assessment policy across all the occupational licenses it administers?*

DMIRS Response:

Fitness and propriety assessments, including NPC checks, have been conducted across most licensing areas of now DMIRS, in various forms for many years. In general, licensing areas are already operating consistent with the 'standardised fit and proper assessment policy'.

Under the Electricity (Licensing) Regulations 1991, the responsibility to ensure an applicant is 'fit and proper' to hold a licence resides with the Electrical Licensing Board (ELB). The ELB has advised DMIRS that it "prefers to rely on its well-established evidentiary process, which focuses on pertinent criteria: namely whether the applicant meets competence and safety standards and the absence of any breaches of relevant regulations".

DMIRS is continuing to engage with the ELB on the issue of "the 'standardised fit and proper assessment policy'".

3. *(Regarding Recommendation 1a and further to page 1 of your response): Notwithstanding the limitations of the mutual recognition legislation referred to in your response, has DMIRS (or the Building Commission previously) received legal advice confirming that it cannot require interstate-based license applicants to provide a National Police Clearance as part of their application?*

DMIRS Response:

Yes, internal legal advice has previously indicated that NPCs cannot be requested as part of the application process under Mutual Recognition.

1

4. (Regarding Recommendation 1b and further to page 19 of the audit report): How many builder and surveyor occupation-based audits has the Building Commission and/ or the Building and Energy Division undertaken in 2016, 2017 and 2018?

DMIRS Response:

Audit Type	2016	2017	2018 (6 months to 30 June)
Number of builder audits	325	180	81
Number of building surveyor audits	55	33	72

5. (Regarding Recommendation 2): Will DMIRS implement an online system in accordance with the Auditor General's recommendation?
 a. If yes, when do you expect this system to be operational?

DMIRS Response:

DMIRS has continued to implement a range of online services for clients. For example, an online system for High Risk Work Licences will be implemented in the first half of 2019 and options for other licence types will be considered after that. However, it has suspended implementation an integrated online licensing system.

As noted in our 5 July advice, the creation of DMIRS has brought together a wide range of licensing and related services creating broader issues than those faced by the former Department of Commerce (of which the Building Commission was part) in terms of creating consistent unified digital pathways for clients. DMIRS has now finalised and released a new Digital Strategy 2018-22 which sets out new processes for planning and implementing technology projects, including online licensing. In addition the restructure of DMIRS, including the amalgamation of the Building Commission with Energy Safety to form Building and Energy and the creation of a separate Service Delivery Group that consolidates a range of licensing functions, provides a new opportunity to consider the best approach to online licensing.

6. (Regarding Recommendation 3 and further to page 4 of your response): Does DMIRS plan to complete the six remaining reforms from 2011?
 a. If so, what is the expected timeframe by which each reform will be completed?

DMIRS Response:

Yes. All projects are currently being progressed, albeit with amended project scopes and parameters since their first iterations as 'second phase building industry reforms' in 2011.

Progression of these reforms is contingent on many factors, including shifting policy priorities, emerging issues affecting the building industry and national matters such as outcomes of cross-jurisdictional policy decisions made in settings such as the Building Ministers Forum.

The current status of the remaining reforms from 2011 are as follows:

- (i) **Registration of technical specialists;**
- (ii) **Tiered registration of builders; and**
- (iii) **Uniform coverage of the State.**

These reforms will now be undertaken as part of a targeted review of Building Services Acts. Some background information about this project is provided below:

In October 2017 DMIRS commenced a statutory review of the operation and effectiveness of the *Building Services (Registration) Act 2011* (BSR Act) and the *Building Services (Complaint Resolution and Administration) Act 2011* (BSCRA Act), collectively called the Review of the Building Services Acts.

However the subsequent report commissioned by the Building Ministers Forum titled *Building Confidence: Improving the effectiveness of compliance and enforcement systems for the building and construction industry across Australia* (the Shergold and Weir Report) identified a range of issues with building legislation across Australia.

The Shergold and Weir Report found serious issues with the registration of building professionals across Australia. It recommended that jurisdictions review their respective registration schemes and consider licensing builders, site or project managers, building surveyors, building inspectors, architects, engineers, designers, plumbers and fire-safety practitioners. It also suggested a review of registration requirements be undertaken to ensure only appropriately qualified practitioners are licensed and can prepare performance solutions.

Given the many proposals for improvement identified by the Shergold and Weir Report and known weaknesses in the legislation about registration requirements, DMIRS is now proposing to conduct a targeted review of the Building Services Acts focussed on the registration requirements for the building industry. The review will be undertaken in two phases.

Phase 1 will examine the following areas of reform:

- review of key registration requirements for building contractors;
- review of registration requirements for building practitioners. This part of the review will also consider 'tiered' registration for builders and extending registration and building permit requirements to the whole of the State. The review will consider impacts on regional construction businesses, regional Local Government, regional housing costs and increased compliance and registration related costs for DMIRS; and
- examine the implications of introducing registration for some classes of engineers such as civil, structural, hydraulic, mechanical, geotechnical and fire safety engineers. This will entail consultation with new stakeholder groups and possibly significant amendments to the *Building Act 2011*.

Estimated completion of phase 1 – Mid 2020.

Phase 2 will consider the following:

- review the registration requirements for building surveyors;
- review the statutory requirements for private building surveyors, including a code of conduct;
- review the Building Commissioner's powers to ensure he can effectively monitor buildings and building work; and
- review the registration of building designers & architects.

Phase 2 will start after completion of Phase 1.

(iv) Risk based regulation program.

General risk-based principles are applied across the broad range of Building and Energy activities and operations, such as in relation to its audit program, as outlined in our previous response.

Risk-based methodologies will also be utilised in examining and developing legislative reform proposals arising out of the Shergold & Weir Report recommendations, which have significant ramifications for the range of building occupations regulated by Building and Energy. For example, the Shergold & Weir Report recommends that a number of occupations not currently regulated in WA be regulated, including engineers, fire safety practitioners, building designers, building inspectors, etc.

Most of the building regulation challenges facing the Government are quite complex and longstanding. The advent of new technologies, new modes of procurement (internet), non-conforming building products have also introduced other challenges for building regulators. Some of the key initiatives proposed to enhance building regulation in Western Australia (WA) are:

- Security of Payment Reform (election commitment);
- review of the Home Indemnity Insurance (HII) Scheme;
- reform of the building approvals system, including the implementation of full private certification (election commitment);
- review of registration requirements and enforcement powers, including improving the monitoring of the financial position of builders;
- reforms of WA's plumbing legislation;
- review of swimming pool barrier laws (response to the WA Ombudsman's Report);
- mandatory retrofitting of sprinklers in aged care homes to improve fire safety; and
- reducing the risk posed by non-conforming building products.

Estimated project completion date – ongoing.**(v) Permit authority reporting.**

Now known as the Building Permit Database (BPD) project, 91 out of 139 local government permit authorities are currently providing data to Building and Energy. For a variety of reasons, 48 local governments do not provide any data to the Building Commissioner. Most of these are the larger metropolitan permit authorities which hold the greatest amount and most useful building data. The Building Commissioner is continuing to consult with the larger metropolitan permit authorities to encourage provision of the BPD data. Mandating data provision would require amendment to the Building Regulations.

Estimated project completion date – end of 2019.

(vi) **Electronic lodgement and assessment of building approvals.**

A Consultation Regulatory Impact Statement is being prepared for public consultation by the end of 2018 to canvass options to improve the building approvals process in WA as well as ideas on a model of full private certification. Work has commenced with a local government stakeholder working group to determine the role of local government in building control and the required resourcing for this role.

Progression of the above reform projects has been impacted by unexpected developments and new policy priorities including:

- a. Security of payment for subcontractors;
- b. Asbestos, cladding and lead issues with the Perth Children's Hospital;
- c. Lead in water issues in public schools;
- d. Non-conforming building products;
- e. State-wide Cladding Audit;
- f. Home indemnity insurance reforms;
- g. Elizabeth Quay plumbing issues;
- h. Optus Stadium issues;
- i. Machinery of government reforms; and
- j. Restructure of DMIRS including the amalgamation of Building Commission with EnergySafety to form Building and Energy.

7. *(Regarding Recommendation 3): When does DMIRS expect the legislative review of the Building Services (Registration) Act 2011 and the Building Services (Complaint Resolution and Administration) Act 2011 to be completed?*

DMIRS Response:

As discussed at point 6 above, a targeted review focussed on registration requirements will be undertaken. Phase 1 will be completed by mid-2020. Phase 2 will commence after completion of Phase 1.

8. *(Regarding Recommendation 3 and further to page 20 of the audit report): According to the audit report, the Building Commission secured about \$14 million in funding in July 2015 to implement the remaining steps of the 2011 reform program. Is this correct?*
- a. *If no, please clarify the amount that was received and the purposes for which it was allocated.*
 - b. *If yes, please account for how this money was used.*
 - i. *If the money was diverted from implementing the remaining steps of the 2011 reform program, who recommended the re-allocation and was it approved by the relevant Minister?*

DMIRS Response:

Yes this is correct.

In relation to 8.b, the funding available has been used in three broad areas:

- core activities of Building and Energy;
- implementation of some of the 2011 reforms and
- new emerging issues and/or higher priority initiatives.

Core activities of Building and Energy

The increase in the building services levy came into effect in July 2015. Until then, cost recovery was not achieved for the Building Commission's core licensing, compliance and policy functions, requiring the use of consolidated funds to compensate for this shortfall.

At the time the increase to the building services levy was proposed in 2014-15, the cost of registering builders and painters was only 75 per cent of relevant costs, with the shortfall to be funded from the levy.

The additional levy funding was used to adequately resource mainstream activities of builder registration, compliance and priority governmental policy development.

Implementation of 2011 reforms

(i) NCC available online for free

Figure 6 on page 20 of the Auditor General's report indicates that the initiative 'National Construction Code available online and free' was fully implemented. However, implementation of this initiative required an annual increase of \$280,831 in the Building Commission's annual contribution to the Australian Building Codes Board (ABCB) from \$298,681 in 2014-15 to \$579,512 in 2015-16. This increased contribution will continue at a cost of \$1.1 million which is paid through the additional levy.

(ii) Proactive audits of building service providers

Figure 6 on page 20 of the Auditor General's report also indicates that the initiative 'Proactive audits of building service providers' was fully implemented. The Building Commission introduced an auditing program in 2015 at a cost of approximately \$1.7 million a year, which is paid for from the levy.

(iii) Online licensing project

As noted at points 5 and 6 above, the Department has suspended the online licensing project and will now be progressed as part of new projects.

(iv) Permit authority reporting

The permit authority reporting project is estimated to have cost \$0.8 million to date.

(v) Risk based regulation program

As discussed at point 6, risk-based methodology is being applied across the broad range of Building and Energy activities, and will be further used in proposed legislative reforms.

New emerging issues and/or higher priority initiatives

As noted in the response to question 6, and acknowledged in the OAG Report, since 2015, there have been several significant new and higher priority challenges which were not budgeted for that required the redirection of resources from the 2011 reform program.

These include, but not limited to:

- security of payment reforms for subcontractors;
- asbestos, cladding and lead in water issues at the Perth Children's Hospital;
- non-conforming building products;
- state-wide Cladding Audit;

- home indemnity insurance (HII) reforms;
- Elizabeth Quay plumbing issues; and
- Optus Stadium issues.

In relation to HII for example, in 2013 the Building Commission (now Building and Energy) became responsible for administering the HII scheme in WA. This includes formulation of reinsurance agreements and managing the state's exposure. Due to the progressive withdrawal of private insurers from the scheme since that time and the critical importance of the HII scheme to underwriting consumer confidence in the home building market, policy resources have been applied to finding a suitable long-term solution to the provision of HII. A Consultation Regulatory Impact Statement on this reform is due to be released by the end of 2018.

In addition, in 2015, the then Minister sought to implement the 'Instant Start' initiative, which involved allowing residential builders to commence construction without a building permit. No specific budget was allocated and, as a consequence, involved the redirection of substantial staffing resources over a two year period in order to progress this initiative. However, the proposal ran contrary to the requirements of the *Building Act 2011*, which requires a building permit to be obtained before commencing work. As this would place liability on builders in circumstances where they commenced work without a permit and approval was later not granted, key industry stakeholders withdrew their support for the initiative in late 2016 and the project was abandoned.

*Who recommended the re-allocation and was it approved by the relevant Minister?
question 8.b.i*

The Building Commission/Building and Energy has faced a number of high profile and significant public policy challenges in recent years requiring redirection of resources as necessary to deliver core activities, continue previous reforms, implement new Government priorities and respond to unexpected developments. Decisions on resource allocation reflect these changing requirements.

Appendix Five

Correspondence received from DMIRS 7 January 2019

Aud Gen Corro 97
Rec'd 09/01/18
ATTACHMENT A

Response from the Department of Mines, Industry Regulation and Safety (DMIRS) Building and Energy Division to the Public Accounts Committee's request for additional information

Question 8b- parts of the question highlighted in bold font

1. *(Regarding Recommendation 3 and further to page 20 of the audit report): According to the audit report, the Building Commission secured about \$14 million in funding in July 2015 to implement the remaining steps of the 2011 reform program. Is this correct?*
 - a. *If no, please clarify the amount that was received and the purposes for which it was allocated.*
 - b. *If yes, please account for how this money was used.*
 - i. *If the money was diverted from implementing the remaining steps of the 2011 reform program, **who recommended the re-allocation and was it approved by the relevant Minister?***

As previously advised, since July 2015, some projects have progressed as planned and the priority of others was revisited as new issues, requiring more urgent attention, emerged. Our response of 8 October 2018, detailed a range of high priority and unexpected matters that have arisen for the Building Commission over recent times. That response also provided updates for the six remaining reforms and their respective estimated implementation timeframes as now anticipated.

I am informed that the former Department of Commerce briefed the Minister about the progress of these projects and the consequential need to re-allocate resources to other higher priority issues.

In 2016 State Budget preparations the (then) Minister for Commerce was advised that the additional funds previously provided were being used to adequately resource mainstream activities of builders registration, compliance and priority government policy development.

In the 2017 State Budget process, the (then) Minister was informed that funding was being used to carry out the State Wide Cladding Audit and to meet the Government's election commitments in relation to security of payments for subcontractors.

Additional Questions pertaining to recommendations 1a and 2 of the Audit report

1. How many (in total number and percentage terms) builder and surveyor registration applications were processed within the department's 10 day target for the 2016-17 and 2017-18 reporting years?
2. How many (in total number and percentage terms) builder and surveyor registration applications fell outside the department's 42-day maximum processing target for the 2016-17 and 2017-18 reporting years?

The table below summarises the number of registration applications (for builders and surveyors) processed by the Department for 2016-17 and 2017-18:

Reporting period	Builder (Practitioner and Contractor) Registration Applications		Building Surveyors (Practitioner and Contractor) Registration Applications	
	Processed within 10 days	Processed outside 42 days	Processed within 10 days	Processed outside 42 days
2016-17	1,238 (39%)	454 (14%)	53 (27%)	20 (10%)
2017-18	292 (7%)	3,194 (73%)	44 (17%)	144 (55%)

Table 1: Builder and building surveyor registration applications:

The 10-days and 42-days are internal benchmarks developed by the former Department of Commerce and apply principally to licence categories which can be processed with little subjective assessments. However, the assessment and verification of building practitioners' and building surveyors' experience and the financial capacity of building contractors are significantly more complex and require more effort and time.

In many cases, the longer processing times for 2017-18 were due to:

- incomplete applications submitted where the Department had to approach applicants to seek further supporting documents; and
- additional rigour being applied to the processing of certain classes of registration. This included verification of building experience, assessment of company financials, assessment of fitness and propriety, dealing with suspected fraudulent applications and assessment of arrangements in place.

The Department is currently implementing several policy and procedural initiatives aimed at reducing the complexity of building registration assessments.

Appendix Six

Correspondence received from DMIRS 9 May 2019

ATTACHMENT A

Response from the Department of Mines, Industry Regulation and Safety (DMIRS) - Building and Energy Division to the Public Accounts Committee's request for additional information

1. *On page 1 of your response, you refer to instances where the former Department of Commerce 'briefed', 'advised', and 'informed' the Minister regarding the reallocation of part of the \$14 million secured in July 2015 to complete the 2011 reform program. Can you please provide copies of the briefing notes or memos that were used to draw this matter to the Minister's attention, as well as copies of any responses from the Minister?*

DMIRS Response:

Please see attached briefing notes (**Attachments B and C**) prepared by the former Department of Commerce and the Department of Mines, Industry Regulation and Safety to inform the then relevant Ministers about the reallocation of departmental resources to other priorities.

Attachment B (SBN41 Increase in Building Services Levy) – Prepared by the Department of Commerce in 2016, is a copy of a supplementary briefing note provided to the former Minister for Commerce for the 2016-17 Budget Estimates Committee Hearings. As the purpose of this briefing note was to provide information to the Minister for his use and reference at the Committee hearings, no response from the Minister was obtained.

Attachment C (BN10 State Wide Cladding Audit and BN09 Security of Payment for Subcontractors) – Prepared by the Department of Mines, Industry Regulation and Safety in 2017, are copies of briefing notes provided to the former Minister for Commerce for the 2018-19 Budget Estimates Committee Hearings. As the purpose of these briefing notes was to provide information to the Minister for his use and reference at the Committee hearings, no response from the Minister was obtained.

These documents supplement the explanations provided in previous responses to the Committee regarding the resourcing of highest priority projects of the Government.

2. *Is the Department bound by any formal protocols or guidelines around reallocating funds that have been previously granted for a specific purpose?*
 - a. *If so, can you please provide a copy of the relevant documents?*
 - b. *Do these protocols or guidelines state that Ministerial and/or Cabinet approval is required when funds are reallocated away from their originally authorised purpose?*
 - c. *Was Ministerial and/or Cabinet approval sought and obtained in this instance?*
 - i. *If so, can you please provide supporting evidence?*

DMIRS Response:

Section 92(3) of the *Building Services (Complaint Resolution and Administration) Act 2011* (BSCRA Act) requires, in effect, that funds raised through the building services levy be applied by the Department of Mines, Industry Regulation and Safety (DMIRS) toward the regulation of the building and construction industry. While the funds raised from the increase in the building services levy were re-directed to address other emerging issues, they were used solely towards the regulation of the building and construction industry.

SUPPLEMENTARY BRIEFING NOTES
INCREASE IN BUILDING SERVICES LEVY

Key Points:

1. The Building Services Levy increased to 0.137 per cent from 1 July 2015.
2. The levy increased in order to deliver key projects and reforms.

Background:

- The Department of Commerce - Building Commission Division (Building Commission) is funded through the Building Services Levy (BSL).
- The BSL is levied on the value of proposed building work outlined in an application for a building permit. The previous rate was 0.09 per cent.
- The BSL previously raised approximately \$11.7 million per annum.
- The Building Commission is using the additional funds to deliver the following key projects and reforms:
 - the design and implementation of electronic reporting by permit authorities (estimated to cost \$750,000 with an additional \$25,000 per annum for maintenance);
 - allow the National Construction Code to be provided free and online (estimated to cost \$300,000 per annum);
 - the e-enablement of the building and construction industries, including the implementation of an electronic lodgement system for building permit applications (estimated to cost \$2.45 million over three years of development);
 - the tiering of registration requirements for builders and painters and uniform coverage of building and painting regulation across the whole state (estimated to cost \$850,000 for electronic licensing systems); and
 - the reform of plumbing regulation (estimated to cost \$950,000).
- In addition to the above, the BSL is also being used to adequately resource mainstream activities of builder registration, compliance and priority government policy development.
- The BSL is applied at a rate of 0.137 per cent of the value of building work at the time of granting a building or demolition permit for work, with a minimum levy of \$61.65 applying for work valued at \$45,000 or less. Double the rate is applied for considering applications for approval of unauthorised building work (i.e. building work that was completed without a building permit).
- The levy rate represented an increase in levy for a \$200,000 house from \$180 to \$275.
- The increase in the BSL is expected to raise an additional \$5 million per year based on current building industry activity.

BRIEFING NOTES

STATE-WIDE CLADDING AUDIT

Key Points:

1. All cladding on privately owned, high rise, high risk Western Australian buildings are being assessed to ensure it does not pose an unacceptable safety risk.
2. All Government Departments and Agencies are assessing their own buildings using a similar audit scope.

Background:

- The London Grenfell Apartments fire in June 2017, highlighted international concerns about the use of certain types of cladding and the effectiveness of building approval processes.
- On 4 July 2017, the Building Commissioner announced that the initial audit into the use of aluminium composite cladding would be broadened to cover all privately owned, high risk, high rise buildings in Western Australia (WA).
- Government Departments and Agencies are undertaking an assessment of their own buildings and providing regular updates to the Building Commissioner.
- An initial budget of \$1million was estimated to cover salary costs and the procurement of fire engineering services and product testing.

Current Situation:

- In Australia, the Building Ministers' Forum started a series of actions following a similar fire at the Lacrosse Apartments in Melbourne in November 2014, including upgrading standards and processes to deal with non-conforming building products and developing better cooperation between building regulators nationally.
- Building Ministers also commissioned an independent review into the effectiveness of Australian building approval processes.
- In WA to date, 247 buildings have been identified that warrant a detailed assessment. Any found to pose an unacceptable risk of safety will be referred to the relevant permit authority (local government) for consideration of remediation action.
- The final number of buildings requiring remediation is expected to fall once more information regarding the cladding is collected during the detailed risk assessment.
- The Building Commissioner is working with relevant Government Departments and Agencies to coordinate a joint submission for any remedial works required for state-owned buildings.
- This work has required the allocation of significant departmental resources to lead a widespread audit of building cladding in WA and the development of a coherent Building Plan to accelerate reforms and improvements to building regulation.

Appendix Seven

Correspondence received from DMIRS 19 May 2020



Government of Western Australia
Department of Mines, Industry Regulation and Safety
Building and Energy

Our Ref: A32090692

19 May 2020

Enquiries:

Dr A D Buti MLA
Chair
Public Accounts Committee
japac@parliament.wa.gov.au

Dear Dr Buti

REQUEST FOR ADDITIONAL INFORMATION FROM THE PUBLIC ACCOUNTS COMMITTEE – MAY 2020 – IMPLEMENTATION OF AUDITOR GENERAL'S RECOMMENDATIONS REPORT NO. 12 OF 2016

I refer to the email from Dr Alan Charlton, Principal Research Officer, on 4 May 2020, requesting further information to assist the Public Accounts Committee (the Committee) in concluding the follow-up inquiry to the Auditor General's Report No. 12 of 2016 – *Regulation of Builders and Building Surveyors* (Auditor General's Report).

The Department of Mines, Industry Regulation and Safety (the Department) welcomes the opportunity to provide the Committee with further information to assist with finalising its inquiry.

Please find enclosed the Department's response to the specific questions raised in Dr Charlton's email (**Attachment A**).

In addition to the attached response, the Department wishes to update you on the quantum of the Building Services Levy (BSL) collected since 2014-15.

This supersedes earlier advice the Department provided in the letter of 8 October 2018 (Our ref: A22425886) at page 5, in response to the Committee's question whether the statement in the Auditor General's Report (at page 20) that about \$14 million had been secured in 2015 was correct.

As the Committee is aware, in July 2015 the BSL was increased from 0.09 per cent to 0.137 per cent to enable the then Building Commission (now Building and Energy Division) to progress a series of reforms and initiatives. Some of these reforms were referred to in the Auditor General's Report.

Under the *Building Act 2011* (WA), a pre-condition to obtaining a building permit to carry out building work includes the payment of the BSL. The BSL is then used to fund all functions and activities of the Building Commissioner under section 86 of the *Building Services (Complaint Resolution and Administration) Act 2011* (WA), including any reforms and initiatives. No recurrent appropriation from consolidated revenue is received for these functions.

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- 2 -

The amount of the BSL collected in any given period is therefore directly linked to the value of building work performed in Western Australia (WA). As has been widely documented, the annualised value of building work performed in WA has been in a steady decline since its peak in 2013.

Consequently, over the four financial years from 2015-16 to 2018-19, only a very modest amount of additional funds has been collected through the increase of the BSL to 0.137 per cent.

Using the \$15.04 million BSL collected in 2014-15 as a baseline benchmark, the Department estimates the additional funds collected over the four year period (between 2015-16 and 2018-19) to be approximately \$6.05 million.

Financial Year	Baseline BSL (0.09%)	Additional BSL (0.047%)	Total BSL (0.137%)
2014-15	\$15,038,879	\$0	\$15,038,879
2015-16	\$11,978,106	\$6,255,233	\$18,233,340
2016-17	\$10,480,374	\$5,473,084	\$15,953,458
2017-18	\$10,932,578	\$5,709,235	\$16,641,814
2018-19	\$10,099,848	\$5,274,365	\$15,374,213

The Department advises the Committee that the \$14 million in forecast funding, suggested in the Auditor General's Report (at page 20), was not ultimately received due to a decline in BSL collections from reduced building work.

As advised in 2018 the additional funds were used in three broad areas:

- core activities of the Building Commission (now Building and Energy);
- implementation of some of the 2011 reforms; and
- new emerging issues and/or higher priority initiatives.

In addition, the Department expects the current coronavirus (COVID-19) pandemic to result in a significant downturn in the building industry resulting in a further decline in BSL collections.

Should you have any further queries in relation to this matter, please contact
A/Executive Director Building and Energy

Yours sincerely

Kristin Berger
DEPUTY DIRECTOR GENERAL

Att

ATTACHMENT A

RESPONSE FROM THE DEPARTMENT TO THE PUBLIC ACCOUNTS COMMITTEES REQUEST FOR ADDITIONAL INFORMATION – 5 MAY 2020

1. *In Mr Smith's letter of 8 October 2018 (A24425886 (DP0104/2018)) at p 3 of Appendix A, Mr Smith told the Committee that phase one of the overall review into building regulation requirements would be completed by mid-2020. Is that timing still correct?*

Department Response

An internal review of the registration requirements for building contractors and building practitioners in light of the recommendations from the Building Confidence Report is complete. As a result, two Consultation Regulatory Impact Statements (CRISs) on proposed reforms to registration requirements have been prepared for public comment. One covers proposed changes to the registration requirements for building practitioners and building contractors and the other proposes a registration scheme for building engineers.

The release of these CRISs will now be deferred to allow the industry time to focus on measures to manage the impact of the COVID-19 pandemic, and the associated recovery.

2. *Page 4 in Appendix A of the same letter states that DMIRS expected to complete the Building Permit Database project by the end of 2019. Was this achieved and, if not, what is the new target date?*

Department Response

For the reasons outlined below the Department has now ceased further work on the Building Permit Database (BPD) project.

Further engagement with the local government sector was undertaken but the larger metropolitan permit authorities do not support participation in the BPD as it would require costly modification of their existing databases and IT systems which support their building approval processes.

In September 2019 the Department released a CRIS on the review of the residential building approval process in WA. The CRIS proposes reforms to implement the Building Confidence Report recommendations, including mandatory inspections, increased documentation and new processes for variations made during a build. If implemented, these reforms will change the way residential buildings are approved and the role of local government, including the data collected through the BPD.



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