

Division 17: Mines, Industry Regulation and Safety, \$170 424 000 —

Ms L.L. Baker, Chair.

Mr W.J. Johnston, Minister for Mines and Petroleum.

Mr D. Smith, Director General.

Mr D.M. Hillyard, Commissioner for Consumer Protection.

Mr P.W. Gow, Acting Deputy Director General, Industry Regulation and Consumer Protection.

Dr P. Gorey, Acting Deputy Director General, Resource and Environmental Regulation.

Mr A. Chaplyn, Acting Deputy Director General, Safety Regulation.

Mr R. De Giorgio, Chief Financial Officer.

Mr K.D. Bowron, Executive Director, Building and Energy; Building Commissioner; Director of Energy Safety.

Mr M. Banaszczyk, Executive Director, Corporate Services.

Mrs J. de Jong, Executive Director.

Mr P. Hine, Acting Executive Director, Service Delivery.

Mr A.S. Lyon, Acting Executive Director, Public Sector Labour Relations.

Mr R. Sao, Principal Adviser.

Mr D. Alexander, Principal Policy Adviser.

Ms P.A. Bond, Senior Policy Adviser.

Mr J.E.P. Welch, Senior Policy Officer.

Mr N. Roberts, Chief of Staff, Minister for Mines and Petroleum.

[Witnesses introduced.]

The CHAIR: This estimates committee will be reported by Hansard. The daily proof *Hansard* will be available the following day. It is the intention of the Chair to ensure that as many questions as possible are asked and answered and that both questions and answers are short and to the point. The estimates committee's consideration of the estimates will be restricted to discussion of those items for which a vote of money is proposed in the consolidated account. Questions must be clearly related to a page number, item, program or amount in the current division. Members should give these details in preface to their question. If a division or service is the responsibility of more than one minister, a minister shall be examined only in relation to their portfolio responsibilities.

The minister may agree to provide supplementary information to the committee rather than asking that the question be put on notice for the next sitting week. I ask the minister to clearly indicate what supplementary information he agrees to provide and I will then allocate a reference number. If supplementary information is to be provided, I seek the minister's cooperation in ensuring that it is delivered to the principal clerk by Friday, 1 June 2018. I caution members that if a minister asks that a matter be put on notice, it is up to the member to lodge the question on notice through the online questions system.

I give the call to the member for Nedlands.

Mr W.R. MARMION: My first question relates to page 215 in budget paper No. 2. Under "Income" is a reference to regulatory fees and fines and to the mines, safety and inspection levy, the mining rehabilitation fund levy and "Other". What comes under "Other"?

Mr W.J. JOHNSTON: Other revenue comprises largely interest revenue from the special purpose accounts held under the Real Estate and Business Agents Act and the Settlement Agents Act; interest on the mining rehabilitation fund; contributions by industry and reimbursements of bonds; and administration costs from the rental accommodation account.

Mr W.R. MARMION: I note that there is a large increase from the 2017–18 estimate actual of roughly \$85 million to \$97 million in the budget estimate. There is a note about the increase in mining tenements. Is the majority of the jump of \$12 million in relation to the increase in mining tenement rentals?

Mr W.J. JOHNSTON: No, it is not the majority.

Mr W.R. MARMION: What is the \$12 million increase for?

[11.00 am]

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Mr W.J. JOHNSTON: As I said, the increase is from a range of charges and fees, and interest income for the agency. It is a very complicated agency. It regulates almost every industry except the health industry. There are many, many fees and charges in this agency. For example, in the electricity safety space, there is a range of fees and charges. There is a whole range of interest income from the mining rehabilitation fund and interest income from the settlement agent accounts. Many sources of income are included in that heading.

Mr W.R. MARMION: How is the exploration incentive scheme funded?

Mr W.J. JOHNSTON: Sorry, I am not quite sure what the member means.

Mr W.R. MARMION: I refer to spending changes on page 208 and the line item “Exploration Incentive Scheme Continuation” under “Other”. There is an allocation of \$10 million in 2019–20, 2020–21 and 2021–22. Can the minister explain the rationale for this?

Mr W.J. JOHNSTON: Absolutely; I am very pleased to do so. This is absolutely good news and I have been inundated with support from industry for this decision. For the first time since Norman Moore retired, we have included the exploration incentive scheme in the ordinary activities of the Department of Mines, Industry Regulation and Safety so it is now secured forever. It is no longer dependent on external funding. It is now just another line item in the agency’s budget. This is great news. People often do not realise that \$5 million of the exploration incentive scheme money is allocated to the Geological Survey of Western Australia for its pre-competitive data acquisition projects. Putting the survey on this footing means it can plan for that expenditure years in advance, so it is now able to take a multi-year approach to its data acquisition project. This is absolutely good news. The member would know, as a former mines minister, how important the pre-competitive data is. It is one of the reasons that Western Australia, even after being a mining jurisdiction for over 125 years, continues to be the location of such an incredible level of activity in the exploration space. As we all know, the easy-to-find reefs have all been found, so we now need to work harder to make the next discoveries. They might be undercover or they might be in new geographical locations.

I always talk about the Gruyere gold project, and I am sure that the member would share my enthusiasm for it. It is a classic example of how the EIS works. The pre-competitive data from Geological Survey was used by an individual prospector to identify what he believed to be a target in a completely new province that had not previously been explored. He got some people together to support his idea and got a co-funded drilling opportunity, again with support from the EIS. He went out and put a hole in the ground and the first drillhole found the reef. It is unbelievable! He took publicly available geophysical data, went out and drilled a hole, and found gold at four parts per million. That location is now the site of a major investment by Gold Road Resources and Gold Fields—a \$350-odd million investment. The great thing about it is it opened a new province for gold discoveries. I am no geologist, but it is pretty clear that the feature they have discovered continues north and south of the find and there will be great opportunities for the state as private sector investment goes into that new province to create a completely new area for gold activity. It is such a good story and it is exactly why we wanted to put the exploration incentive scheme into the ordinary budget of the department so it can plan for the future. As I said, half the money goes to the pre-competitive work done by the department.

Mr W.R. MARMION: I do share the minister’s enthusiasm for the EIS program. Can the minister explain the source of that funding?

Mr W.J. JOHNSTON: Certainly; it is now part of the ordinary appropriation of the agency.

Mr W.R. MARMION: Can the minister be a bit more expansive? Where does the government get the money from?

Mr W.J. JOHNSTON: As the member knows, the department has two sources of income. One is from the sources that we discussed before—the charges and fees we talked about and the rental income from all the different accounts that we maintain. We discussed the fees charged in the electrical safety area as an example. Secondly, an appropriation is agreed by Parliament.

Mr W.R. MARMION: Note (a) on page 208 states —

Existing Royalties for Regions funding of \$10 million in 2018–19 has been reduced by \$5 million and replaced by an additional revenue of \$5 million from the MTR.

Can the minister confirm that that extra \$5 million from mining tenement rentals will be used for the continuation of the exploration incentive scheme in 2019–20?

Mr W.J. JOHNSTON: Indeed, that will make a contribution to the operations of the agency. All the funding for the agency will be used and applied 100 per cent to the activities of the agency.

Mr W.R. MARMION: I refer to the mention of additional revenue from the MTR; can the minister explain how that additional revenue will be collected? Is there a percentage increase in the current mining tenements or are

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there different types of tenements or exploration licences? Can the minister give a breakdown of how he came up with the \$5 million for 2019–20? I understand that \$10 million is allocated for the years thereafter?

Mr W.J. JOHNSTON: What is an exploration licence?

Mr W.R. MARMION: I am asking the question—mining tenements in general.

Mr W.J. JOHNSTON: There is no question that this year, just like last year and in other years, there has been an increase in the charges that the department makes on industry. It is not the first time that has happened and I imagine it will not be the last.

Mr W.R. MARMION: Can the minister confirm whether that increase for mining tenement rentals is six per cent or some other figure?

Mr W.J. JOHNSTON: There is a variation—different tenements get different increases in charges.

Mr W.R. MARMION: Can the minister tell me what those variations are for all the different mining tenements, or is it a secret?

Mr W.J. JOHNSTON: No, it is not a secret; I was just conferring with Dr Gorey about some information. I will make some comments and then, if it is acceptable, I will ask Dr Gorey to make some comments as well. One thing we were keen to prevent was an unfair burden on the exploration sector because one of the problems when governments increase fees for exploration leases is that they flow through to local governments in their rates base. We have increased dozens of charges in this agency, right across every area of operation. We looked at the costs not at full fee recovery and increased them by five per cent or more; we increased those at full cost recovery by a proxy of inflation, 1.5 per cent. Obviously, we cannot over-recover fees and charges because that would be unconstitutional. In designing the increase for mining tenement rentals, we wanted to make sure that the exploration sector was not hit twice. Dr Gorey will explain that we designed the increases to ensure that the double hit of increasing the rates as well as the mining tenement rentals for exploration leases did not apply. With approval, I ask Dr Gorey to make some comments.

[11.10 am]

Dr P. Gorey: On that page, and also on page 207 of the *Budget Statements*, the appropriations, expenses and cash assets table is, under the heading “Delivery of Services”, the line item “Services to Industry Component (Mining Tenement Rentals)”. Page 208 deals with a change in spending. That is why the exploration incentive scheme change in spending appears on page 208. In the previous budget the EIS did not have further spending beyond the next financial year; that is why it appears on that page. The budget sets out a broad increase in rentals for mining tenements, which are the annual payments that come through from live tenants. For exploration licences in particular, the increase in the rental rate is approximately 1.5 per cent per annum. The member might be aware that the Mining Legislation Amendment and Validation Act 2008, on which unimproved value is determined for the purposes of shires establishing their rates, points to an unimproved value being based on the annual rental amount. By differentially increasing mining tenement rentals for the first one to three years, it will not flow on to the rate calculations that the shires make.

Mr W.R. MARMION: I understand that, and I am pleased that the government has chosen to make sure that explorers are not heavily penalised. The increase of 1.5 per cent is probably reasonable. What about for an existing mine site? Can the minister explain the increase on those mining tenements?

Mr W.J. JOHNSTON: Because we inherited \$40 billion of debt from the former Liberal government, we cannot just go out and do whatever we want. We are very determined to make sure that the EIS continues. We therefore need to make sure that, like every business, we pay for our services. The only way we can do this, like every business, is by either cutting the budget or increasing the revenue—we probably do a bit of both. That is what we are doing. It is good that the underlying appropriation for this agency has been significantly reduced. In fact, the outcomes in the budget papers do not reflect reality because they did not capture some of the savings in the agency. We are making even better savings than the budget states.

However, we also have to look at revenue, and we have increased mining tenement rentals. The 20 largest mining companies in Western Australia contribute 30 per cent of the revenue from mining tenement rentals. The member could ask whether the increase in the MTR pays for the EIS, and that could be argued. We have the large companies that generally do not use the EIS overwhelmingly paying for it, not the juniors. If you like, we are transferring wealth from the large companies to the smaller explorers. The contribution that an explorer makes to the cost of tenement rentals is very, very small in the overall picture; so, yes, if the member wants to put it in those terms, there is a transfer of wealth from the large companies to the juniors. I bet the National Party will celebrate that decision, because it must be remembered that we have put the EIS on a permanent basis. The EIS is now part of the activity of the agency. I do not want to go over old ground, but this is an exciting opportunity and the agency

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can now plan around the EIS for the pre-competitive data collection for years in advance—for as long as it wants to. We can now start making even more innovative decisions about how the co-funded drilling program is looked at as well, because for the first time in a long time we finally have it permanently in the budget.

Mr W.R. MARMION: That is good logic. I am glad that I finally got the logic from the minister. But in terms of the actual formulas, can the minister tell me what they are? I have it at 1.5 per cent for —

Mr W.J. JOHNSTON: It is 1.5 per cent for the first three years of an exploration licence, and six per cent for the other tenements.

Mr W.R. MARMION: So it is not graduated according to how big the company is?

Mr W.J. JOHNSTON: No.

Mr W.R. MARMION: That is all I have been after for the last 15 minutes.

Mr W.J. JOHNSTON: Sorry. If the member had asked me that, I would have answered it.

Mr W.R. MARMION: In the past 15 minutes that has been the only figure I was after.

Mr W.J. JOHNSTON: The member did not ask for it. I am happy to answer questions when they are asked.

Mr W.R. MARMION: Thank you for that, minister. Dr Gorey correctly explained that there is a flow-on because the unimproved value is related to the fee charged.

Mr W.J. JOHNSTON: Yes.

Mr W.R. MARMION: But it implies that not only for exploration, but also for mining licences. So the councils will get a windfall of six per cent from the rates they collect. Is the minister happy for local authorities to get increased rates, or will there be some changes to allow offsetting that increased amount for local governments?

Mr W.J. JOHNSTON: That is a very good question. The Western Australian Local Government Association wrote to me last year, complaining that we should make a condition for the continuation of a mining tenement. Obviously, a mining tenement cannot be kept if the fees are not paid to the department. WALGA asked us to amend the act so that payment of rates would also be a trigger for —

Mr W.R. MARMION: It asked me, too.

Mr W.J. JOHNSTON: Yes. I happily wrote back to WALGA and said that I did not think it was a good idea. I also said that it had to start thinking about how it charges on mining tenements. There has been a view in some councils, not all, that mining companies are cash cows. When the member was a minister, a number of mining companies made the point to me that they were paying more to local governments than they were to the state government. I urge councils to think about their real costs. In the last Parliament I was on the Public Accounts Committee that looked at the question of auditing local governments. Some of the situations of local governments were very disturbing, as stated in that report. I made specific comments about it in Parliament when we tabled that report. I think that councils need to carefully consider what they are doing to mining companies, because this decision by some councils to unfairly target some mining proposals is unreasonable. Somebody was talking to me the other day at an industry event about a council getting 70 to 80 per cent of its income from mining companies. It is seriously unsustainable. The government will do what it needs to do to make sure that it can overcome the \$40 billion of debt left to us by the Liberal Party, but we urge councils to not just see this as a windfall; they should tailor their charges to their actual expenses. They should, as we are doing, go through their budget line by line to look for savings opportunities so that they can reduce their call on mining companies.

[11.20 am]

The CHAIR: I will now give the call to the member for Belmont. We will come back to the member for Nedlands in a minute.

Ms C.M. ROWE: I refer to the appropriations on page 207 of budget paper No 2. Will the minister inform the house what work the Consumer Protection Division is doing to assist vulnerable Western Australians to deal with scammers?

Mr W.J. JOHNSTON: That is a very good question. One of the great achievements of the department is its work with individual consumers. One of the things about this agency is that it is very large. When I speak publicly, I often talk about resources, petroleum and mining, and perhaps Asian engagement; but, in fact, most of the agency's work deals with consumers. As a Labor member of Parliament, I admit it makes me very proud to be able to do that. It is a matter that lands on my desk most often. Most people who are writing to me as minister, are writing to me about consumer protection issues. Therefore, I am very pleased to be able to let the member know that Consumer Protection runs WA ScamNet. That has shown that there have been 34 victims of an iTunes scam,

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worth nearly \$117 000 in 2017, which is double the number of victims in 2016. In response to that, Consumer Protection has undertaken a multifaceted campaign that is working with media, through to consumers and also traders. Vulnerable citizens have been going into retailers and buying thousands of dollars of iTunes vouchers. Companies have put in place procedures to ensure that large volumes of iTunes vouchers cannot be sold. Interestingly, I was with my daughter in Victoria Park recently. I bought her lunch and then went to buy an iTunes card for myself. I must look very old, because the young woman behind the counter at Woolworths at Vic Park asked me whether I knew about the scams and whether I was buying the card for myself or buying it for somebody else!

Mr P.A. KATSAMBANIS: A strong message.

Mr W.J. JOHNSTON: It is clear that the message is getting to the front line at Woolworths at least!

I will ask the commissioner, David Hillyard, to expand on some of the examples of the important work being done by Consumer Protection.

Mr D.M. Hillyard: This issue has been one of the cornerstones of a fair amount of work at Consumer Protection. In the strictest technical sense, a consumer scam of this nature is not a consumer transaction; it is a fraud. We have had longstanding relationships with the police and other enforcement agencies to try to deal with these things, but, as the minister mentioned, people on the ground are being affected by this. Romance frauds are continuing at the moment. People are still reporting to us and we are intervening and trying to convince consumers, as we call them, that they are involved in these things. Often it is a two-edged sword: they suffer a financial and an emotional loss because what they thought was going to be their future life with somebody is dashed. We have put a range of resources into this. We have people on the ground who are very dedicated in getting results. We have plenty of war stories of junior staff taking customers to the bank to try to stop a transfer of funds going out of the country. We are getting some better reactions from the banks that are putting in stop measures on transfers that seem out of the ordinary. It is ongoing work. I do not think it is ever going to go away. The scam are going to change from day to day, but it is part of our role.

[Ms S.E. Winton took the chair.]

Mr W.R. MARMION: I want to finish off on the exploration incentive scheme. The minister referred to local government rates. I understand that Western Australia is the only state that allows local governments to charge for exploration licences. Would the minister comment on that, because people in the industry are saying that when they are doing exploration, they go out on site, do not do much damage and do not receive many services from local authorities, yet they have to pay. As the minister knows, exploration is not about making money; it is about the hope of making money in the future. Can the minister comment on whether he is looking at that?

Mr W.J. JOHNSTON: Is the member saying it is the Liberal Party's policy —

Mr W.R. MARMION: No. I am asking: what is the government's policy on that?

Mr W.J. JOHNSTON: My policy is the same as the member's policy was as a former minister. Is the member saying that the Liberal Party has changed its position?

Mr W.R. MARMION: I am asking the question: does the minister have a view on that?

Mr W.J. JOHNSTON: My view is the same as the member's—that is, that the policy of the former Liberal government remains the policy of the current government.

Mr W.R. MARMION: To wrap up the EIS, as the minister knows a cost–benefit analysis was done in 2015, which showed about a 10 to one —

Mr W.J. JOHNSTON: It was 23 to one.

Mr W.R. MARMION: Is the department looking at updating that cost–benefit ratio in the future to see whether it still applies, has increased or gone backwards?

Mr W.J. JOHNSTON: I am happy to defer to Dr Gorey; I am sure he would love to say a few words on this. However, I keep quoting the figure that was prepared in a report when the Liberal Party was in power. The benefit from the EIS was not 10 to one; it was 23.7 to one. Everywhere I go I tell people about the EIS. As minister, one of the first things I did was to attend the Association of Mining and Exploration Companies conference in May 2017. I sat at the same table at that breakfast with—I do not remember his proper title—the guy who runs the national geoscience organisation. He told me that the EIS is the best program of its type anywhere in the world. That is why I am so determined and so pleased that it is included in the department's ordinary budget rather than it being left out on its own without a multi-year plan.

I also mention that the Minerals Research Institute of Western Australia does great work. It is, again, something that I like talking about wherever I go, because of the great outcomes that we get from that investment. I acknowledge that it is not in this budget item, but I point out that I keep them together in my mind when I am talking about these

things. I will ask Dr Gorey to make some comments, but at this stage we are not planning on doing a follow-up. That 23.7 to one benefit is a great outcome, but I am sure that Dr Gorey has a few things to say about that.

Dr P. Gorey: It is correct that the work done a couple of years ago has been quite an important reference for us. The evaluation that the department has been undertaking for the EIS is in the context of it being budgeted for another year. That situation is now changing with the budget now being ongoing. The context of what the department is now looking at is that a direct financial cost–benefit is one of the ways of evaluating the success of a program such as this. Information take-up, access to information online, the use of pre-competitive data that the department publishes and the flow-through of that information into the decision-making of potential investors are all various ways that give us a clear view of the success or otherwise of that program, but will also influence how we can continue to build this program to make sure that it delivers what we want for Western Australia.

As the minister said, a number of states have something like the EIS. We would suggest that the Western Australian EIS is a national leader in this field. To maintain that position as leader, we need to continue to refine the EIS to make sure that it delivers for the decision-makers and explorers both now and into the future. We are already looking at a couple of things around that, including the extent to which we can engage with experts in the sector—those who are closer to decision-makers for investment—to make sure that when we have an EIS as a longer term program, we keep it relevant. Work within the current program to do that evaluation is not happening. Now that there is longevity to the program, that is one of the things that we consider.

[11.30 am]

Mr W.R. MARMION: Just so that we have the figures correct in *Hansard*, when I initiated the review of the EIS to get some data, I knew that it had not been going for too many years. I understand there were two figures. There was the roughly 10–1 multiplier of the scheme itself, the 23–1 that I was very careful not to use very often because that implied a discovery—the Nova discovery—and there was Tropicana and a few others because of the small amount of data. As we move forward with the EIS, the information will become more relevant and precise and the 23 will probably become a bit more refined. Perhaps Dr Gorey can confirm those two figures and put them in context, so they are not reported the wrong way in future when people read *Hansard*.

Mr W.J. JOHNSTON: I am happy for Dr Gorey to make any further comment. When he has finished, I will make a closing remark because I assume we will move on to a new topic.

Dr P. Gorey: The additional detail is that that study was done at a particular point. Absolutely the study assessed the EIS in 2015 based on the information at the time. In doing that study, we were conscious of issues around picking up the nuances of particular events happening. That is certainly there. I think regardless we will have, with success, mine sites opening and closing at various times throughout the EIS. The report is public, and a comment from a departmental point of view, for those who are very keen on understanding the context and use those numbers, is that the report is public and describes the methodology used.

Mr W.J. JOHNSTON: To conclude, one of the exciting opportunities for the future is to apply new technology to the co-funded drilling component. I draw the member's attention to HiSeis 3D, which is a spin-out company from Curtin University. It has taken technology that was particularly used in the oil and gas sector and applied it to mineral exploration. It has had incredible success with this, including being able to reduce the cost of drilling out an ore body because the technology can describe the ore body more accurately using sensing rather than needing to drill everywhere. Drilling can then be done just where the ore body is, rather than where the ore body is not. Recognising the importance of still putting pieces of tube in the ground, whether there are other ways of encouraging new technologies in this space as well as on a co-funded basis might be something very interesting for the future.

Mr P.A. KATSAMBANIS: My first question refers to the significant issues impacting the agency as stated on page 208 of budget paper No 2. The first dot point refers to a ministerial advisory panel being established to develop new safety and health laws for Western Australia, the intention being that one general work health and safety act would cover mines, petroleum and general safety. The budget states that that act would have separate regulations aligned to each industry segment, and that the department is working towards modernising the act for WA, with new legislation expected to be introduced into Parliament in 2019. I have a series of questions around that. Firstly, is it the intention of the government to now model the Western Australian laws on the national model work health and safety laws, or can the panel recommend that we do not go down the path of the national model?

Mr W.J. JOHNSTON: The former government was working on adapting the WHS—the model act for Western Australia—and it had two streams. The first stream resulted in a green bill being released in respect of general employment, and the second was in the mines area but it did not complete its work. When I became minister, I asked the agency to work on, effectively, amalgamating those two pieces of work. We started with the nationally consistent WHS bill; obviously, we looked at the updates, but particularly as implemented elsewhere in

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the 2011 model, and took account of all changes. The ministerial advisory panel worked diligently and has, effectively, completed its work. On 6 June, I will catch up with everybody on the panel to thank them for their work and provide the draft of the discussion document that the department will put out. The MAP will finish on 30 June. On 30 June, the department, on my behalf, will issue a discussion paper with the outcomes of the MAP and what we will do next. There will be a short consultation period of probably two months, and then I will take that to cabinet. I emphasise that the MAP was a process to give me advice; now I have to work out what to do. Obviously, the way forward will be based on the work of the MAP, but there will be an opportunity for everybody in the industry to have a say. Obviously, the MAP was a closed process. It was a group of people drawn from all sides of the industry and government to give me advice. Now I have to give advice to cabinet. Before I take that to cabinet, there will be a two-month opportunity for anybody in the industry to comment on the outcomes of the MAP.

Mr P.A. KATSAMBANIS: That will be in the guise of commentary on the discussion paper. That is fine, because all the stakeholders, including industry, would like a say.

Mr W.J. JOHNSTON: Just to clarify, it is not a discussion paper. It is a —

Mr P.A. KATSAMBANIS: An issues paper?

Mr W.J. JOHNSTON: No; it is commentary on the draft. The MAP has been a very detailed process, so it is more than a discussion paper. We cannot call it the draft bill, because technically the draft bill has to come out of Parliamentary Counsel. It is what would be described as very detailed drafting instructions.

Mr P.A. KATSAMBANIS: It is the drafting instructions, for want of a better word.

Mr W.J. JOHNSTON: If the member wants to call it that.

Mr P.A. KATSAMBANIS: That will be through public consultation.

Mr W.J. JOHNSTON: Yes.

Mr P.A. KATSAMBANIS: That is good. Is it the intention, once that process is finalised and something comes out of cabinet, that the bill produced will be introduced into Parliament or will it be introduced as a green bill?

Mr W.J. JOHNSTON: No. There has been a formal process to take the nationally consistent legislation and make it relevant to Western Australia. As an example, we have had a long history of having a chief mining engineer: how does that fit in? That is an example. It has to be adapted for Western Australia. Once the MAP has finished its work—it has a few things to do, but basically it is done—that is the time for me to consult with the industry. That is what the process looks like from here. After a brief period of consultation, it will go to cabinet and come to Parliament as a bill that I read in the house.

Mr P.A. KATSAMBANIS: As a bill—that is okay. That clarifies that part of the process. There will be separate sets of regulations for various industries. Will those regulations, even in draft form, be available at the same time as the bill is tabled in Parliament?

Mr W.J. JOHNSTON: As the member might remember from when he was a member of the governing party, it is not normal for the regulations to be produced in advance of a bill passing Parliament. Parliamentary Counsel does not like doing that. There will be some delay between the passage of the legislation through Parliament and the act coming into force because, obviously, the regulations will need to be drafted. Of course, the department will be consulting as quickly as possible under its normal procedures. As the member knows, there is a regulatory process inside government that is exactly the same as when the two people sitting next to him were ministers. That has to be followed. I point out that there are draft model regulations produced by the national process as well. It is not as though anything will be a surprise to anybody when they see it. The whole idea is to make sure that everybody is consulted. We do not want any surprises. We are doing what the former government tried to do and did not finish, which is to take the nationally consistent health and safety law and bring it into Western Australia. In 1984, Western Australian laws were literally world leading. That was 35 years ago. It is now time to catch up because we have, unfortunately, dropped behind.

[11.40 am]

Mr P.A. KATSAMBANIS: We are pretty much on a unity ticket on this.

Mr W.J. JOHNSTON: Yes, absolutely. There are almost no differences.

Mr P.A. KATSAMBANIS: The only issue is around the technical aspects and the wording of those regulations. I accept what the minister said—that parliamentary counsel are reticent to draft regulations before a bill passes—but at the same time it has happened in the past. In this area of the law, the devil is sometimes in the detail. Industry and all stakeholders involved in this want to know the lie of the land. So, the model regulations will be used as a guide to assist Western Australia in the same way as the model legislation is being used.

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Mr W.J. JOHNSTON: That is exactly right, member. This is a no-surprises approach. I have given specific personal undertakings to a range of stakeholders on all sides of the health and safety discussion that this will be a no-surprises approach. I sit here and again make that commitment. As the member said, 99 per cent of this stuff is agreed. It is only the one per cent we could have an argument about. We have a particular approach; others have a different approach. Nobody is surprised by that. We do not want any circumstance in which people say, “Oh my God; I didn’t know that.” The ministerial advisory panel process, although it was necessarily a closed process, involved representatives from the Chamber of Commerce and Industry of Western Australia and the Chamber of Minerals and Energy. It also had a representative from UnionsWA. The next two months of consultation, starting at the end of June, is entirely public. I have already sought meetings with a range of business stakeholders. Obviously I have made the same undertaking on the union side. I want to make sure that there are no surprises. At the end of the day, the government does not have control of the upper hose. We will have to make sure that the legislation is broadly supported, otherwise it will not become law.

Mr P.A. KATSAMBANIS: The minister states that he intends to introduce the bill to Parliament in 2019. He pointed out that its passage is not solely determined on what the government does once it gets to Parliament. Is the intention to introduce it in the early sittings of Parliament in 2019 or is it too early to estimate what time frame in 2019 it is likely to be introduced?

Mr W.J. JOHNSTON: I point out to the member that if he looks at the list of ministers in order of their priority, he will see that I am number 11. I do not know whether that indicates the order of priorities for Parliamentary Counsel’s Office. I am not the Premier; the Premier controls the order of priority for legislation. Although it is what I would call very detailed drafting instructions, Parliamentary Counsel’s Office still reserves properly to itself the drafting of bills and I cannot comment on the time line. I would like to have it introduced as soon as physically possible.

Dr M.D. NAHAN: Yesterday, I asked the Treasurer a question related to royalties income on page 218 and he told me to ask the Minister for Mines and Petroleum.

Mr W.J. JOHNSTON: I heard about that. He calls it a flick pass!

Dr M.D. NAHAN: He did it a couple of times. My question should be quite straightforward. Gold royalties tend to tail off over the forward estimates. The Under Treasurer said that it was probably volume and not price. I think the price is forecast to go up in both US and Australian dollar terms; therefore, there would be quite a sharp drop-off in the expected gold production. Could the minister confirm or maybe have someone discuss it for my information?

Mr W.J. JOHNSTON: Gold royalties are projected to decrease over the forward estimates mainly due to forecast falls in the output volumes coupled with increases in exchange rates partially offset by increasing forecast prices.

Dr M.D. NAHAN: Exchange rates are as flat as a tack in the forward estimates. We were told by Treasury yesterday that it is a volume effect and to ask the experts in the department of mines from whom they get the data.

Mr W.J. JOHNSTON: It is true that there is a projection of a decline in volumes. The great thing about this is that we have been surprised on the upside quite a lot. Last year, 2017, was the best year ever for the gold industry in Western Australia. Clearly, that was because there was a new minister. We can look forward to —

Dr M.D. NAHAN: The upper house helped.

Mr W.J. JOHNSTON: No. The 2017 volumes were unrelated to the upper house because investment decisions were made a long time ago. Clearly, it was because of a superior quality minister—there cannot be any doubt about that. As long as the Premier continues to allow me to keep the job, I hope there is a lot more upside for the industry.

Dr M.D. NAHAN: Does the decline in gold royalties over the forward estimates indicate that the minister is going to leave his post?

Mr W.J. JOHNSTON: No. The member would have to ask the Premier that. This is something that is entirely within his control.

Dr M.D. NAHAN: There is a small number of very large, old mines. The minister knows which mines; they have been around for a long time—I hope they last. Is the assumption that some of them might be at risk? I do not expect the minister to mention individual mines.

Mr W.J. JOHNSTON: The good thing about 2017 was not just the volume of gold, but also the increase in exploration activity—\$550 million worth of gold exploration. That is a record. That was \$100 million more than whoever was the minister before me had, when he was in control.

Dr M.D. NAHAN: As the minister knows, things started a long time ago.

Mr W.J. JOHNSTON: I am just making a point. Obviously, I get blamed for the downside so I must be responsible for the upside!

Professional staff at the department do a great job, but these are estimates. We cannot actually know. The good thing is we do not want to overestimate the revenue in the budget. If we overestimate revenue, we are in deep trouble. I expect the department to take a conservative approach. It does this independently of government. The government does not tell the department what outcome it wants. The department goes away and makes its own predictions. Because I am a member of the Expenditure Review Committee, I know the way that Treasury reacts to those predictions. I know that they worked very closely together on this work. It is unusual in that we predict volumes but Treasury predicts prices and exchange rates. The estimates are done by Treasury but on the information that is provided by the department. The department provides its best professional view about the future profile.

Mr W.R. MARMION: As the minister knows, the Treasurer made a comment at page 5 of his budget speech that an increase in the rate of gold royalties “remains justified”. That has caused some uncertainty in the industry. Is the minister discussing any future increase in gold royalties with the industry or is he allaying their fears in any way?

[11.50 am]

Mr W.J. JOHNSTON: The government does not have any plans to increase the gold royalty this time. I must say that I cannot walk into a room without somebody from the mining sector telling me that the gold royalty is too low. As the member knows, it is not an issue, because we cannot get it through the upper house as it is currently constituted. I think there has been a \$A134 increase in the gold price since the royalty discussion last year. Clearly, the structure of the second iteration of the gold royalty proposal last year would have taken account of all the high-cost producers—they would not have paid any additional gold royalty. That meant that the high-cost producers would not have been impacted had that regulation gone through. Having said that, we do not have any plans at the minute to change the royalty rate.

Mr S.Y. MUBARAKAI: I refer to the significant issues impacting the agency listed on page 209 of budget paper No 2, specifically the issue of payment protection for subcontractors. These matters are of concern in my electorate. What is the government doing to implement its election commitments on payment protections for subcontractors?

Mr W.J. JOHNSTON: I thank the member for raising the issue. The government went to the election with specific commitments to improve the situation for subcontractors in the building industry. We have kept in place, exactly as left to us, all the arrangements put in place by the previous government, and we are building further on that foundation. We have set up an industry advisory group chaired by prominent and well-regarded Western Australian barrister John Fiocco, who is bringing all the industry parties together on this issue. This is not a report. Mr Fiocco is bringing the industry parties together to facilitate the implementation of the government’s commitments. This is a very complicated issue, and one of the reasons is that it is related to commonwealth law, and, obviously, we cannot amend the commonwealth law. We have to work around that. Currently, 26 stakeholder groups are being consulted as part of this process, including organisations representing principal head contractors, subcontractors and legal practitioners, as well as state government agencies. The process is designed to ensure that we make well-informed decisions about our reform program, unlike the case with previous reforms, which had good intentions but probably did not do enough. We are determined to get that right. There are no easy fixes in this space. There is no magic wand that can be waved to solve the problem, and the fact that there are similar problems in many other jurisdictions underlines this.

I note that the commonwealth government has tabled the Murray report on subcontractor protection, and I have asked John Fiocco to deal with that, so that we can have an instant response to the work of the commonwealth government. I note that the commonwealth government’s work did not recommend changes to commonwealth government laws, only to state laws, which is very interesting given that many of the problems in the insolvency space relate to the commonwealth corporations law, over which we have no control. There is no special budget allocation for this process; the costs are being absorbed into the department’s work. Mr Fiocco has so far held two series of consultations, and further consultations are planned over the next couple of months. I note that we will also be acting in the government space very soon, because we are very determined to improve the outcomes for subcontractors and other small business owners in this state, without undermining the important work done by head contractors on behalf of their clients.

Dr M.D. NAHAN: In the election campaign, the spokesman for the Labor Party made a range of promises in this area. Everyone recognised at the time, and should recognise now, that it is a very difficult area to effect policy. One of the proposed measures was to implement something like project bank accounts across the public sector. At that time, the previous government was experimenting with those; I think it had implemented six or seven of them

under its watch. I have two questions. What have been the results of the project bank accounts implemented by the previous government that are still in place now? Can the minister give us a briefing on how they worked out and whether there were any issues with them? They were controversial, but nonetheless it was a trial. Does the government plan to implement more widely, on the basis of that experiment, project bank accounts across the board in the public sector? I understand that there are a range of issues with the private sector.

Mr W.J. JOHNSTON: I thank the member for the follow-up question. We are looking at ways to expand project bank accounts across new areas of government. Of course, this is about government projects; we are not currently proposing project bank accounts for the private sector. That was not an election commitment. We note the work in Queensland, where project bank accounts have been applied more widely. Again, I note the Murray report and its recommendations. As I said, we are trying to instantly respond to the Murray review through the already established group run by John Fiocco. An interagency working group, chaired by the Department of the Premier and Cabinet, is working on project bank accounts. I am in regular contact, in fact as recently as yesterday, with the convener of that process, and we would expect to be able to make further comments very soon.

Dr M.D. NAHAN: I think seven project bank accounts were implemented in the trial. Can the minister give us a rundown on the effectiveness of those? Did they achieve their aim?

Mr W.J. JOHNSTON: It is a bit complicated, because the Department of Finance actually does those; it is not my agency. People should not forget that my agency is the regulator of the building industry; it is not actually the regulator of the activities of government. For good administrative reasons, I have carriage of the private sector, because that falls under the responsibility of the Building Commission. In respect of the broader piece of work being done in government, I have carriage of that piece of work for administrative ease, because there needs to be somebody at the centre of it. Even though the person running that process is in the Department of the Premier and Cabinet, I am the minister he is working with, just for administrative ease, but I am not in charge of the Department of Finance. I respectfully apologise, but I cannot answer a question on another minister's activities.

Dr M.D. NAHAN: The minister has described a situation that I am familiar with. I am not being critical; it is just the nature of the beast. However, if the government is seriously looking at expanding project bank accounts across the public sector, as per Labor's election commitments, would the minister with implementation policy oversight not be looking at the examples of the project bank accounts that have been running for over a year now?

Mr W.J. JOHNSTON: Thank you, member. I am not trying to be disrespectful. Let me put it this way, because I cannot answer questions on behalf of the Department of Finance, as the member acknowledges: in respect of the piece of work that I am responsible for, which is the cross-government implementation of our election commitments, it is our current intention to roll out project bank accounts more widely. Maybe that answers the member's question, because obviously we would not be rolling them out more widely if it was felt by the government that they had not succeeded.

Dr M.D. NAHAN: Would the minister commit, when making a policy, to do an assessment of those test cases, if you wish, because they were very controversial? There are a lot of ways to skin a cat. We came out with one, and the Queenslanders are doing it in a bit of a different way, and the UK did it in a different way. As opposition leader with some residual interest in this, I know that there is a great deal of controversy in the private sector about this, so how we go about this is really important. Will they work at all?

[12 noon]

Mr W.J. JOHNSTON: I can tell the Leader of the Opposition that I am talking to a number of the representatives of the contractors. One of the questions raised by some of those representatives was about the behaviour of clients. I am not going to make mention of any particular builder, but we all know there has been a controversial one that appears, on the surface, to have been related to the behaviour of the client rather than the builder, but let us not go there. Part of what we are looking at, in terms of the piece of work by the government, is what a model client looks like, so maybe we could be a bit of a model client. One part of that is to not always take the lowest bid, because sometimes if cost is the only outcome, we end up with a problem, whereas if we take a more balanced approach, which is value for money, we might end up with a different outcome. The government is talking internally at the moment about what a model client looks like and whether that is something we have to include in our outcomes. I do not want to mislead the Leader of the Opposition, because that was not a specific election commitment, and obviously we are talking about implementing our election commitments, but in implementing our election commitments, other issues have come up.

Mr W.R. MARMION: Just to wind this up, because it is a key area. It is of concern to everyone when a subcontractor does not get paid. I had this discussion when I was a minister with various people involved in procurement. When I ran contracts a long time ago, some decades ago—I know the general conditions of contract were, I think, Australian Standard 185 from memory, but it was 20 years ago since I used it—there was a clause

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that I used as a superintendent's rep. If a subcontractor came to me and said they had not been paid, in terms of paying the monthly amount—10 per cent was taken out anyway, as a retention—I also had the power to deduct the amount that I believed had not been paid. That forced the issue. One, the money was set aside in the bank anyway, and it also meant that the contractor would quickly pay the person if they had not already, or come and explain what the issue was. I thought that was a simple way of doing it; we are talking about the late 1980s. The advice I got from the department at that time was that general conditions could not be used anymore. I am just interested to know if that could be put in. I would have thought that for a government contract, they could put in whatever they like.

Mr W.J. JOHNSTON: I thank the member for the comment. I do not have that specific detail. There are professional people who are doing the real work —

Mr W.R. MARMION: The Building Commissioner.

Mr W.J. JOHNSTON: It is not the Building Commissioner; we are discussing the public sector. The Building Commission is providing assistance, but it is actually the Department of the Premier and Cabinet that is running that piece of work. I make the point also that, as I understand it, Western Australia is one of the few places that has a “pay when paid” clause in contracts, whereas in other states the payment must be made regardless of whether they have been paid. There is a whole range of issues around this and, as I say, there are two separate pieces of work—one that the Building Commission is running with Mr Fiocco about the private sector and how we implement our commitments, and the second about reform in the public sector, which is being coordinated through the Department of the Premier and Cabinet.

Mr P.A. KATSAMBANIS: The minister mentions the review by Mr Fiocco. On page 209, again under “Significant Issues Impacting the Agency”, there is reference to a review of the registration requirements for construction contractors and major subcontractors, a review of the adequacy of the legislation and an education campaign. Is that all part of the Fiocco review, or are those reviews and the education campaign separate?

Mr W.J. JOHNSTON: There will be ongoing pieces of work carried out by the Building Commission, separate to the Fiocco review. The Fiocco review is a specific piece of work that is, “Here are our election commitments; what do they look like in practice? Just because we came up with good ideas in opposition, what do they actually mean when implemented in society?” That is the piece of work that Mr Fiocco is doing for me, but other work is going on all the time in respect of the ordinary work of the Building Commission. Those two things interact, but they are not automatically the same thing.

Mr P.A. KATSAMBANIS: When are these reviews of the registration requirements and of the adequacy of the legislation due to be advanced?

Mr W.J. JOHNSTON: Mr Smith just pointed out to me that some of these things are being looked at by Fiocco. He cannot report after October; we want him to report before. But it is not like the Building Commission is sitting still. It is reacting to information that comes to it, so there are ongoing pieces of work by the Building Commission around many of these issues. We also now have the commonwealth Murray review, which makes all these recommendations to state governments about state government behaviour, even though it is the commonwealth. It is not asking for changes to its own laws, but it is bizarrely recommending changes to ours. There are a lot of bits to this, but Fiocco will obviously make recommendations about reform in this area and he has to report no later than October. We are hoping he gets back to us sooner.

Mr P.A. KATSAMBANIS: With regard to the education campaign piece, has that been funded or is it the intention to fund one in the future?

Mr W.J. JOHNSTON: No. I am happy to ask the Building Commissioner to speak on this, but one of the things that all this has highlighted is the fact that people do not know about the rapid adjudication procedure for contractors in industry.

Mr P.A. KATSAMBANIS: Are these the Construction Contracts Act provisions?

Mr W.J. JOHNSTON: Yes, under the act, because people think that they are on their own. It is complicated; as I said, I will get the Building Commissioner to speak in a moment. The adjudication cannot get them the money, but it can find out how much money they should get, if the member sees the difference. It is just like the Western Australian Industrial Relations Commission. The industrial commission cannot enforce its own orders —

Mr P.A. KATSAMBANIS: I know exactly how it works.

Mr W.J. JOHNSTON: The point there is that people are not aware that this capacity exists, and therefore they think they are on their own, when actually they can get help to resolve the extent of the dispute. If the person who has not paid does not pay, they still have to take them to court, but at least they can get the extent of the dispute resolved. I am happy for the Building Commissioner to make comment.

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Mr K.D. Bowron: The review of the CCA was part of the terms of reference for Mr Fiocco and took up most of the first workshop he did with the industry stakeholders. It explored the sorts of things the minister mentioned about the accessibility, availability and use of it, ranging from its adequacy right through to the education of people in getting the use of it, so I would expect that we will get some detailed report coming out on that from Mr Fiocco. In the meantime, from an operational point of view, we are constantly trying to update and improve our education material on that and to engage with industry to educate people on the use of the CCA.

Dr M.D. NAHAN: When we were looking at this issue—the accessibility of the CCA to contractors, a big issue—there were a number of complaints: knowledge of it, but also the response rate of the adjudication process itself. They were out the door before a decision was made; that was the feedback. Is the Fiocco inquiry going to look at the functioning of the CCA dispute resolution process, as well as other things?

Mr W.J. JOHNSTON: I will hand over to the Building Commissioner in a moment, but yes, we are asking Mr Fiocco to look at all the election commitments we made and find out how we can get them into practice. As the Leader of the Opposition has already commented, they were a wideranging set of election commitments. A very qualified and excellent shadow minister came up with all those ideas!

Dr M.D. NAHAN: She has been hard on the minister lately!

Mr W.J. JOHNSTON: I am sorry?

Dr M.D. NAHAN: She was hard on you!

[12.10 pm]

Mr W.J. JOHNSTON: She usually is!

It is an important piece of work and we are looking forward to it being complete. The Building Commissioner might want to add some comments.

Mr K.D. Bowron: I think the minister has summarised it well. That is what is happening. We await the deliberations of Mr Fiocco on that. As I mentioned, quite obviously, there are some operational issues that we can address and we try to do that in the immediacy.

Mr W.R. MARMION: I refer to royalty income on page 85 of budget paper No 3. Page 84 refers to the flow of revenues and the good news story on lithium.

Mr W.J. JOHNSTON: Is the member referring to budget paper No 3 or budget paper No 2?

Mr W.R. MARMION: It is page 85 of budget paper No 3. On page 84 there is a report about the nice increase in lithium royalties over the next couple of years. Then there is a bit of a drop-off. Can the minister explain why there is a drop-off in 2020–21 and 2021–22?

Mr W.J. JOHNSTON: Could the member address me to the page?

Mr W.R. MARMION: It is page 85.

Mr W.J. JOHNSTON: I do not have page 85 in front of me. I think the statement read by the Chair of the committee at the start of the hearing was that questions had to relate to budget paper No 2, not budget paper No 3.

Mr W.R. MARMION: It is referred to in budget paper No 2 as well.

Mr W.J. JOHNSTON: I am sure it is, but could the member direct me to the page? I only have briefing notes about budget paper No 2, not budget paper No 3.

Mr W.R. MARMION: Anyway, the minister knows what the question is.

Mr W.J. JOHNSTON: Yes, I do, but if the member addresses me to the page, I can find my briefing note.

Mr W.R. MARMION: It is page 218.

Mr W.J. JOHNSTON: I thank the member; he is very kind! What was the question?

Mr W.R. MARMION: Page 218 lists lithium royalty rates going up in 2019–20 and then they drop-off. Lithium mines are popping up everywhere and I wonder what the rationale is for the royalty income to go down after 2019–20. Is it because there will be a reduction in volumes or is there a prediction about the price of lithium going down?

Mr W.J. JOHNSTON: I thank the member for the question. I will ask Dr Gorey to make some remarks, but I highlight that these are conservative estimates. I am not directly involved in the creation of these conservative estimates. That is done by professional staff without any political interference. I will invite Dr Gorey to make some comments about this.

Dr P. Gorey: One of the approaches the department takes in its provision of forward estimates for volumes, across all the commodities, is that the volume predictions are based on activities approved or that have a very high likelihood of being approved and operational. Influencing all these commodity areas is the likelihood of some drop-off the further out we look through the forward estimates because the likelihood of projects being approved long term will drop off. There is that broader context that I would like to make sure that members are aware of. There are four operating lithium mines now in Western Australia. Another three are under construction and we are fully aware that one is in the planning and approval stage. Of those already operational, there is the Greenbushes project, which is a substantial supplier of lithium spodumene concentrate to the world market. The other operating sites include the Mt Marion operation, Wodgina and the Mt Cattlin operation. As other sites come on board, we expect to see that operations will come up, commissioning will occur and production will get up to nameplate capacity. We will see that happen over time. As the member said, there is a lot of interest in lithium operations. We are probably likely to see a bit more variability in this area in the forward estimates for ore production compared with some of the other commodities that perhaps have longer life spans and industry operations that are a bit more settled, given their longevity.

Mr W.R. MARMION: The other aspect of lithium is lithium hydroxide and lithium carbonate. Can the minister explain what the royalty rate is for pure lithium ore and how it changes as it is refined?

Mr W.J. JOHNSTON: Under the royalty principles that apply in WA, three royalty rates apply to the royalty value of the mineral.

Mr W.R. MARMION: Can the minister please slow down.

Mr W.J. JOHNSTON: Sure, but this will end up in *Hansard*.

A rate of 7.5 per cent applies to crushed and screened minerals. The rate is five per cent for mineral concentrates and 2.5 per cent for metals. The royalty estimates are based on the royalty rate of 7.5 per cent that applies to lithium crushed and screened and the five per cent applied to lithium concentrates. To date, Western Australia has not had any lithium hydroxide or lithium carbonate production. Production is expected in the future. I am sure that the member would be interested to know that I visited the Tianqi plant three weeks ago and it is confident that it will have construction of its first train complete by Christmas, and then it needs to ramp up. Its view is that it will take some time to get to nameplate capacity, but of course it has already commissioned train 2 and that will follow along. SQM, through Western Australia Lithium, announced that although it has not made a final investment decision, it has signed the heads of agreement with LandCorp for access to the land. The investment decision is obviously up to it, but it is pending.

The other thing that has been in the media is the decision of Albemarle; again, it has not made a decision, but it is pending. We do not currently have, and probably still will not have before this time next year, any significant lithium hydroxide production in Western Australia, because Tianqi will still be only in its ramp-up. Obviously, in the out years there might be lots of excitement here.

Mr W.R. MARMION: This question is for my own interest and I do not know the answer. If there was battery manufacturing and we could refine lithium hydroxide even further, how would it affect the royalty rate for that product?

Mr W.J. JOHNSTON: I will get Dr Gorey to respond, but I will make a couple of comments before that. Somebody in the media chastised me the other day because I used the word “cautious” in respect of my approach to the future processing of lithium in Western Australia. The point I make is that I am excited about these opportunities, but let us not get ahead of ourselves. If a battery manufacturing plant was set up in Western Australia today, all the components would have to be imported, because the inputs are not made here. We have the raw materials and now we are going to the hydroxides and carbonates, but they have to be made into other materials before a battery can be made. The government of Western Australia is very keen to get a plan in place so we can support the private sector in making investment decisions, and we might talk about that quite soon, because it is a genuinely exciting opportunity. One of the investors who spoke to me recently made a prediction that if their investment goes the way they want it to, within a decade there will effectively be a campus with 1 000 people working there in highly skilled, technical jobs that are highly paid. It is a genuinely exciting opportunity.

The National Party is not here, but when WA Lithium made its decision the other day to go to Kwinana, a member from the south west said that it should have been in Kemerton and a National Party member from the goldfields said that it should have been in the goldfields. The real issue is: let us make sure that it is in Australia, and, in fact, in Western Australia. The number one issue is to make sure that we get it right. Wherever the investors decide to do it, whether it is in the goldfields, Kemerton, Port Hedland or Kwinana, let us ensure that they do it here in Western Australia. That is the trick. It is not easy to get that to happen. I will hand over to Dr Gorey to give a more technical answer.

[12.20 pm]

Dr P. Gorey: The additional information I would provide is applicable to all commodities. The royalty process that is established under the Mining Act allows for refinement over time, depending on further downstream processes that may come online. One of the things we will continually do—this is something the department has done for quite a while—is continue to monitor that. At the moment I am unable to give a direct answer to it because the answer will be impacted on by things like the extent to which there is an arm's length transaction and the extent to which processing may happen onsite versus through another third party. What we do have though is the framework under that legislation that is able to deal with that. As new processing and new commodities come online, that can be amended, so that is the advice we would provide to the government at the time.

Mr W.R. MARMION: Let us assume the lithium element was 2.5 per cent or less—the department might say it is less—the industry would argue that gold is an element and it is 2.5 per cent, so why would the government want to put the gold royalty up if it is already an element?

Mr W.J. JOHNSTON: That is an interesting change of topic. The member might have been the minister when the royalty rate analysis was done. I think the member for Nedlands and the man sitting next to him were the two ministers who commissioned the review.

Dr M.D. NAHAN: It was commissioned by Christian Porter.

Mr W.J. JOHNSTON: There you go. One way or another, the two members opposite were in the chair when the report became public and they used to argue about the good work that was done. The analysis done by the two of them was that that was the outcome that should happen for gold and that it was not paying the equivalent of 10 per cent mine-head value. The government does not currently have a proposal to increase the gold royalty ahead of it. However, with regard to lithium, which the member started the discussion on, the government of Western Australia is very keen to support this growing industry. That is why we have put \$5.5 million from the Minerals Research Institute of Western Australia plus another half a million from the Department of Jobs, Tourism, Science and Innovation into the cooperative research centre bid. I invite the member to get briefed on that. I am briefing Liberal senators on it because I think it is an exciting opportunity. I am just about to sign letters to the relevant federal ministers to bring it to their attention. I spoke to Senator Matt Canavan in Melbourne when I was there for the Council of Australian Governments meeting. There is absolutely no question that the CRC should come to WA. We had specific election commitments around energy technologies and we are keen to roll out those commitments.

Mr P.A. KATSAMBANIS: I refer to the significant issues impacting the agency on page 209 of budget paper No 2. I might have foreshadowed this questioning to the minister earlier today. The seventh dot point on the page states that the department supports a ministerial review of the state industrial relations system currently being undertaken. When is that review likely to finalise its final report? What will be the government process after that report is delivered?

Mr W.J. JOHNSTON: Last year when the member asked about that, I pointed out that we gave him four months. I bet the member the proverbial \$100 that it would not be completed on time. It is lucky the member did not put the \$100 up because he would have lost!

Mr P.A. KATSAMBANIS: I am not a betting man but I was quite tempted when the minister offered that!

Mr W.J. JOHNSTON: It is one of those things: the government sets up a review and tries to give it nice terms of reference, but it always takes longer. I am advised that we expect Mr Ritter to give us the final report on 11 June. It has attracted much attention in the IR sector. I have the issues paper that was prepared and I have a quote here from Winston Churchill —

This report, by its very length, defends itself against the risk of being read.

The report is 565 pages in length. It is thorough going.

Mr P.A. KATSAMBANIS: It sure is. It took a while to read through, but it was good reading.

Mr W.J. JOHNSTON: I have done that too. It is a huge piece of work. Despite the fact that many people criticise it, with valid criticisms it is still a very good piece of work. We will have to have a look. Clearly, the fundamental recommendation is that the 1979 act has got to the end of its life—I think that is probably true—and it will be a big piece of work to rewrite. It will not be my first priority to get the IR act rewritten. That is probably a second-term agenda. The fundamental issues in that paper are basically correct. The analysis of the appeal rights for public servants was extraordinary. I did not realise that the Public Sector Commission had developed its own conciliation and arbitration procedures, which is bizarre, with all due respect to the commission, because it has public servants conciliating and arbitrating on disputes with other public servants without being bound by precedent and without publishing reasons.

Mr P.A. KATSAMBANIS: It is probably technically ultra vires the act itself.

Mr W.J. JOHNSTON: I do not know about that; I am not a lawyer. The procedures have been developed by the commission over time through the commissioner's instructions. Clearly, it needs to be reformed. The government will need to think about what it does with the interaction between the Public Sector Management Act and the Industrial Relations Act. The work around the definition of employees is very interesting. It is a matter that the member and I debated last year. The outcome of the gig economy basically says that we cannot regulate; not that we should not, but that we cannot. That is fair enough. I have never said that we had to do things, but just that we should look at them. I think that is a good thing to do. It is a great set of recommendations for the other elements of the definition of employer. One that is quite controversial is the recommendation on affected award modernisation. I do not know whether I would go as far as Mr Ritter did, but clearly there needs to be a systematic look at awards. The structure of the commission is probably an interesting set of observations and the government will have to respond to that.

Mr P.A. KATSAMBANIS: That sounds expensive.

Mr W.J. JOHNSTON: Which one?

Mr P.A. KATSAMBANIS: The structure of the commission.

Mr W.J. JOHNSTON: As I say, they are interesting observations. It does not mean that the government is committed to any of them. This is a report to government, not a report by government. It is independent. Mr Ritter has a strong background in these matters and I respect his recommendations. We do not know what the final report looks like. It will be interesting to see. Obviously, the final report will go out for comment and then the government will have to respond in some way. Are we going to drop a new IR bill in the house at the end of August? No.

Mr P.A. KATSAMBANIS: I note that at the outset the minister suggested that legislative reform might be post 2020–21, so I might be pre-empting this beyond where he has thought about it. Given the inclination to completely rewrite the act, would consideration be given to releasing a finalised draft of that as a green bill rather than at some point bringing forward new legislation that was fundamentally different from the existing act?

[12.30 pm]

Mr W.J. JOHNSTON: No. The industrial relations game is actually pretty small. All the parties know each other.

Mr P.A. KATSAMBANIS: Tell me about it.

Mr W.J. JOHNSTON: Yes, I used to be one of them. I do not think we need to go through a green bill process because the reality is that a lot of people will get excited about reading a green bill but they will never interact with the legislation. It is a highly technical area of law. As a former union official, I used to celebrate when a businessman turned up with a suburban lawyer because the suburban lawyer did not understand the industrial relations system and did not understand the precedents or the important role precedents play. I do not think we need to go out to the entire community, but I think it is important that practitioners in the industrial relations system are fully engaged in the process. There is not a circumstance in which I would spring something on the community; it would not be a way forward and I would not do it.

Mr P.A. KATSAMBANIS: Regarding the modernisation of state awards, I notice that the minister is not as enthusiastic about it as perhaps Mr Ritter, SC, has been in his commentary. Is that partly due to the cost to the system, particularly the Industrial Relations Commission or whatever replaces the IRC, if we embark on that sort of exercise?

Mr W.J. JOHNSTON: There would be a cost to all the participants in the system because a root-and-branch rewrite of awards would be a very expensive process and somebody would have to fund it. There are really two separate systems in Western Australia. There is the public sector, which is fine. It is quite healthy. Obviously, I could make some observations about the interaction between the industrial relations system and the Public Sector Commission, but leaving that aside, it is a healthy system because all the participants are actively in it. The problem with the private sector system is that nobody is actively participating. Employer representatives basically have no interest in it anymore because they do not have any members in the state system because they do not represent microbusinesses. Unions consider awards important but, again, most of their members are now covered federally, so there is a lack of available resourcing for employers and employees to do a root-and-branch review of awards. That means people ask, "Why doesn't the government fund it?" We have to overcome \$40 billion of Liberal debt, so we have our own restrictions on how much we can put into that process. Let me make it clear: I would probably bring forward amendments to the current act regardless of whether there is a complete rewrite. For example, the definition of "employee" needs to be fixed because that is a demand from Michaelia Cash and we will make some administrative changes to the Industrial Relations Commission because we need to simplify it. Recommendations have been made for nearly 15 years to reform some the commission's administrative practices. I would like to get

those done. We will do some little things. I am not saying that rewriting the act is a second-term agenda but it might well be a second term process. It is not right at the top of our list of priorities at this stage.

Mr P.A. KATSAMBANIS: I have a genuine question; I am not advocating a particular position. Regarding the minister's discussion of the non-public sector application of the Western Australian industrial relations system, can the minister clarify this so there is no dispute. His comments could, in part, be taken as a pointer towards perhaps handing over such powers, as many states have.

Mr W.J. JOHNSTON: No.

Mr P.A. KATSAMBANIS: The minister indicated that is not the case; okay, great. Again, I am not advocating a particular position.

Mr W.J. JOHNSTON: No, I understand that. If the Liberal Party wanted to do it, it would have done it, because it had plenty of chances in eight and a half years.

Mr P.A. KATSAMBANIS: Given my past experience, I could probably bore for Australia on issues that are created when industrial relations powers are handed over!

Mr W.J. JOHNSTON: It is an issue of intense interest to a small number of people. The question of handing over our powers was specifically excluded from this review. The review board directed the reviewer to not recommend that. It might have been different in the past but that was specifically excluded. We have no intention of handing it over. My position is very clear; I think that awards are an essential element of the industrial relations system. I want to look at how we can strengthen awards to be the principal way of regulating employment.

Mr C.J. TALLENTIRE: I am very keen to hear about some amendments proposed to the Residential Parks (Long-stay Tenants) Act 2006. I have been waiting for these amendments for about eight years. I can reference this to the last dot point on page 209 and also "Appropriations, Expenses and Cash Assets" on page 207 of budget paper No 2.

Mr W.J. JOHNSTON: It sounds trite but one of the great things about being in this portfolio is assisting with issues that individuals directly face. Drafting is underway of the Residential Parks (Long-stay Tenants) Amendment Bill 2018. It was a decision of cabinet last year to request a drafting of this bill. The main reforms include: removing, without grounds for termination, long-stay agreements for tenants; no termination of fixed-term agreements on the sale of a park; and no automatic termination if a park owner's financiers take possession of the park. I am told by all the lawyers in my office that that is a novel issue for clearing up. In addition, there will be clearer rules for park operators, home owners and prospective tenants on the sale of homes; disclosure of important information will be provided to potential tenants prior to signing a long-stay agreement; new rules for exit fees and other voluntary sharing arrangements; and standard form lease clauses will no longer be able to be varied. That means the standard clauses that are provided will not be able to be contracted out of in the future. I know that the member for Riverton will be excited by these changes because they reflect recommendations made by a committee that he chaired —

Dr M.D. NAHAN: The minister was the deputy.

Mr W.J. JOHNSTON: I was the deputy—in the first year we were both elected to this place. We were hoping to complete these amendments sooner but it has taken a bit longer with the Parliamentary Counsel's Office. I was asked a question by a member of the upper house recently and I made the point that this does not reflect activity of the consumer protection department; it is about the Parliamentary Counsel's Office. We have been working diligently. We hope to be able to introduce the legislation in the first weeks of Parliament after the winter recess and we hope it will get rapid passage through Parliament, but we cannot guarantee that because it still depends on the Parliamentary Counsel's Office to complete the work. I think we are heading towards the ninth draft. I note that the dot point the member referred to on page 209 also refers to the family violence protections that we recently introduced. The bill was read in by my good friend Simone McGurk, the Minister for Prevention of Family and Domestic Violence. They are exciting changes that will allow improved protections for victims of domestic violence. It also reflects the important work done by the department that is often unseen.

The body of work that led to that legislation is tribute to the way the public sector works. It is a very complicated issue, but the public sector has been able to deal with all interest groups in that space to develop important amendments. That is tribute to the way Consumer Protection and its staff work together for the benefit of the whole community. I know members share my view that it is the sort of thing that motivates us to come here, because we are helping individuals with the real problems they face every day. That was a long answer, but we hope to have the legislation in Parliament after the winter recess.

[12.40 pm]

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Dr M.D. NAHAN: Returning to the Industrial Relations Commission, I refer to the fourth dot point on page 209 of the *Budget Statements*, which states —

The Department is responsible for implementing several of the Government's public sector workforce commitments, including ... permanency criteria, a review of the redeployment and redundancy framework, and improving agency practices.

Can the minister describe the commitments on permanency criteria and the review of the redeployment and redundancy framework, whether they will be implemented and when some decisions will be made?

Mr W.J. JOHNSTON: I will ask the acting executive director to comment, but our election commitment on conversion was to try to provide an opportunity for people in temporary employment to become permanent. This is a very complicated issue, and we are determined to get to a conclusion. It is complicated for manyfold reasons, but one is the interaction between the Public Sector Management Act and the way the budget is structured. Agencies have been able to capitalise employment costs into projects, but not include them in the recurrent budget, which encouraged the use of agency staff and temporary employment because they were not part of the headcount and the costs went to the capital budget rather than annual appropriations. That led to 26 per cent of public sector employees being either fixed term or casual. In December 2017, there were 24 700 fixed-term employees and over 11 000 casual employees. We think we can convert over 15 000 of those employees to permanency. This is not about new employees; it is about giving a permanent opportunity to precarious employees. A new commissioner's instruction will be required to give effect to the government's commitment. That is being developed by the Public Sector Commission with support from my agency, particularly the public sector labour relations division of which Alex is the executive director. We are still finalising that because it is a very complicated issue, but I welcome the support of the Public Sector Commission on the work being done, and I acknowledge the vigilance of the relevant unions in working with us on this issue. We will articulate the criteria for permanency, require public sector employers to review existing fixed-term contracts and casual arrangements, and enable the conversion of those employees to permanency if the criteria are met. It will not be an automatic process; the criteria will have to be implemented.

The permanency criteria are currently under consideration, but they will include issues like these: the employee has completed two or more years of continuous service in the same or a similar role; the reason for the current engagement on a fixed-term contract is not a legitimate circumstance as prescribed under the relevant award or industrial agreement; the employee is not subject to formal disciplinary or substandard performance action at the time of assessment; and, the employee has been subject to a proper assessment of merit, which may include competitive selection. Some employers, such as Education and Health, have already commenced conversion processes if enabled to by awards and industrial agreements. I note that many of the employees in those agencies are not covered by every element of the Public Sector Management Act; some are specific to public servants as opposed to public sector employees. The procedures and rules are more flexible in that regard. We are also looking at appeal rights, including the access rights to the Industrial Relations Commission we will give employees. Public sector employers are expected to operate within their existing budgets in meeting these commitments; we will not provide additional resourcing. These are not new employees; they are currently employed by the public service through these precarious employment arrangements. A range of administrative drivers have pushed agencies to employ people precariously, and we are very keen to end that arrangement. I will ask the executive director to make a few comments on the process that has led us to this point.

Mr A.S. Lyon: The minister covered that quite well. We have some challenges around how different public sector employees are appointed. That will also lead to appeal rights and how an employee can challenge a decision of the employer. We are working with the Public Sector Commissioner and the commission on the commissioner's instructions, directions and support of the implementation in the sector. We recognise that agencies will need that support from us and the Public Sector Commission. It is anticipated that the Public Sector Commission will publish the directions in July 2018.

Dr M.D. NAHAN: That relates to the conversion of existing employees. What about converting temporary positions into permanent positions? For instance, hospitals may hire temporary nurses in rotating positions. Is this just for converting people, not positions?

Mr W.J. JOHNSTON: Yes. For a range of administrative reasons, there has been a push over the last eight and a half years to increase the number of precarious employees in the public sector. In December 2017 that led to 26 per cent of public sector employees being employed on a precarious basis. That is not good for the public sector or individuals. The election commitment was to provide more permanent opportunities for those people. We are trying to allow those loyal servants of the state of Western Australia to get permanent employment in the public sector in jobs they currently do. It is complicated because there are a lot of intersecting rules. We have had to work very carefully to ensure that we do not offend any of those rules or cause an imbalance in the finances of the

agencies, because, obviously, at the same time, we expect agencies to reduce their budgets. It is a very complicated issue. It is not a one-size-fits-all solution because every agency will be slightly different. We expect over 15 000 of these employees to become permanent within the current budget arrangements of the state of Western Australia. That is an incredible opportunity to improve the lives of a significant number of Western Australians. Again, I am very proud to play a role in that. Education and Health are well advanced because the Public Sector Management Act intersection with their other arrangements is less than in what we would consider to be the public service. Officers of the public service have some complications in respect of the Public Sector Management Act. Clearly, we will not do anything not in accordance with the Public Sector Management Act. We are looking at each of these issues carefully because we think there will be a great outcome.

[12.50 pm]

Dr M.D. NAHAN: What about in areas such as Building Management and Works because its workload is up and down? It depends on the government. It facilitates capital works of a small nature. It varies sometimes by 20 to 30 per cent over the term of the budget. That is why a lot of people have been brought in on casual contracts in those areas. Will the minister target certain areas of the government where the workload is more certain or is this an across-government move?

Mr W.J. JOHNSTON: I think the member might be putting two things together that are not actually related. Agency employees are a separate issue, whereby we contract for service rather than have a contract of service. These are employees—people who are employed as a contract of service.

Dr M.D. NAHAN: I know that.

Mr W.J. JOHNSTON: There is a separate stream of work regarding our outsourcing arrangements. Sadly, I can report that the former Department of Mines and Petroleum was singled out by the Langouant report for having used lots of contracts for service. That is a matter that the director general and I have talked about on a number of occasions. There is a separate piece of work for contracts for service. This is in respect of contract of service.

Dr M.D. NAHAN: I meant “of service”. In BMW, there used to be a high proportion of temps and casuals because of the uncertainty or the volatility of the workload that is determined by Treasury, often, and government because it is a service agency. That is just one example. Will the minister target certain agencies to shift from temporary to permanent or will changes be made across the board?

Mr W.J. JOHNSTON: I will invite the executive director to make a comment, but I point out that we are talking about 36 000 precarious employees and fewer than 16 000 getting converted. Not everybody in precarious employment will end up with a permanent job, but we are systematically trying to identify where we can provide secure employment. I will invite the executive director to comment.

Mr A.S. Lyon: It is worth pointing out that there is already a commissioner’s instruction on modes of employment and whether one uses permanent employment when there is a vacancy or contract employment when workers are in a finite time frame or fluctuating. I think the question is around whether the work itself is ongoing and funded. Whether a person should be converted is a decision that each employer will have to make within the criteria.

Mr W.J. JOHNSTON: I think the director general could provide some useful examples from our agency of the sort of thing we are discussing. I invite David Smith to comment.

Mr D. Smith: I thought since we were mentioned, as the minister said, our use of contractors was also highlighted in the Langouant report. It is something that we are turning our minds to, both in the responsibilities for the sector as a whole that Alex is leading with the Public Sector Commission, but also in our own management of this area. I think the criteria that are being developed here are still under consideration. The first of those that the minister referred to was that the employee must have completed two or more years of continuous service in the same or similar role. We will look at positions in which people have been in that situation. Perhaps there is some uncertainty about funding, but the fact that we have had that role for two years is a fair indication, and we have used the built-up skills with those individuals too, so, in a sense, we have a selfish interest in maintaining that. As a department, we are looking at those sorts of positions and the scope we have for making those positions permanent. That is happening now as we go through our amalgamation process and in the search for efficiencies.

Dr M.D. NAHAN: This is unrelated, aside from the review of the redeployment and redundancy framework. The minister has made some comments on that. Is that progressing?

Mr W.J. JOHNSTON: We are committed to fair and equitable management of our surplus public sector employees. Redeployment redundancy processes are being reviewed to ensure efficient and effective outcomes are being realised under the current legislative framework. The department, through the public sector labour relations division, has forwarded review terms to the relevant unions. The Public Sector Commission has been invited to participate in the review. Broadly, the review will evaluate, monitor and report on the overall redeployment and redundancy processes and strategies within agencies; consider and recommend processes and

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strategies for best practice; report on and recommend possibilities for cultural change regarding perceptions of and approach to surplus employees; and explore broad themes, including duration of the redeployment period, case management and skills matching, suitability assessment, circumstances for suspension and revocation, mechanisms for involuntary termination, and the role of central agencies. PSLR, as we call it, anticipates the review to be completed in the first quarter of next year.

Dr M.D. NAHAN: Could you translate that?

Mr W.J. JOHNSTON: It is a broad-ranging review that is designed to see whether we can provide better outcomes. One problem we have in the public sector is that managers have become too timid to manage. They see redundancy and redeployment as a way of getting rid of people they do not want rather than managing performance. We want to review what has been happening. Again, these recommendations came out of the Public Accounts Committee, chaired by Sean L'Estrange, in the last Parliament.

Dr M.D. NAHAN: I did not know where the minister was going with this.

Mr W.J. JOHNSTON: We want a system that works, because the current system does not function properly.

Dr M.D. NAHAN: I agree.

Mr W.J. JOHNSTON: If we give more respect to people and value their work more, we get a better outcome. That is what this is about. It is about making sure that people do not use redundancy and redeployment for performance management, because that is not what it is about. This is about making sure that we can match the skills needed by the public sector with the people we have. No society functions without a strong public service. Look at the work of the Consumer Protection Division. We talked about that before. Mr Hillyard talked about individual members of the department going with vulnerable people to stop transactions going through that would leave them destitute. That is a remarkable achievement of the public service. We do valuable work; we want to make sure it is done within a proper context.

Mr W.R. MARMION: I refer to the mining rehabilitation fund on page 219, and my question also relates to page 215. A payment of \$2 million is coming out. Can the minister explain what that is for?

Mr W.J. JOHNSTON: As the member knows, as a former minister, we can spend only the interest on the fund. That is the allocation of the interest towards rehabilitation activities.

Mr W.R. MARMION: If that is the allocation, can the minister advise whether all interest will be retained within the department, or once it reaches a certain figure, will it go into the consolidated account?

Mr W.J. JOHNSTON: The only thing the money can be allocated to is rehabilitation works. The payments will be for on-ground work.

Mr W.R. MARMION: I understand that. What about the actual interest earned on the fund? Will all interest earned on the fund be retained by the department?

Mr W.J. JOHNSTON: The interest will be spent. We are not going to give it to Treasury, if that is what the member is asking. We are going to spend it on stuff.

Mr W.R. MARMION: Can the minister advise what mines will undergo rehabilitation? I know the member for Collie–Preston is keen to get the Black Diamond mine rehabilitated. There is also a little one outside Coolgardie. What other mines are being rehabilitated?

Mr W.J. JOHNSTON: Given that we have only a couple of moments to go and we need to put the division, rather than asking Dr Gorey to answer, I will arrange a briefing.

The CHAIR: Member, are you happy with that?

Mr W.R. MARMION: Yes.

The appropriation was recommended.

Meeting suspended from 1.00 to 2.00 pm