

Division 28: Aboriginal Affairs, \$33 176 000 —

Mr P. Abetz, Chairman.

Mr J.H.D. Day, Minister for Health representing the Minister for Aboriginal Affairs.

Mr C. Weeks, Director General.

Mr N. Thomson, Executive Director, Land.

Mr J. Curtis, Executive Director, Community Development.

Ms T. Vale, Chief Heritage Officer.

Mr S. Richards, Chief Financial Officer.

Mr V. Davies, Assistant Director General.

The CHAIRMAN: 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. It will greatly assist Hansard if members can give these details in preface to their question.

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, 3 June 2016. 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 with the Clerk's office.

[Witnesses introduced.]

[5.30 pm]

The CHAIRMAN: I give the call to the member for Victoria Park.

Mr B.S. WYATT: I refer to "Significant Issues Impacting the Agency" on page 298 of the *Budget Statements*. As the minister is no doubt aware, the government has released the Land Administration Amendment Bill 2016 and I am interested in the department's role in this. I am in no doubt that the department is now starting to get some feedback, in respect of potential impact on native title. I note that the proposal is for the government to develop a template Indigenous land use agreement and I want to know whether native title representative bodies, native title organisations and Aboriginal organisations will be part of that negotiation process so that their feedback will be fed into that template ILUA.

Mr J.H.D. DAY: I will ask Mr Weeks to answer that.

Mr C. Weeks: We are involved. I had a conversation with the director general of the Department of Lands on Friday and he advised the 12 agencies around the table that we would now be more intimately involved in the process. In terms of the detail around the ILUA, I am not aware of that, but the chief land officer might be aware of some detail.

Mr N. Thomson: I am not able to answer that one; sorry.

Mr B.S. WYATT: Sorry, I did not hear you.

Mr J.H.D. DAY: He does not have that information.

Mr C. Weeks: All I can say is that I will make sure that Aboriginal representative groups are consulted as part of that process. I have met up with the Kimberley Land Council over the last three weeks. We spoke about some rangeland issues, but in terms of the actual legislative change, we did not have a conversation about that.

Mr B.S. WYATT: Did the KLC raise its concerns about that legislation with Mr Weeks; for example, application of outsider pastoral leases? Obviously in the Kimberley, where 35 per cent is exclusively native title, this may have an impact, therefore there is some concern coming out of the Kimberley.

Mr J.H.D. DAY: I will ask Mr Weeks to answer.

Mr C. Weeks: Nolan Hunter, the CEO, said that it would be fantastic if the government had some templated tenure opportunities. The discussion was more about how we can get greater economic opportunities out of

Aboriginal lands, but the Land Administration Act 1997 is not necessarily my remit, so I do not have a lot of detail on it, to be honest.

Mr B.S. WYATT: In respect of the answer given by Mr Weeks around template tenure reform, is there any work being undertaken in the department around tenure reform outside what is happening in the rangelands reform?

Mr J.H.D. DAY: I defer to Mr Weeks.

Mr C. Weeks: There is a meeting on Monday with the Departments of Lands and the Department of the Premier and Cabinet. We are now starting a process. I have asked the question whether words around the delegations and the Land Administration Act could be handed over to the department to look at lands under the Aboriginal Affairs Planning Authority—Aboriginal Lands Trust. It is part of a broader discussion, but I do not have that detail.

Mr B.S. WYATT: In respect of the Aboriginal Lands Trust, by way of supplementary information I dare say, is the minister able to provide me with any information about land that was divested by the trust in the past 12 months?

Mr C. Weeks: We can certainly do that.

The CHAIRMAN: Could the minister restate that for the record?

Mr J.H.D. DAY: We will provide supplementary information on details of any lands that have been divested by the Aboriginal Lands Trust in the last year.

[*Supplementary Information No A53.*]

Mr J.H.D. DAY: Does the member mean since 1 July last year?

Mr B.S. WYATT: Let us go with 1 July last year.

Mr R.H. COOK: I am looking for a line item to talk about this, but it is probably under land management on page 299 of the *Budget Statements*. My attention has been drawn to a number of news articles about communities dissatisfied with the quality of their drinking water, in particular Pandanus Park. That also runs off the back of an Auditor General report in the past 12 months that looked at water quality across a range of communities and found that more than a dozen had enough nitrate in their water supply to potentially cause fatal conditions such as blue baby syndrome, as well as the presence of *E. coli* and so on. What has the department done about the quality of drinking water in communities?

Mr J.H.D. DAY: It is an important issue, which is obviously an ongoing one. My understanding is that the Department of Housing normally provides bottled water as a substitute for people drinking the locally available water, where it is not appropriate to do so, but I will ask Mr Weeks to add to that.

Mr C. Weeks: In terms of service delivery, it is the responsibility of the Department of Housing. There are just over 100 communities under the Aboriginal Lands Trust, so we have a direct role in things such as water quality and power provision. However, we are not a service provider. We have asked questions at a ministerial level; the minister's office has gone to Minister Holt, so clearly there are some issues with water supply. I used to deliver those services 10 years ago, when I was the executive director of Aboriginal housing. It is something that they are becoming more aware of through thorough testing, but in terms of the actual service delivery, it is not under my banner.

Mr B.S. WYATT: Under “Government Goals” and “Services” on page 299 of the *Budget Statements* is “Heritage Management”. Pages 299 and 302 relate to Aboriginal heritage. Firstly, can the minister provide us with an update of the status of the legislation that has been introduced in the upper house to amend the Aboriginal Heritage Act 1972? Is it still the intent of the government to bring that on for debate, I dare say between now and Christmas, or has the government come to its senses and it is no longer proceeding with that particular amendment?

Secondly, in respect of the line item for the Aboriginal heritage electronic lodgements project, can the minister just give me an idea of the current backlog for assessments by the Aboriginal Cultural Material Committee? The first question was about the Heritage Amendment Act: is it still the intent of the government to bring that on for debate this year?

Mr J.H.D. DAY: Which house is it in at the moment?

Mr B.S. WYATT: It was introduced in the upper house by the minister.

Mr J.H.D. DAY: Obviously, that is an issue for the minister. There is also a bill in this house, is there not?

Mr B.S. WYATT: It was introduced by Hon Peter Collier; it was not introduced down here.

Dr K.D. HAMES: No.

Mr B.S. WYATT: Was it introduced by you, Kim?

Dr K.D. HAMES: Yes.

Mr B.S. WYATT: Introduced here? When is the minister bringing it on for debate?

Mr J.H.D. DAY: We will have a debate about it being restored to the notice paper. I am trying to make sure we are talking about the same thing.

Mr B.S. WYATT: It is the same deal; the minister is right.

Mr J.H.D. DAY: It is currently in the lower house. There is significant debate around one particular aspect, as I recall, and my general understanding is that the minister is looking at an amendment to that particular aspect that would make the bill much more widely supported. I do not know whether the member shares that view or not.

Mr B.S. WYATT: I do not know what the amendment is; I do not know what the minister is talking about. Let me know what the amendment is and then I might be able to provide some comment.

Mr J.H.D. DAY: I think the member for Victoria Park has a better idea than me of the contentious part of the bill.

Mr B.S. WYATT: I have a range of problems with it, but I am not sure which particular point the minister is referring to.

Mr J.H.D. DAY: I suppose one aspect about whether we bring it on for debate would partly be whether it is likely to be supported by the opposition or whether the opposition would be actively opposing it and therefore drawing it out and extending the debate in a major way. That would perhaps be one consideration, which I cannot really answer at the moment. Does Mr Weeks want to make any comment about the legislation itself?

Mr C. Weeks: I am not sure whether I can; it is in the domain of the house now and the negotiations will go on.

Mr J.H.D. DAY: I am sure the minister needs to finalise whatever amendment is being considered and bring that forward, presumably to cabinet. I am sure his office is taking note of what is being discussed in here and will advise me and the government more widely and appropriately.

[5.40 pm]

Mr B.S. WYATT: Concerning the regional reform process, a separate apparatus has been set up within government headed by Grahame Searle. I am keen to know about the department's involvement in that. Does it have an active role or simply a more passive role in the project?

Mr J.H.D. DAY: I will ask Mr Weeks to advise.

Mr C. Weeks: We are actively involved. The regional reform unit has four key agencies involved: the Departments of Housing, Child Protection and Family Support, Regional Development, and Aboriginal Affairs. A representative from the Department of Aboriginal Affairs is present at each of the unit's meetings. We are invited to the Strategic Regional Advisory Council meetings that involve Aboriginal people from the Kimberley and Pilbara. I have backed away from the unit a little bit. Minister Redman wanted to take a lead on that project. A state reform leader is there to drive the process. We are certainly aware of it, so I would not describe our involvement as passive. A lead agency and directors general drive that body of work.

Mr B.S. WYATT: From the royalties for regions fund, \$50 million was due to go into the special purpose account, I think to create a \$150 million fund to assist that process. It has been delayed for a year. Is that something that the department has been involved with or can explain, or is it a question that I should put to the Minister for Regional Development?

Mr C. Weeks: I am aware of some things that are currently going through the cabinet process, so I probably cannot elaborate on them. It is probably best answered by the Minister for Regional Development.

Mr J.H.D. DAY: I agree.

Mr R.H. COOK: The first dot point on page 299 mentions the department's patrols program. Could the minister please provide us with a list of the 14 locations across WA where the patrols operate? Can the minister also please tell me the operating budget for the patrols program?

Mr J.H.D. DAY: Patrols currently operate in metropolitan Perth, Kununurra, Wyndham, Halls Creek, Derby, Broome, Roebourne, Port Hedland, South Hedland, Laverton, Kalgoorlie, Meekatharra, Carnarvon, Geraldton and Mullewa. I have information here—I am not sure whether it is listed in the budget papers—that the funding

provided in 2015–16 is \$5.9 million; in 2016–17, it will be \$6.079 million; and in 2017–18, it will be \$6.439 million.

Mr R.H. COOK: The minister mentioned the metropolitan area. Does that mean the patrol operates in just the CBD—sort of in Northbridge—or does it operate in the suburbs; and, if so, which ones?

Mr J.H.D. DAY: I will ask Mr Curtis to advise on that.

Mr J. Curtis: The Nyoongar Patrol services the Perth metropolitan region. The model is flexible in the sense that we provide about \$1 million for service for the year, so it depends where the demand is. The Service has historically been predominantly in the Perth CBD metropolitan region, but it has also serviced Fremantle and other areas. However, patrols are predominantly in the Perth CBD.

Mr B.S. WYATT: Can I take the minister to the case of *Robinson v Fielding*, which he may recall from last year—no doubt the director general recalls it—and Justice Chaney’s judgement.

The CHAIRMAN: What page is that?

Mr B.S. WYATT: It is page 302. The director general may recall that we had a conversation last year about the number of sites that were affected. At the time, I think I suggested there were 22 and the director general made the point that there were over 30 sites. I think I read somewhere it is 30-something. Where are we with those sites? Have we finished with the reassessments?

Mr J.H.D. DAY: Mr Weeks.

Mr C. Weeks: The main site, the Yintha in Port Hedland harbour, has gone to the Aboriginal Cultural Material Committee, so it will go up to the minister soon. The registrar currently has 10 assessments, so she will lodge those with the ACMC for a decision. The project is due to be wound up at the end of this financial year. Six staff have been offline and an independent anthropologist has come on board.

Mr B.S. WYATT: Sorry, at the end of next month?

Mr C. Weeks: Yes, that is right. Obviously, there is the process; that was our role in the case and then it will go to the ACMC. It will then be scheduled for subsequent meetings. At this stage, I think we aim to have everything finalised before the October Aboriginal Cultural Material Committee meeting.

Mr B.S. WYATT: I asked a question before about the current number of cases waiting for assessment by the ACMC. I think we were sidetracked before we could get that answer.

Mr J.H.D. DAY: Mr Weeks.

Mr C. Weeks: Currently, 15 000 sites are still waiting for assessment. I think we got 1 000 new sites over the last two years, and the ACMC is on a schedule of doing up to 1 000 sites a year. There is a backlog. We had the debate previously that part of the Aboriginal Heritage Amendment Bill is to give site assessment powers to the chief executive officer to be able to dig through the backlog. At the moment, we are putting a focus on those sites that are at risk of projects—really, the sites that are being assessed through a section 18 process. Ms Vale, who is in charge of the heritage area, is restructuring at the moment. We are getting more archaeologists and anthropologists on board so that we can start to build our ability to do site assessments as well. But, yes, there is a significant backlog.

Mr B.S. WYATT: I know the director general said it just a minute ago, but what is the status of Marapikurrinya Yintha?

Mr C. Weeks: It has gone to the Aboriginal Cultural Material Committee.

The CHAIRMAN: Would anyone like to ask a question?

Dr K.D. HAMES: We can ask one if you want!

Mr B.S. WYATT: Go for it, Kim!

Dr K.D. HAMES: I refer to heritage management on page 299 of the budget papers. I note the increase from 2014–15 to 2015–16. The minister might have talked about this in last year’s budget estimates, but obviously I was not here. A significant increase in funding is continuing. I note that some of the funding has been taken from “Accountable Government”, whatever that was, and “Community Development”, but what was the significant increase in funds for heritage management?

Mr J.H.D. DAY: Mr Weeks.

Mr C. Weeks: It is mainly full-time equivalents. We have four operational areas: heritage management, land, accountable government and community development. We have put more effort into heritage management by FTE transfer. I think our numbers are about 40 full-time equivalents. We also have other parts of the agency for

corporate support services, so a higher percentage of legal services go to heritage management and a higher degree of services from the office of the director general provide more of that corporate, business-level support to the operational unit. It is not really money in terms of an increase in investment; it is more resource allocation and the way we do that.

Mr B.S. WYATT: I will go back to a conversation I had previously with the director general about work in the space of tenure. Is that work in respect of the existing legislative arrangements, or is the department looking at perhaps creating a different tenure structure to try to create opportunities out of the land, particularly land held by the Aboriginal Lands Trust?

Mr C. Weeks: The discussion on the Aboriginal Affairs Planning Authority Act is very similar to the discussion we had around the Aboriginal Heritage Amendment Bill. It is a 40-year-old piece of legislation. It gives the ability to lease land to Aboriginal people, really under the broad banner of being for the use and benefit of Aboriginal people. There are a number of different leasing opportunities from part III “Reserved lands” that are heavily restricted and need the Governor’s approval to be able to lift those leases, to other various leases, including pastoral land and so forth. To some degree, those leases are very limited in being able to do economic activities. We have been looking to the Land Administration Act to see what is available for leasing opportunities in order to give Aboriginal groups those opportunities.

[5.50 pm]

We are now at the point where we are not quite sure whether there is potential for the type of tender that will enable Aboriginal communities to support mortgages and a range of other things that will attract investors to do something with that land. We have 20 million hectares of land and it is a lazy asset. Therefore, our discussions around land tenure reform are about finding the right way to lease that land to Aboriginal people so that they can benefit from it. Most people understand that freehold land gives them some transfer of ownership rights, which banks will lend against. Some of the leases are quite weak and they cannot get that level of investment. It is more about investigating those options, and that is what I meant in the previous discussion when I said that I do not necessarily think all of those options are available within the Aboriginal Affairs Planning Authority Act at the moment. We are doing that in other parts of allocated or unallocated crown land, and I would like to do the same for Aboriginal lands.

Mr B.S. WYATT: I guess that highlights the importance of the department being involved in the Land Administration Amendment Bill. Although all the commentary I have heard has focused on pastoralists and what rights it gives or what changes it makes to pastoral leases and what can be done on those pastoral leases, there will be quite a dramatic impact on Aboriginal title, whether it be native title or Aboriginal Lands Trust land. The department is really becoming involved in that only now. That is what I understood from what the director general said before. Is that right; the department has not been involved in the drafting of that bill or the negotiations surrounding it?

Mr C. Weeks: I will have to check with the department’s legal officers, but I think the processes have been running simultaneously. We are getting to a moment in time when we are probably more aware of what we need to be able to do to leverage opportunities out of the state. But in terms of my working directly, if the chief land officer is not aware of that, and I think we have already referred it back, then I do not think we have been working intimately on the legislative reforms around the Land Administration Act. Obviously, those things go up to cabinet and we get an opportunity to comment, but I am not sure what the department’s level of involvement is at a legal level.

Mr R.H. COOK: As the minister would be aware, the Public Health Bill is about to be passed and it will require departments to be bound by the Crown. Has any provision been made —

Mr P. ABETZ: Can the member refer the committee to a page number?

Mr R.H. COOK: I refer to land management on page 301 and the line item “Total Cost of Service”.

Mr J.H.D. DAY: I think the member is trying to be as creative as possible.

Mr R.H. COOK: What investigations has the department conducted into the public health conditions of the communities it manages to make sure that they are either brought up to speed on public health requirements or seek exemptions from the Minister for Health to not meet those requirements?

Mr J.H.D. DAY: I cannot speak for what involvement the Department of Aboriginal Affairs has had, but I will ask Mr Weeks to answer.

Mr R.H. COOK: Do you think the Minister for Health will give you those exemptions?

Mr J.H.D. DAY: He would not want to speculate, would he?

Mr C. Weeks: We have been involved. It has been an ongoing process. We make sure that the health department is talking to not only us but also the Aboriginal Lands Trust. The trust makes decisions on what infrastructure and services are delivered to those communities. I do not think it is any secret that the level of standards in communities is different. The majority of those communities—I think it is just under 100—are self-managed and they do not receive a level of service from government for the things that we take for granted, like power, water supply and those types of services. Therefore, for exemptions, we have to get a better idea of the level of infrastructure and the state of that infrastructure in those communities, which we have been doing over the last two years. We started an audit program and so, yes, we are involved. I cannot sit here and say that the infrastructure in those communities is fantastic; it clearly is not. We will have to do that on an individual community basis and make sure that the Aboriginal Lands Trust is involved in those discussions.

Mr R.H. COOK: When will the audit program be completed and will the results be made public?

Mr C. Weeks: The audit is self-funded and is being done via our staff resources at the moment. We do not have a definite time when we will finish. We have just started. I think we have done an audit on six or seven communities. Other service providers are doing the same. I know that Housing is looking at its audits, and depending on whether it is a community to which it delivers an essential services program, it will look at the essential services infrastructure and the housing. The ALT is responsible for every building type and infrastructure on the actual estate. It does not have a lot of resources, so we provide the manpower. I cannot give the member a definite end date.

Mr B.S. WYATT: The current FTE figure for 2015–16 is 55. Can the minister give me now, either by a lick and a promise or by way of supplementary information, the breakdown of those staff numbers to various divisions, units—whatever they are called in the department? I do not need titles; I need just the numbers.

Mr C. Weeks: The total FTE is 137.

Mr B.S. WYATT: I apologise; I was looking at heritage management.

Mr C. Weeks: You were looking at one part of it. If you go through each of the areas, it lists the FTE for each of our outcome areas. Those numbers added to the corporate and business services that I was speaking about earlier result in our total FTE. That will mean, say, that our heritage area gets a percentage of our total FTE in corporate services, depending on the level of service they get from that corporate area.

Mr B.S. WYATT: Looking at the number of staff, the majority are in heritage management. What does the minister see as the key role of the department?

Mr J.H.D. DAY: What do I see?

Mr R.H. COOK: We can only ask the minister.

Mr J.H.D. DAY: The Department of Aboriginal Affairs has an important role in the coordination and policy advice to government in the provision of services for Aboriginal people and in managing all the heritage aspects that the member has been asking about. I think the advice that is provided and the role it plays is important, but I guess there is a challenge when other agencies, whether it is Housing, Health, Education, Police or various others, provide the services. Our aim in government is to ensure that there is always a good degree of collaboration and that people, as much as possible, are not working in silos. That is my general comment.

Mr B.S. WYATT: I am cc-ed in a never-ending supply of emails—I asked the director general this last year—about Cullacabardee Village, in particular about a deposit of asbestos that has been found on that site. So that I can start replying to some of those emails, could I be given an update on what is happening with that asbestos?

Mr C. Weeks: The asbestos is located in a tip that was never approved. Without going back too far, when I was working in the Department of Housing, Cullacabardee residents were accepting cash payments for trucks to drop off rubbish. There has been no control or anything around that tip, which is on a priority 1 water mound. In partnership with the Department of Environment Regulation, we have done an assessment. The tip has been fenced off so no-one can access it. The asbestos experts have given us advice around limited or no risk around airborne asbestos. We will now go through the process of working out how to get rid of the asbestos.

Mr B.S. WYATT: Is there likely to be a significant budgetary impact to remove it? How big is the asbestos deposit?

Mr C. Weeks: I can get some further detail from the chief land officer.

Mr N. Thomson: The work undertaken recently has been done by what is known as an emu-pick of the scattered rubbish and asbestos at that tip. I understand that about \$100 000 has been spent on Cullacabardee in the past 12 months. We have in train through a procurement process another \$100 000 worth of work on other aspects not related to asbestos. The key issue was to remove the scattered asbestos, which has been undertaken. After the

Extract from *Hansard*

[ASSEMBLY ESTIMATES COMMITTEE A — Wednesday, 25 May 2016]

p280b-286a

Chairman; Mr Ben Wyatt; Mr John Day; Mr Roger Cook; Dr Kim Hames; Mr Peter Abetz

report was completed in August, we received a report from the Department of Environment Regulation and we worked with that department to create a plan to clear the site of the scatter and fence the area.

The appropriation was recommended.

Meeting suspended from 6.01 to 7.00 pm