

**Division 56: Environment Regulation, \$3 682 000 —**

Ms L.L. Baker, Chairman.

Mr A.P. Jacob, Minister for Environment.

Mr J.R. Banks, Director General.

Mr S.D. Cowie, Executive Director, Compliance and Enforcement.

Ms S.C. McEvoy, Executive Director, Strategic Policy and Programs.

Mr S. Hodges, Executive Director, Corporate Services.

Ms K. Faulkner, Executive Director, Licensing and Approvals.

**The CHAIRMAN:** This estimates committee will be reported by Hansard staff. 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, 19 June 2015. 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.

I now ask the minister to introduce his advisers to the committee.

[Witnesses introduced.]

**The CHAIRMAN:** Member for Gosnells.

**Mr C.J. TALLENTIRE:** I note that the department's 2013–14 annual report stated there would be 320 full-time equivalents but it is now estimated in the budget to be 340. Which figure should we trust—the annual report or the FTE figure in the budget?

**The CHAIRMAN:** Which page?

**Mr C.J. TALLENTIRE:** I refer to pages 657 and 658 and the FTEs for the three service areas.

**Mr A.P. JACOB:** The short answer is that the budget takes primacy, member for Gosnells.

**Mr C.J. TALLENTIRE:** Is the minister saying that we should trust the figure of 340 on page 567?

**Mr A.P. JACOB:** I cannot see the figure of 340 on page 657.

**Mr C.J. TALLENTIRE:** I am adding up 260 from one service area, 47 from another and 33 from another.

**Mr A.P. JACOB:** Yes, that is correct.

**Mr C.J. TALLENTIRE:** Is the annual report, which was tabled in Parliament and which provided the figure of 320, inaccurate?

**Mr A.P. JACOB:** No, it was accurate at that time. However, some services have grown according to need and resources and that continues. There is nothing particularly unusual about that. There has been a growth in capacity in some areas since the annual report.

**Mr M.H. TAYLOR:** I refer the minister to the second dot point, bilateral agreements, under "Significant Issues Impacting the Agency" on page 654. Can the minister provide more details on the process and outcomes that the government expects from these agreements?

**Mr A.P. JACOB:** I thank the member for this question. As a part of the state government's commitment towards reducing duplication in particular and reducing the overall regulatory burden on business, we have been working with the commonwealth government and pursuing bilateral agreements under the Environmental Protection and Biodiversity Conservation Act for an approval bilateral and an assessment bilateral. The assessment bilateral agreement, which is now in place, accredits the public environmental review of assessment, which was done mainly through the Environmental Protection Authority and now covers the assessment on proponent information, which does a less significant level of assessment, but it also covers a range of processes undertaken by the Department of Environment Regulation including the native vegetation clearing

process, which is now accredited in the EPBC act in assessment terms as well. The assessment bilateral commenced on 1 January this year. We are also progressing negotiations with the commonwealth about an approval bilateral, and the execution of an approval bilateral agreement is also dependent on amendments to the federal EPBC act, which is currently before the Senate.

**Mr C.J. TALLENTIRE:** I refer the minister to “Waste Strategies” on page 658 and to the third dot point on page 654. Minister, where is the strategic waste infrastructure planning project report?

**Mr A.P. JACOB:** I thank the member for the question. Largely we have taken away the learnings from the strategic waste infrastructure planning project and aligned it with the Waste Avoidance and Resource Recovery Act review. We decided to take that as a key input into the WARR act review.

**Mr C.J. TALLENTIRE:** How long has that report been with the minister?

**Mr A.P. JACOB:** I can get a specific date. As I said, given that the WARR act review is underway at the same time, there did not seem much point in doing the two reviews and reforms concurrently because they are both trying to achieve the same outcomes. We essentially merged them and we are using the WARR act review to look at reform across the entire waste sector.

**Mr C.J. TALLENTIRE:** Can the minister answer my question: when did the minister receive the report?

**Mr A.P. JACOB:** I will get the member for Gosnells a specific date.

**The CHAIRMAN:** Can I confirm that that is not supplementary information, but an exchange of information between the two parties?

**Mr C.J. TALLENTIRE:** I think we might need to lock it down, but there may be further questions. Why has it not been made public when the department promised that it would be a public document to inform people about various waste infrastructure planning projects?

**Mr A.P. JACOB:** Member for Gosnells, we have been very open about everything we are doing with waste. The WARR act review process has been a very public process. I think we received some 33 submissions during the WARR act review process and we are currently working through those. The strategic waste infrastructure planning project fed into that, but it does not sit above the WARR act review. The WARR act review sits above the SWIPP process, which has been an open and transparent process.

**Mr C.J. TALLENTIRE:** The minister brought together people with extensive expertise in waste to produce the SWIPP report and they were all of the understanding—certainly the Waste Authority website is clear on this—that the whole project would be released to the public. Why has that not happened?

**Mr A.P. JACOB:** As I said, we are still working through that process. Given our statutory obligation to do the WARR act review, we decided that for ease of understanding, and also to make sure that it is all very transparent and open, we would merge the two processes into one, which is exactly what we have done.

**Mr C.J. TALLENTIRE:** The minister cannot recall when he received the report. Perhaps if he could recall the date he would realise that he received the report in the middle of the 2014, which was well before the WARR act review so his suggestion that there is concurrence is wrong. Why has the minister not released the report? What is he afraid of? What is in the SWIPP report that he is hiding?

**Mr A.P. JACOB:** As I said, that has been rolled into the WARR act review, which is a higher order review in terms of our overarching strategy going forward with waste. The WARR act review largely partners with the same membership and the same stakeholders that the strategic waste infrastructure planning project engaged with. The same people are engaged with the process, the process is ongoing and it will all fall under the umbrella of the WARR act review.

[3.20 pm]

**Mr C.J. TALLENTIRE:** Has the minister told those people with all sorts of expertise who gave their time to form and produce that infrastructure planning project report that their report will not be released?

**Mr A.P. JACOB:** The waste industry is a very significant industry in Western Australia, but it is not a particularly large industry.

**Mr C.J. TALLENTIRE:** It is a yes or no answer, minister. Has the minister told them?

**Mr A.P. JACOB:** The same people —

**Mr C.J. TALLENTIRE:** Has the minister told them?

**Mr A.P. JACOB:** The same people who have been engaged along the way through the strategic waste infrastructure planning project process are by and large the people we have been engaging with through the Waste Avoidance and Resource Recovery Act review process. It is ongoing.

**Mr C.J. TALLENTIRE:** So the minister has not had the courtesy to tell people who put months into the preparation of that report that he would no longer be releasing it publicly? He has not had the courtesy to do that?

**Mr A.P. JACOB:** I have no interest in being combative, member. We are pursuing significant waste reform within Western Australia, and by and large that process is being run at the moment through the WARR act review; that review was released for public comment some six months ago.

**Mr C.J. TALLENTIRE:** The minister is clearly scared of the content of the SWIPP report.

**Mr A.P. JACOB:** I will try to get the exact date to the member. There were some 33 submissions in December when that WARR act review was released. We actually extended the public comment period because we ended up releasing the review in December and we were conscious it was the Christmas period as well. We are making absolutely every effort to engage with stakeholders. The stakeholders in this area are particularly larger industry players and a range of industry players, and also local governments through the Western Australian Local Government Association, regional councils and individual local governments.

**Mr C.J. TALLENTIRE:** You are hiding things, minister.

**Ms S.F. MCGURK:** I refer to page 656 of the *Budget Statements* and the heading “Outcomes and Key Effectiveness Indicators”. I do not think this question has been asked yet. I wonder why a past measurement has not been included this year—that is, the impact of activity on the environment. I understand that in past budgets, the key effectiveness indicators included the impact on the environment of various agency activities, and I wonder why the indicator is not present in the current budget papers.

**Mr A.P. JACOB:** I can talk to the indicators, but I do not have a recollection of the indicator the member is referring to being in my past budget papers.

**Ms S.F. MCGURK:** The current indicators are centred around the amount of time it takes to process various applications. Has any thought been given to including an indicator of the impact on the environment of the length of time an application takes and the way in which applications are processed?

**Mr A.P. JACOB:** If the director general wants, he can comment more broadly about the outcomes and key effectiveness indicators, but I guess it is a bit hard to answer a question about a theoretical key effectiveness indicator. They do not all centre around time taken. Obviously, that is a significant indicator, because we want to ensure that we are being efficient and engaging. The time taken to process an application does not influence whether the outcome is an approval or a knockback. Those efficiency indicators in terms of time taken are more about ensuring that we are efficient and responsive in engaging with industry proponents and also with people who may be opponents of projects. I think they are good efficiency indicators in the first instance, and there is a range of other quality indicators that sit below those time line indicators. The director general may want to comment on how we arrive at our efficiency indicators more broadly.

**Mr J.R. Banks:** This year, there is a new suite of outcome-based measures for the department. They are aligned to our quarterly reporting. Historically there has been a bit of a disconnect between our reporting through the budget papers and what we report on a quarterly basis publicly. Yes, it is acknowledged that these are in some ways more efficiency measures rather than effectiveness measures. The qualification of the effectiveness is obviously a challenging aspect of trying to get good outcome-based measures.

**Mr C.J. TALLENTIRE:** Why is there not such an indicator in the budget papers? There is not a single indicator relating to omissions and discharges that would suggest the amount of emissions reductions, or some sort of positive or negative impact for the environment. There are no environmental indicators there, from an environmental agency—why?

**Mr A.P. JACOB:** I would not take the statement that there are no environmental indicators.

**Mr C.J. TALLENTIRE:** Which one is the environmental indicator, and I was specific to the first four?

**Mr F.A. ALBAN:** I have a point of order. I understand we are supposed to give a page number and a line item. Nothing like that has been given by the member, so no wonder the minister is confused.

**Ms S.F. MCGURK:** It is a further question. I gave the page number and the line item.

**The CHAIRMAN:** Members! Would the minister like to continue?

**Mr A.P. JACOB:** Going to the key effectiveness indicators, the bottom three are all specifically related to recycling targets.

**Mr C.J. TALLENTIRE:** I just said in my further question that I am referring to the first four. The first four indicators refer to omissions and discharges. Why is there not an environmental indicator there rather than something about how quickly something can be shunted through the system?

**Mr A.P. JACOB:** I simply do not accept the premise that having indicators that are more around efficiency is about how quickly something can be shunted through the system. It is about ensuring that the system is engaging, not unduly complex and easier to understand.

**Mr C.J. TALLENTIRE:** Why is the minister not interested in presenting something that would say how many hectares of native vegetation were refused for clearing this year or how many hectares of native vegetation were destroyed this year? Why would the minister not want to produce a meaningful statistic like that?

**Mr A.P. JACOB:** The budget papers are not the only report we issue. There is a range of parliamentary measures that can be undertaken and there is an annual report that reports a whole range of outcomes. These are simply the budget papers. They cannot do all things. These are a suite of outcomes and key effectiveness indicators included in the budget.

**Mr C.J. TALLENTIRE:** Shunting time.

**Mr A.P. JACOB:** It is an imperfect science and budget papers cannot be all-encompassing by their nature.

**Ms S.F. McGURK:** This follows on from the advice that was given by the gentleman sitting alongside the minister. Could he briefly tell us how the agency will measure either the impact of an activity on the environment or the ability of the agency to stop the detrimental consequences of a particular activity?

**Mr J.R. Banks:** I think this highlights the issue of measuring outcome from an environmental regulatory agency. We have an active compliance and enforcement program. I will ask Mr Cowie, if I may be indulged, to provide some further detail on that. My proposition is that although this captures time frames for processing, the presumption has to be that we are regulating to an acceptable environmental outcome. I am not sure that trying to quantify particular emissions in a global sense across the state is the appropriate measure of whether we are doing that successfully; it is potentially a constraining factor. Rather, we are regulating to prevent unacceptable environmental outcomes. If it is alright, Mr Cowie could give us some further detail about how we go about doing that through our compliance and enforcement program.

**Mr S.D. Cowie:** Just adding to what Mr Banks stated there, we undertake a compliance program throughout the state to ensure appropriate emissions and discharges meet the acceptable criteria of licences. In the 2013–14 financial year, we undertook 840 inspections of licensed premises, reviewed their licences and applied various additional conditions, or similar, to ensure that those licences were operating according to their approvals and were meeting the appropriate levels of emissions and discharges.

**Mr F.A. ALBAN:** I refer to page 654. The first dot point under the heading “Significant Issues Impacting the Agency” relates to regulatory reform and business improvement. What is the focus of the reform program?

**Mr A.P. JACOB:** I thank the member for that question. We are taking a systematic approach to improving legislation, and also policy and processes—so those three areas as they apply to industry regulation. Amendments to the Environmental Protection Act are proposed and they address a range of areas particularly under part V of the Environmental Protection Act. I intend to introduce these amendments hopefully later this year, and we are currently working on those. The Department of Environment Regulation has also had an ongoing program of reform initiatives for industry regulation more broadly. DER has recently refocused the reform program in order to provide a broader strategic direction in its overall delivery of business, and it will continue to focus on improving its regulatory performance. The environment regulation reform program will ensure that the Department of Environment Regulation has a well-developed policy framework. It will also ensure that it continues to align with legislative requirements, and that proposed amendments will continue to be supported by a suite of standards. It will also provide guidance and procedures for industry regulation.

[3.30 pm]

**Mr C.J. TALLENTIRE:** Page 662 refers to various receipts. Where would I find a line item that includes receipts from the offsets fund?

**Mr J.R. Banks:** Ms McEvoy might be able to speak more about the offsets account, but, yes, we hold specific funds for the offsets account. I cannot point to a line item within our cash statement position. I am not sure whether that is because it is not recognised for accounting purposes for the purposes of the budget, because we are basically holding it in trust. Ms McEvoy might be able to provide more detail on that.

**Ms S.C. McEvoy:** It is sort of a revolving fund, because it is used for land acquisition and other measures that are implementing offsets. The funds do not stay in there for any length of time, so it will not have its own line item for those reasons.

**Mr C.J. TALLENTIRE:** How many millions of dollars has the fund turned over in the last 12 months and how many millions of dollars do we anticipate will be turned over in the next 12 months?

**Mr A.P. JACOB:** We will have to provide that as supplementary information, just to specify, because obviously it is not only within the Department of Environment Regulation that we are going to pick up offsets, but some of these will also land within the Office of the Environmental Protection Authority, I am assuming, which is division 58. Sarah might be able to answer that.

**Ms S.C. McEvoy:** The other point is that the offsets register will contain the funds that are allocated through offsets that are applied under the Environmental Protection Act for either the OEPA or the Department of Environment Regulation.

**Mr C.J. TALLENTIRE:** Am I right in understanding that the EPA environment regulation offsets are all funnelled into the offsets register that is held by the Department of Environment Regulation?

**Mr A.P. JACOB:** That is correct. The offsets register, since it has gone live, is intended to include all offsets as they apply going forward. There is also an effort to reapply historically offsets where we are able to do so.

**Mr C.J. TALLENTIRE:** So the minister would have some idea of how many millions of dollars have passed through that account. The minister has revealed that this fund would hold the EPA offsets. Many millions of dollars of EPA offsets are due. So I am amazed that it is not included in these budget papers. Where are they? What decision-making process led to that fund not being included in these budget papers?

**Mr A.P. JACOB:** If the member is talking specifically about the Pilbara fund, we will fix that up in the OEPA division. The offsets register is an online website that contains information about not only the monetary value of an offset but also the area and the values that are being offset by the provision of that money. That website captures all the information under parts IV and V of the Environmental Protection Act, but that website is not linked to any special fund per se.

**Mr C.J. TALLENTIRE:** Millions of dollars could be washing through this fund but it is not included in the budget papers. How can that be good fiscal management?

**Mr A.P. JACOB:** Sarah McEvoy's answer to the earlier question about how it is categorised within the budget still stands and she might want to add a few extra comments after my response. Again, the offsets register, which has been an exceptional initiative of this government for a range of stakeholders who may be interested, is a really good way of being transparent with our information. The offsets register is quite an easy-to-use interface and contains a range of information. It is very accessible, very transparent and very available. Ms McEvoy might want to add something about how it is portrayed within the budget papers.

**Ms S.C. McEvoy:** My understanding is the line items in the budget are around specific purpose accounts for the purposes of the Financial Management Act. Mr Hodges may know more.

**Mr C.J. TALLENTIRE:** Am I being told that there is no specific account held in government that shows receipts and expenditures that could total millions of dollars? The minister is telling me that we will talk about the Pilbara fund soon, but that fund alone could involve \$40 million at least, and he is saying that we do not see that in the budget papers.

**Mr A.P. JACOB:** As we have already explained, that money is not revenue for government; it is money that is, essentially, held in trust. The budget papers pick up what is required under the Financial Management Act. In terms of transparency and ease of understanding of offsets, it needs to be remembered that offsets do somewhat sit apart. My intention has always been that offsets never morph into an environmental tax, and I think that is broadly supported by stakeholder views as well. The offsets register is an online website that provides information about not only the monetary value of offsets, but also how and where it has been applied and the geospatial data around the area that has been offset. So a range of information is provided. It may not be provided specifically within the budget papers, but we are talking here specifically about the Department of Environment Regulation. If we started to roll that out to other departments and to provide that level of detail across every single area, I imagine that the budget papers would blowout somewhat uncontrollably. The information is provided quite clearly and transparently through the offsets register.

**Mr C.J. TALLENTIRE:** Can we have this detail presented as supplementary information? The inflow and outflow is information that should be included, in much the same way as the waste avoidance and resource recovery account and the contaminated sites account is included. That shows the inflows and the outflows. So why can that not be done for the offsets register? Hiding it this way does not help anyone.

**Mr A.P. JACOB:** I think we can provide that as supplementary information. For the current financial year, I will provide information on the offset moneys that have flowed in and out through the Department of Environment Regulation.

[*Supplementary Information No B40.*]

**Ms S.F. McGURK:** My question relates to the first dot point on page 654 under “Significant Issues Impacting the Agency”. The minister talks about developing amendments to the Environmental Protection Act and its regulations to streamline the processes for the regulation of various things, including the clearing of native vegetation. Why is there pressure to streamline processes related to removal of native vegetation?

**Mr A.P. JACOB:** A range of things have already been done in terms of regulatory change, and I think we have explored those relatively extensively—the 10-year rule out to 20 years, and one hectare out to five hectares for exempt purposes, and the EP act lists specifically what those exempt purposes are. Land clearing on private property has been a hot-button issue with a range of stakeholders. Nobody has an unfettered right to simply clear land. However, we believe there are opportunities to streamline and ensure that we are focused on those areas of environmental value. It is more of a risk-based approach to ensure that we capture those areas of land clearing that are the most significant and we are not necessarily churning time for those that are relatively low level. We are pursuing a referral-based system under the act, which will enable those low-level ones that do not have much environmental impact in the larger scale of things to clear through the system. Many private landowners have found this process particularly frustrating. This process allows a range of stakeholders to engage on those situations where there is potential for environmental harm so that we can focus and pick up on the areas that require a strong regulatory arm. Does Mr Banks want to add anything to that?

[3.40 pm]

**Mr J.R. Banks:** I think that is well covered, minister. It is mainly looking for some administrative flexibility to relieve the burden where there are unnecessary regulatory controls. At the moment it is pretty binary—landowners can clear only if they have a permit or qualify for an exemption. So we get matters that probably have a low environmental impact but still need to go through the full process.

**The appropriation was recommended.**