

Mr Chris Tallentire; Mr Albert Jacob; Chairman; Mr Shane Love; Ms Margaret Quirk; Mr Matt Taylor; Ms Simone McGurk; Mr Frank Alban

Division 58: Office of the Environmental Protection Authority, \$14 344 000 —

Mr N.W. Morton, Chairman.

Mr A.P. Jacob, Minister for Environment.

Mr K. Taylor, General Manager.

Mr A. Sutton, Director, Assessment and Compliance Division.

[Witnesses introduced.]

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 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 the 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.

The CHAIRMAN: Any questions? Member for Gosnells.

Mr C.J. TALLENTIRE: I refer to page 675. What is the Office of the Environmental Protection Authority's overall full-time equivalent count at the moment?

[4.00 pm]

Mr K. Taylor: The number for the estimated actual for the end of 2014–15 is 87, which is broken into those three services.

Mr C.J. TALLENTIRE: What was it at the time of the last budget?

Mr K. Taylor: The actuals for 2013–14 were 93, I recall.

Mr C.J. TALLENTIRE: So are staff numbers going to be reduced further in the next financial year?

Mr A.P. JACOB: Obviously there is the workforce renewal policy, which the state government has instigated, and that will have an implication across a range of agencies. In regard to the Office of the Environmental Protection Authority, my understanding is that there is a small reduction contained within staff, but a lot of that is built into an existing reform program that has existed within the EPA. Post-reform there is some normalisation of staffing levels.

Mr C.J. TALLENTIRE: If we try to break this down to particular areas within the EPA—I am looking at page 675 in service area 2—we have got a drop from 20 to 19 FTE; that is only one staff member perhaps, but noticing that the change in budget target goes down by \$390 000, is a lot of that taken up with the wage reduction of one staff member?

Mr A.P. JACOB: Can the member clarify which line he is referring to here?

Mr C.J. TALLENTIRE: Yes. We have got the FTEs. Under 2014–15 there are 20, and under 2015–16 there are 19; a drop of one. Above that, the net cost of service is \$3.6 million and then it drops down to \$3.236 million, so I am saying \$390 000 there. How much of that is attributable to the drop of one staff member in that service area?

Mr A.P. JACOB: That would predominately be three things. Partly that would be that individual's salary. Some of that would also include overheads that sit within that FTE, and some of that would be incremental increases in the wages of the other 19 as well.

Mr C.J. TALLENTIRE: We are obviously looking at losing a fairly senior member of staff there. I now want to go into what the nature is of some of the work these people have been doing; the people that we are losing. The minister did not go, but I went to the Western Australian Marine Science Institute's presentation of the "Western Australian Marine Science Blueprint". We heard a lot about the dredging node, and that is something that is chaired by a member of staff of the Environmental Protection Authority, as I understand it. Is that person

Mr Chris Tallentire; Mr Albert Jacob; Chairman; Mr Shane Love; Ms Margaret Quirk; Mr Matt Taylor; Ms Simone McGurk; Mr Frank Alban

staying on the payroll, or is that the sort of person who we are losing when we are talking about savings in the order of \$390 000?

Mr A.P. JACOB: In breaking that down into individual staff members I will hand over to the general manager of the Office of the Environmental Protection Authority.

Mr K. Taylor: There is a reduction of about five positions overall in the agency expected over this year. That relates to a number of areas. The department has been funded for significant reform programs over the last few years, which have identified a number of efficiencies that have now been implemented. Associated with that there will be reductions in staff numbers. In respect of that service, and in respect of the marine area, yes, there has been a reduction of one staff in that area, but we looked at it in the sense of the number of projects that the EPA has had to assess over the last three or four years. In the marine areas the number has been extraordinarily large, with the developments that have occurred in the north of state, with the Gorgon development, the Wheatstone gas development, and the proposed port and outer harbour at Anketell. Under the current outlook, we have only one or two marine projects in the assessment process over the next few years; therefore, we considered that the reduction of one position in that marine area was quite acceptable. With respect to the WAMSI project itself, we had been funding a position 50 per cent ourselves, and in agreement with it WAMSI was funding 50 per cent. It has now agreed to fund that position 100 per cent. The officer will still be located and seated within our department so that we can get the benefits and interactions with that person, but it is seen as appropriate, given the extent of work he was doing, that it should be fully funded through the WAMSI process.

Mr C.J. TALLENTIRE: I understand the work, in relation to environment policy settings and proponents, and note that this is something that is supported by industry, because it enables them to know what the parameters are; it enables them to generate policy frameworks. It enables them to know what is required for an assessment. It seems that we are cutting back on that policy development work, perhaps especially in the marine setting, but also in terrestrial as well. Can the minister please explain to me why we are forgoing this important role of policy setting? Why are we allowing a reduction, effectively a \$390 000 reduction, in the quality of that work? Likewise, when I look at service area 1, I also see a \$700 000 reduction there. No doubt some of that is towards policy. It is worrying that the Environmental Protection Authority is not focusing on policy work, and it is just imagining that a slight reduction in the number of project referrals means that staff numbers can be cut. Can the minister explain to me what his view is of the policy work that the EPA has been doing?

Mr A.P. JACOB: I will ask Mr Taylor to make some comments to that question a bit more broadly as well. Following on from his previous comments, it is essential that we are looking at key emerging areas and that we are adapting, in a policy sense, to economic changes within Western Australia, given that we are such a resources-based economy. With the dip that we have seen in investment in that area, the pipeline coming through the EPA of significant proposals and also of significant proposals that impact on marine areas is naturally diminishing somewhat in terms of those projects that are following through. I think the approach that has been taken by the office of the EPA here, which the general manager just outlined, is an excellent way to approach that. We had a person who was sitting within the EPA and we were carrying half of that FTE and paying for that position even though there was an opportunity to retain that position and knowledge, and access to that knowledge under the Western Australian Marine Science Institute. We have not funded that position because now that the position has been freed up and we are not required to put so many resources into projects or environment impact assessments as they come through the EPA, we now have that person still accessible to the office of the EPA but largely through WAMSI. That is an excellent approach within a tight budget situation and it is a very smart way to make sure that we have access to knowledge that is not necessarily sitting around in a paid position for us without adequate work to fill that individual's full-time load.

Mr K. Taylor: The Office of Environmental Protection Authority was set up five years ago and a significant amount of additional funding was provided during that period for the very reason of establishing and ensuring that there were adequate policies, guidelines and standards for the environment impact assessment process and for the protection of various environment values in the state. There has been a substantial amount of work done. I could not list how many policies and how many guidelines have been prepared, but I can assure the member it is a substantial amount. They have largely been completed and are now being implemented. In the marine environment in particular, the EPA has released two very significant substantial documents around marine ecological system protection and also marine environmental water quality guidelines that were released just in the last few months. I think the state is at leading edge in terms of the policies that have been established and have been implemented. It is really coming back to a normalisation. It is not a cutting back to say, "Well, we are not going to be doing policy." We have done a substantial amount over the last few years and we are at a point where that is now being implemented.

Mr C.J. TALLENTIRE: On this issue of policy implementation, what is the status of the Cockburn Sound Management Council and the environment protection policy for Cockburn Sound?

Mr Chris Tallentire; Mr Albert Jacob; Chairman; Mr Shane Love; Ms Margaret Quirk; Mr Matt Taylor; Ms Simone McGurk; Mr Frank Alban

Mr A.P. JACOB: We have recently had a look into how the Cockburn Sound Management committee process is operating. In the first instance I will put on the record my support for that committee and the work that that committee has been doing. It is important that we maintain that into the future. I am not saying that that is necessarily the model that we would roll out everywhere within the state, but it seems to have worked particularly well in and around Cockburn Sound. We have done a health check on a range of measures that sit in and around how that has operated, the terms of reference that the board was sitting under and a range of other parameters. That is ongoing, and I have asked for further consultation through the chair of the Environmental Protection Authority and also the chair of the Cockburn Sound Management Council.

[4.10 pm]

Mr C.J. TALLENTIRE: Does this not demonstrate that, even when the projects are constructed and operating, there is still a need for policy work on Cockburn Sound, or the area around various Pilbara ports? It seems to me that the government has cut the budget for that work by around \$1 million. How can we be sure that the policy settings will be right to protect our marine environments?

Mr A.P. JACOB: I am not sure where specifically in the budget the member for Gosnells was taking the \$1 million from. If he wants to refer me to a specific line, I will deal with it.

The CHAIRMAN: Member, are you referring to the net cost of service figures in both services 1 and 2?

Mr C.J. TALLENTIRE: Indeed, adding those two together—\$700 000 and \$390 000.

The CHAIRMAN: It is the net cost of service in “Environmental Impact Assessment Services to the EPA” and the net cost of service in “Environmental Management Services to the EPA”, on page 675.

Mr A.P. JACOB: My apologies; I was still looking at the environmental management services line of the budget paper. Again, it comes back to where the emerging needs are. Before I go on to that, a post-reform normalisation has flowed through. A range of reforms have been carried out in the Office of the Environmental Protection Authority, and we are now normalising back to business as usual. Also, it is a matter of needs. Although we are tracking towards some 35 environmental impact assessments this year and budgeting for some 35 environmental impact assessments next year, there has been a reduction in the overall pipeline of larger resource projects flowing through the EPA, and we typically respond accordingly.

Mr C.J. TALLENTIRE: The minister’s comment just does not make sense, because the first dot point under “Significant Issues Impacting the Agency” on page 673 states that strategic assessments will continue in the long term because that is the very nature of things. We are not doing short-term policy work in the Office of the Environmental Protection Authority; it is all long-term stuff. Fluctuations in the number of EPA project referrals would not really be relevant to the minister’s determination of staffing levels, when it comes to people working on policy.

Mr A.P. JACOB: They are relatively different beasts. Strategic assessments continue to be undertaken, and perhaps a bit of a slowdown in stand-alone resource projects is a good opportunity to be looking more at strategic assessments—not only the larger one we have been pursuing in the Pilbara through BHP Billiton, from recollection, but also the strategic assessment of the Perth and Peel regions, which is perhaps the most significant of those. They are largely a different beast as well, and to a certain extent come under the federal Environment Protection and Biodiversity Conservation Act.

Mr R.S. LOVE: I refer to page 676 and the heading “Compliance Monitoring Services to the Minister”, which deals with compliance with conditions set under ministerial approvals. The minister will be aware that ministerial approvals for iron ore mines in the Pilbara have included a condition relating to contributing funding to regional conservation initiatives. Is the government still considering the appropriateness of that fund?

Mr A.P. JACOB: As I have previously indicated to Parliament, the Liberal–National government remains committed to establishing a regional conservation initiative for the Pilbara. My colleague the Minister for Mines and Petroleum and I have asked the Office of the Environmental Protection Authority to consult with industry and other relevant stakeholders. A working group has now been convened to provide advice to me on how such an initiative could be established, including the appropriate governance arrangements. I met personally with the working group recently, and I have asked it to provide its advice to me as soon as possible, with a view to receiving it in the second half of this year.

Ms M.M. QUIRK: I refer the minister to page 673, “Significant Issues Impacting the Agency”. The third dot point under that heading states —

- The Office will continue to implement initiatives to further streamline procedures for the Environmental Impact Assessment (EIA) approvals process to improve timelines and efficiency ...

Does this further streamlining include changes to legislation?

Mr A.P. JACOB: We are pursuing a range of areas for streamlining procedures. One that is mentioned in that dot point is the online lodgement facility and the electronic case management system, and during 2015–16 we aim to implement that online facility. There is also the one-stop shop process, as we have been calling it, which is the bilateral assessment process.

Ms M.M. QUIRK: I thought that was out of favour as of yesterday.

Mr A.P. JACOB: I think that is an unrelated issue, member for Girrawheen.

We have been pursuing discussions with the commonwealth. When I am talking about a one-stop shop, that applies to accreditation for state processes, and as of 1 January this year they are accredited for assessment under both part 4 of the Environmental Protection Act, as well as a range of assessments, such as native vegetation, under part 5 of the commonwealth EPBC act. We are pursuing accreditation through the one-stop shop process with the commonwealth for our approval processes. That will accredit state agencies—both the Environmental Protection Authority and the Department of Environment Regulation—to issue approvals under the federal Environment Protection and Biodiversity Conservation Act. That approval bilateral is contingent on amendments that currently sit before the Senate. As I mentioned earlier, we are pursuing some changes to the Environmental Protection Act and that is progressing.

Ms M.M. QUIRK: When will the minister be consulting the community about these changes?

Mr A.P. JACOB: The consultation for the approval bilateral was conducted in recent months. The assessment bilateral consultation was done last year and then that closed out and was ultimately signed off and came into force on 1 January. The approval bilateral consultation closed only a few months ago, in March of this year. The Office of the Environmental Protection Authority has very good stakeholder engagement, in my experience, with not only proponents but also a range of other people. The strategic conservation initiative that the member for Moore raised is a very good example of that, whereby a working group has been established with a range of key stakeholders who have a direct feed into the Office of the Environmental Protection Authority, and how that is set up.

Ms M.M. QUIRK: Did the minister fund non-government organisations to be involved in this process?

Mr A.P. JACOB: No.

Ms M.M. QUIRK: When does the minister anticipate that these amendments will come before Parliament?

Mr A.P. JACOB: That is somewhat a piece of string question. I anticipate it would happen either later this year or early next year. It depends on a range of processes, but we are currently working on those amendments.

Ms M.M. QUIRK: Finally, will the minister rule out changes to the public's right to appeal?

Mr A.P. JACOB: I can assure members that there will be opportunities to appeal projects in the future.

Mr M.H. TAYLOR: I refer to page 675, service 1, “Environmental Impact Assessment Services to the EPA”. This relates to conducting environmental impact assessments of significant proposals and schemes. When does the minister expect to make a decision on the excellent proposal by Main Roads Western Australia to extend Roe Highway?

[4.20 pm]

Mr A.P. JACOB: I thank the member for Bateman for the question. I thought he might ask me that one. The Environmental Protection Authority released its report and recommendations for Roe 8, as it is known, in September 2013. The EPA concluded that that proposal could be managed to meet the EPA's objectives, subject to a range of recommended conditions. That proposal was then subject to a two-week appeal period that ran from September 2013, and 165 appeals were received. The Office of the Appeals Convenor has thoroughly reviewed those appeals. It provided its report back to me in December 2014. I subsequently determined those appeals, and I allowed a number of them—so, amended the proposal as it stood. Some of the appeals were dismissed and some were taken on board. Those taken on board were to ensure not only adequate monitoring and protection, but also the hydrological processes—the inland waters and environmental quality—some flora and vegetation, and also terrestrial fauna and amenity. There was also an increase in the offset that was proposed, particularly around Carnaby's cockatoo. Under the act, or the way the process works, I am currently consulting with other decision-making authorities. I have ruled on the appeals but not given the approval, or not issued the ministerial

statement. That is done in concurrence with other decision-making authorities; typically other ministers. That is ongoing.

Ms S.F. McGURK: I am sorry if I did not catch it, but when is the minister expecting an outcome to be known about that appeal process?

Mr A.P. JACOB: That depends on the other decision-making authorities, member for Fremantle.

Ms S.F. McGURK: Other decision-making bodies within the executive of government?

Mr A.P. JACOB: Yes.

Ms S.F. McGURK: Could the minister be more specific about who else he is consulting in regard to those appeals?

Mr A.P. JACOB: I have ruled on the appeals, member for Fremantle. So that has been closed out, if you like. Under the act, the Minister for Environment does not issue ministerial statements in isolation. They are issued in consultation with other decision-making authorities. If agreement cannot be reached with other decision-making authorities, the Governor makes the final decision under the Environmental Protection Act. We are still at the consultation-with-other-decision-making authorities stage with that one.

Ms S.F. McGURK: Excuse my ignorance, but does the act outline the specific authorities that the minister is obliged to consult with?

Mr A.P. JACOB: They are determined on a case-by-case basis. It depends on the nature of the project.

Ms S.F. McGURK: So, no?

Mr A.P. JACOB: No. The act does not outline specifically who they are. They will change from project to project.

Ms S.F. McGURK: The minister would be aware that there is quite a lot of anxiety around the final environmental approvals or otherwise of this project. Can the minister be any more specific about the time frame within which people will know the government's decision in relation to the appeals?

Mr A.P. JACOB: The appeals have closed out. I have ruled on the appeals. As environment minister, that side of it is done. In terms of the other decision-making authorities, the time lines of that are not dictated by the environment minister, so I cannot give that.

Mr C.J. TALLENTIRE: I am looking at cash receipts on page 679 of budget paper No 2. I am asking this question on the minister's advice. It relates to the offset fund arrangements. I am struggling to see where the receipts for various offsets are presented in this section of the budget papers. The minister knows I am particularly interested in the Pilbara strategic conservation fund. By my reckoning, it should now contain at least \$40 million, but I seek the minister's clarification. Where is there any mention in these budget papers of the many millions of dollars that would be in that fund?

Mr A.P. JACOB: Those funds have not yet been provided from the companies into the fund because we are still establishing the governance and accountability arrangements under which that fund will sit. It is very important that these are robust and that there is transparency in how these offset projects are implemented. They also need to align with our new WA environmental offsets policy. As I have stated previously in the house, the offset contributions are entailed within those ministerial statements, and those requirements stand.

Mr C.J. TALLENTIRE: We can come back to the Pilbara strategic conservation fund. Are there other offsets that the Environmental Protection Authority has entered into or negotiated that would involve a monetary sum being paid into a fund and should be presented in these papers?

Mr A.P. JACOB: I will hand over to Mr Taylor to give a further answer to that question, but I will make the point that the offsets register picks up the offsets that are applied via the Office of the Environmental Protection Authority process and also through the Department of Environment Regulation.

Mr K. Taylor: The majority of offset requirements set on companies are for them to implement. Through the assessment process, companies are required to identify the significant residual impacts the project causes and propose an offset themselves. Invariably, the offset is implemented by the company. If it is a matter of purchasing or managing a property, the company will do that itself. It is not funds into government. The majority of offsets that are required to be implemented do not involve the transfer of funds to the government. In the case of the OEPA, the only money that we received in relation to an offset project was with respect to the dredging science program, where about \$8 million in offset money went to the Western Australian Marine Science

Institution and we were paid a small amount of \$50 000 to \$100 000 for project management and scientific advice that we put in. As I say, the vast majority of offsets are actually implemented by the companies themselves and do not transfer money to government.

Mr C.J. TALLENTIRE: Let us focus on the WAMSI one; so \$8 million was received by government?

Mr K. Taylor: No. In each of those instances, the companies themselves worked with WAMSI to establish contracts to undertake the research requirements. Our role was to ensure compliance with the condition to see that the contracts were in place and the funding was provided, and that the research was adequate, but the money does not come to government as such. It is a direct relationship between the companies and WAMSI.

Mr C.J. TALLENTIRE: Obviously the Pilbara strategic conservation fund is different. My reading of the ministerial approval statements is that at least \$40 million is outstanding. Could I have that sum clarified, please? Would that be a payment to government? Does the government have a fund to distribute a range of strategic conservation initiatives in the Pilbara?

Mr K. Taylor: As the minister has indicated, a working group is now undertaking work to identify how the fund should operate and what the governance arrangements will be. At this stage there has not been a decision that the funds would be held by government. A number of options are being looked at including a non-statutory government specific purpose account and a statutory government specific purpose account, but also potentially an independent trustee-held fund. No decision has been made yet. Because no decision has been made, no funds have been paid in. The majority of offsets have been such that the funds will be paid when companies do the clearing, not up-front, because the impact is related to the clearing. In the majority of projects that have had offsets, it may take five to 10 years for those funds to be paid. We do not expect that there would be just one lump sum put in up-front.

Mr C.J. TALLENTIRE: Some of those projects are underway. The minister has granted an extension for when the money has to be paid. Perhaps this could be via supplementary information, but I would like a list of the amounts that will eventually be paid into the Pilbara strategic conservation fund.

[4.30 pm]

Mr A.P. JACOB: We can provide that, but it will have to be provided on the assumption that all of those projects would come to fruition; perhaps not all of them will. I will again give the member for Gosnells the undertaking I gave in question time in the house: it is still my expectation that all of those projects will be required to fulfil their obligations in terms of the offset moneys.

The CHAIRMAN: Will the minister clarify what he is providing by way of supplementary information?

Mr A.P. JACOB: The member for Gosnells has asked for a cumulative total, so we will provide under those ministerial statements the cumulative total of money that could potentially flow into the Pilbara strategic offset fund.

[*Supplementary Information No B43.*]

Mr C.J. TALLENTIRE: Given that is money that will eventually be paid to government, why is it not on the balance sheet as an asset? When there is a debt of this kind, surely it should be on the government's balance sheet in some form?

Mr A.P. JACOB: I refer to the response the general manager gave earlier about where these moneys will sit, or where they would potentially sit—there is a range of models in which they could potentially sit—so they may not ultimately be held within an area that sits on the government's balance sheet. That process is still being worked through; that is part of the complexity of working through this arrangement. I personally think that a Pilbara strategic fund is a great use of offsets into the future and it is a great way to get some real bang for your buck by aggregating those moneys and getting some really good on-ground projects. Does the general manager want to make any further comments?

Mr K. Taylor: I would like to make one point about whether it is an obligation at this stage that should be on the books. As the companies have not been required to provide any funds as a result of the condition at this stage, because there is no agreement on what the fund should be, there is no specific obligation on the company until it is required by the condition to give effect to it.

Mr F.A. ALBAN: I refer to the first service on page 675, headed "Environmental Impact Assessment Services to the EPA". How will the environmental impact of the emerging unconventional gas industry be managed?

Mr A.P. JACOB: I thank the member for the question. The Liberal-National government is committed to ensuring that any development of tight or shale gas in Western Australia is done in an environmentally acceptable manner. To this point the Department of Mines and Petroleum has been the lead agency in developing

Extract from *Hansard*

[ASSEMBLY ESTIMATES COMMITTEE B — Wednesday, 10 June 2015]

p372b-378a

Mr Chris Tallentire; Mr Albert Jacob; Chairman; Mr Shane Love; Ms Margaret Quirk; Mr Matt Taylor; Ms Simone McGurk; Mr Frank Alban

the framework that will regulate and manage the unconventional gas industry; however it has been working very closely with those departments within my portfolio that have an interest, as well as the Department of Water and the Department of Health. The Department of Mines and Petroleum has the responsibility in the first instance to regulate these proposals, however the Environmental Protection Authority will ultimately determine whether to assess any hydraulic fracturing-related projects referred to it, and it does so on a case-by-case basis in a similar manner to what it does for existing petroleum and other mining proposals. Those projects that have currently come before the EPA, or have been referred to it, in each case comprised only small-scale, proof-of-concept exploration projects, and those hydraulic fracturing proposals were occurring at significant depths below the ground, ranging between 1.5 kilometres and 3.5 kilometres below ground. For all of those proposals, there was significant vertical separation of impermeable barriers of rock and shale—I think between some 600 metres to 1 500 metres of impermeable rock. However, when we get to the point where there is a full commercial proposal—or potentially; not when, but if we end up at that point—the EPA has indicated that it is likely to formally assess any proposal for the permanent development of a shale gas field. I support that position, but at this stage it is very small scale. I think there have been five to date.

The appropriation was recommended.