

**Division 61: Office of the Environmental Protection Authority, \$14 784 000 —**

Mr I.M. Britza, Chairman.

Mr A.P. Jacob, Minister for Environment.

Mr K. Taylor, General Manager.

Mr D. Foster, Director, Strategic Policy and Planning.

[Witnesses introduced.]

**The CHAIRMAN:** The member for Gosnells has the call.

**Mr C.J. TALLENTIRE:** I refer to the line item “Environmental Impact Assessment Fees” in the “Net Appropriation Determination” table on page 694 of budget paper No 2. There was a figure of \$4 million for the 2013–14 financial year but there is nothing in the forward estimates for it. To my knowledge, I do not think the state has received \$4 million worth of environmental impact assessment fees. What is going on with that please, minister?

**Mr A.P. JACOB:** Certainly, and I thank the member. That came up in last year’s estimates as well and if the member remembers, the conversation at the time was that we would have a look at that, at how it could be applied and how we may do it. It would obviously have involved legislative change. It was looking particularly difficult so the decision at this time is that we will not be applying that.

**Mr C.J. TALLENTIRE:** That means that last year’s budget had an additional black hole of \$4 million in it.

**Mr A.P. JACOB:** No; the money was provided. If the member looks back at —

**Mr C.J. TALLENTIRE:** It was in the minister’s budget last year though.

**Mr A.P. JACOB:** Yes, that is correct. If the member looks at last year, he will see. I will go right back to “Delivery of Services” on page 687. The 2012–13 actual was \$13 968 000 and dropped back roughly \$4 million to a 2013–14 budget of \$9.7 million but then the estimated actual was \$1.4 million. The \$4 million was provided back to the Office of the Environmental Protection Authority.

**Mr C.J. TALLENTIRE:** Does the minister mean \$14.5 million?

**Mr A.P. JACOB:** Yes, I just rounded off as an illustration.

**Mr K. Taylor:** When the government identified it as part of the midyear review, it was not intending to proceed with the cost recovery of fees. As part of the midyear review, the department was provided with an additional \$4 million so that there was no net loss to us in funds for that year.

**Mr C.J. TALLENTIRE:** So the whole issue of charging for environmental impact assessments just got too hard?

**Mr A.P. JACOB:** We had a look at it and made a decision not to pursue that.

**Mr C.J. TALLENTIRE:** Is there a rationale behind why the minister is not pursuing it?

**Mr A.P. JACOB:** As I said, there is a range of parameters with that. It was a recommendation that we looked at and it was in the budget papers. We had a look at it and a decision was taken to not apply cost recovery on environmental impact assessments through the Office of the Environmental Protection Authority.

**Mr C.J. TALLENTIRE:** The minister is passing up \$4 million but not really telling me why he has made that decision to knock it back.

**Mr A.P. JACOB:** I have not, as the member says, knocked it back. Essentially, that was a target that we went for with the last budget. It was appropriated back to us. It would have involved extensive legislative change and the decision was taken within government that it was better not to apply it at this stage so we have not.

[5.00 pm]

[Ms J.M. Freeman took the chair.]

**Mr C.J. TALLENTIRE:** Estimates have been done that there was the potential to receive \$400 million but because of a busy legislative agenda the minister decided that he could not put through the legislative changes. I am curious to know why the minister decided not to do it.

**Mr A.P. JACOB:** As I said, we had a look at it as a policy setting as well, and we decided as a government that we will not pursue cost recovery for environmental impact assessments. That is a service that will be provided, and it has been resourced accordingly.

**Mr C.J. TALLENTIRE:** Did the minister receive advice saying that it was legally difficult and that people could be seen to be buying approvals? What was the reasoning behind it all?

**Mr A.P. JACOB:** We received advice on how it could have been done and the legislative mechanisms that would have been required to do it in that way. It was considered to be a fairly convoluted approach at this stage and a fairly strong departure from how we have operated up until this point. The decision was therefore made not to apply it.

**Mr C.J. TALLENTIRE:** Was it industry that said it did not want to have to bear the cost?

**Mr A.P. JACOB:** I cannot recall consulting industry about the matter at all.

**Mr C.J. TALLENTIRE:** This was a major change in the environmental impact assessment process and the minister is saying that he did not consult industry about how he would apply this fee.

**Mr A.P. JACOB:** No. It was a flagged major change. These budget papers do not reflect a major change. These budget papers reflect business as usual. The potential for a major change was flagged in the previous budget. We went away to look at it and we received advice on the legislative amendments that would be required to enact that change. The decision was made that it was better to continue to provide environmental impact assessments through the current service and existing practice in the Environmental Protection Authority. That decision was made internally within government.

**Mr C.J. TALLENTIRE:** Internally the decision was made to maintain this service as a free service to major project proponents and the minister is trying to tell me that the proponents never expressed to the minister a positive or negative view of this approach.

**Mr A.P. JACOB:** If it had got to the point of pursuing legislative change, which it ultimately would have required, I imagine there would have been an element of feed-in and consultation. However, it did not get to that point, and no, I did not consult with industry on it.

**Mr C.J. TALLENTIRE:** If the minister can allay my concerns, please do, but it seems to me that he was lobbied by industry to not bring in this fee and he went weak at the knees on it.

**Mr A.P. JACOB:** No, that is not correct.

**Ms S.F. MCGURK:** My question follows on from the question on the projected income. Is there expected to be increased work due to interest in the area of shale gas and fracking? If so, what impact will that have on receipts by the EPA?

**Mr A.P. JACOB:** Could the member point me to the line item?

**Ms S.F. MCGURK:** I am talking about regulatory fees and receipts on page 694 of the budget papers.

**The CHAIRMAN:** It is a follow-on question.

**Ms S.F. MCGURK:** Yes, that is right; it is a follow-on question.

**Mr A.P. JACOB:** Is it on environmental impact assessment fees?

**Ms S.F. MCGURK:** Yes, and I am just talking about regulatory fees and fines. Does the minister expect any increased revenue from assessments of shale gas and fracking?

**Mr A.P. JACOB:** No, because that is not being applied, as the member can see from the budget papers.

**Ms S.F. MCGURK:** Is the minister therefore not expecting the EPA to have any additional work at all due to the interest in fracking?

**Mr A.P. JACOB:** The EPA will assess the projects that come to it, and it is an independent statutory authority on how it does that. That is to answer the question that I think the member is asking. In answer to the question that the member is actually asking, which is related to that line item: we are not seeking to recoup that money through the Office of the Environmental Protection Authority anymore. The answer therefore is simply no, we will not be looking to recoup moneys, and the budget papers show that clearly.

**Mr J.E. McGRATH:** My question relates to page 688 of the budget papers under “Significant Issues Impacting the Agency”. I note that the first dot point states —

- The slowing economic conditions have led to fewer new development proposals being received, but an increase in applications to expand existing facilities and infrastructure to maximise production from these.

That is in the Pilbara, of course. It continues —

Strategic assessment will continue of long-term (50 year horizon) iron ore mining in the Pilbara.

I am aware that recent ministerial approval statements for iron ore mines in the Pilbara have included a condition that relates to contributing funding to a strategic regional conservation initiative. Is the government still considering the appropriateness of such a fund?

**Mr A.P. JACOB:** I thank the member for that question. Although conditions have been set on mining projects in the Pilbara requiring companies to contribute funds to a government-established conservation fund or to an alternative offset arrangement providing an equivalent outcome, the government is still considering the appropriateness of establishing such a fund; and, if so, what the appropriate governance arrangements would have to be for that fund. Certainly it has merit as a way to go forward, but it is also something at which we really get only one shot. These are very large projects that will last over many years. This offset money needs to be applied directly to get an outcome in that area; hence we are making sure that we do the work. Any such fund will be very robust, very transparent and very auditable. My colleague the Minister for Mines and Petroleum and I have asked the Office of the Environmental Protection Authority to review the concept of the fund in consultation with those industry players that will, along with other relevant stakeholders, ultimately have to pay into it. It is a way forward that has merit, certainly, and it is being explored, but either way the monetary offset conditions that have been applied to those projects in the Pilbara will be required to be remitted to us for appropriate conservation work. I will get the general manager to quickly add a little more to that.

**Mr K. Taylor:** The concept of a fund is to integrate the funding from the various individual offsets, and that can be coordinated so that we get a better outcome for conservation in the region. The companies are very supportive of it. There are particular difficulties in implementing individual offsets in the Pilbara region because of land tenure. Most of the area is covered by pastoral leases and mining tenements, so it is very hard for individual companies to carry out individual offsets. The concept is therefore to provide that integrated mechanism, which will lead to much better outcomes for conservation and significantly improve on-the-ground management of threats such as fire, feral animals and weeds. However, as the minister has said, we are working through some consultation on that with industry and the companies involved and will provide further advice to the two ministers.

**Mr C.J. TALLENTIRE:** Further to that, I still do not understand the minister's equivocation on this issue. The minister and the companies have signed off on the ministerial approval statement that the money will be paid. Why is there any doubt about its appropriateness? The minister continually says that in questions on notice and other areas.

**Mr A.P. JACOB:** There are two separate issues. There is no doubt about the need for them to provide an offset. That is not in doubt. They will have to, and they will have to provide the offset as it is specified. Whether the best mechanism to collect and then expend that offset money is in one pooled strategic fund for the Pilbara region is being explored. If we had the Department of Parks and Wildlife one, there are a number of controlled accounts there that I could have gone through. They are separate controlled accounts in that one had some offset funds. It is not in the budget papers but I was hoping to use that as an example. A good example of that may be the Gorgon net conservation benefit fund, which is a good example of an offset fund. There are two separate issues. There is the requirement for the offsets, which will have to be delivered. Whether we pool all of those offsets into one fund is an idea that has merit. I am not saying no to that. It absolutely has merit. However, if we do that, we would then have one big fund and that would need to have a very robust governance mechanism and it would need to be specifically targeted to the values that are being offset, and over a range of different projects there will be some variance in the values. I do not want to see, for example, the Pilbara fund leaking off and funding other things. It needs to be targeted back towards the specific offsets, and that is why the structure of it is very important.

So we are actually exploring the second one in greater detail, and a lot of work is being done in that. But in the first instance, there will be absolutely no forgoing of that offset funding.

[5.10 pm]

**Mr C.J. TALLENTIRE:** I refer to page 693, the table headed "Details of Controlled Grants and Subsidies" and the line item "Biodiversity Institute". An amount of \$50 000 was allocated in 2012–13 to the biodiversity institute. How does that link up with the discussions about the establishment of a biophysical library?

**Mr A.P. JACOB:** Sorry, what was the last part of that question?

**Mr C.J. TALLENTIRE:** How does the biodiversity institute connect with proposals for a biophysical library and other biophysical data sets?

**Mr A.P. JACOB:** I will ask Mr Taylor if he could answer in the first instance, and then through to Mr Foster.

**Mr K. Taylor:** The department has been active with a number of other government agencies in looking at the establishment of a biodiversity institute in Western Australia, given the high level of biodiversity that we have in

this state. Obviously having an integrated body that looks after science and research and the provision of information around biodiversity is very important. That \$50 000 was part of the department's contribution, as seed capital, to look at the establishment of such an institute. I will ask Mr Foster if he can provide a bit more detail, because he has been directly involved in that.

**Mr D. Foster:** That \$50 000 is the contribution that was made by the EPA, but several other government agencies that were involved provided similar amounts to enable this notion of a biodiversity and science institute to be developed. The environmental data library is a separate election commitment of the government for a database of environmental, heritage and water information. The two proposals are not directly related, but there is scope for discussion with the institute, once it is up and running, about whether it might become a custodian of environmental information or value-add to that information. It is a notion not dissimilar to the Western Australian Marine Science Institution, which has the capacity to undertake research and gather information and make that available to other research institutions. They are not the same initiative, but there is a potential relationship between the two.

**Mr C.J. TALLENTIRE:** I refer to page 690 and new service 2, "Environmental Management Services to the EPA". Given that this is new service area and there is no detail in the budget papers about what this service will do, I ask the minister for some detail, please.

**Mr A.P. JACOB:** Certainly. As the member has said, this is a new service that has been provided in this budget. The efficiency indicator within that service is shown as cost per standardised unit management output. I will ask the director general to give a breakdown. It is essentially where we formerly had one larger area. So it is not a substantial change; the budget papers reflect a breakdown of where we had our larger pool of staff undertaking that work. But I will ask Mr Taylor to give the breakdown of where this has come from.

**Mr K. Taylor:** It is not new work as such. During 2013–14, the Office of the Environmental Protection Authority undertook a very detailed review of the structure, including service and performance indicators, to ensure that we had best practice performance, measuring and reporting. That was undertaken with input from Dr Gordon Robinson, a former deputy auditor general, and the Office of the Auditor General, and also the Department of Treasury. The outcome of that review was that we established three services rather than two services, to provide much better transparency and accountability with respect to the services that we are providing.

With respect to environmental management services to the EPA as described in the budget, that service is about developing EPA statutory policies, guidelines and strategic advice to manage environmental impacts and protect the environment. It is largely the work that is undertaken in the strategic policy and planning branch. But it is really about separating out the two functions, which were formerly in one service, and making them into two services, so that there is much clearer accountability and transparency around them.

**Mr A.P. JACOB:** To give members some idea of the work that these people will be doing as opposed to environmental impact assessment services, they are working on proposed amendments to the Environmental Protection Act; they are involved in negotiations with the commonwealth on bilateral agreements; and, again, they are involved in the Pilbara strategic advice. As well as that, this is the unit that is working in a policy setting on the strategic assessment, albeit that will ultimately come back into the other unit at a later date for an environmental impact assessment.

**Mr C.J. TALLENTIRE:** I refer again to page 690 and service 1, "Environmental Impact Assessment Services to the EPA". There is a drop in FTE numbers from 90 to 57. I note that 29 FTEs have been shifted into this so-called new service area. Given that there are on the horizon some enormous EIA-type projects and strategic assessment projects, how can we get by with only 57 EIA staff when I think we were struggling when we had 90 staff?

**Mr A.P. JACOB:** As I said in answer to the previous question, this is not reflective of 90 EIA staff. This is actually more reflective of around 60 EIA staff who were working in that area, and then there were a further 30 who were working on environmental management services. In previous budget papers, those staff were grouped together. There is a small reduction there. In fact, the actual reduction over what was the total is four voluntary severance positions. So, yes, there is a grand total reduction of four from the previous 90. But beyond those four it is really just a breakdown and a recognition in the budget papers of the structure that already existed internally. There has actually been a bit of slowdown in terms of major projects coming through the office of the EPA, certainly in terms of new major projects, but concurrent with that there has been an increase in minor amendments to existing statements and section 45Cs. Mr Taylor can add to that.

**Mr K. Taylor:** As the minister has said, there is effectively no significant reduction in the number of staff being applied to assessments, and through the types of reforms and improvements that we have been able to put in place over the last few years, we have cleared the full backlog of assessments that were in the process. We are in

fact now able to deal proactively with assessments as they come into the department and work proactively with the companies to ensure that we are getting a better outcome in environmental impact assessment and a better outcome in conditions by being able to be much more involved through the process. So certainly with the level of staff that we have, we are keeping up with the workload and in fact doing assessments better than we were a few years ago.

**Mr C.J. TALLENTIRE:** Counting the number of projects coming through is one way of looking at it, but the complexity of the projects is another thing. It is quite possible that things like shale gas at a strategic assessment level are far more demanding of FTE input than a steady stream of iron ore projects in the Pilbara. So what confidence have we got that this albeit slight drop in staff will be able to cope with the increased complexity of projects coming through?

**Mr A.P. JACOB:** I will give a flavour. I think that grouping it all together as iron ore projects in the Pilbara to date probably does a bit of a disservice to the sort of work and the breadth of assessment that has been going through that area. The Mangles Bay marina is a good example of a project that has come up recently. The Roe Highway extension is an incredibly complex and topical project and a major road infrastructure project. There is a major new initiative in terms of the Red Hill resource recovery facility, and there is more on that topic in and around waste. There is also the Bunbury port berth expansion, as well as the associated coal storage and loading facility. Another complex project in the Kimberley is the Sorby Hills silver–lead–zinc project. There are a number of very complex projects, well above and beyond any Pilbara projects, in the iron ore area as well. I do not know whether Mr Taylor could add anything to that.

[5.20 pm]

**Mr K. Taylor:** Yes, I could, minister. As the minister has highlighted, we are focusing on the more significant and complex projects. Through the reforms we have implemented, particularly the introduction of a risk-based significance framework and a memorandum of understanding with other regulatory agencies, we have been able to ensure that the Environmental Protection Authority's resources and our resources are focused on those major complex projects. Although 150 projects a year were referred to the EPA five years ago, about 60 are being referred now, and although we were assessing 35 projects a year on average five years ago, we are assessing around 20 now. That is a result of being able to focus on those large complex projects, which is what part IV of the act is about and why the EPA assesses it and leaves some of the smaller, low-impact projects to other regulatory processes. By doing that, we have been able to increase the resources focused on the major projects. A number of uranium projects are going through the process. We expect that a shale and gas project may be referred this year that may require assessment. We are making sure all the time that we have the resources we need to focus on those complex projects to make sure that we get the right outcomes with those.

**The appropriation was recommended.**