

Division 68: Office of the Environmental Protection Authority, \$9 732 000 —

Mr N.W. Morton, Chairman.

Mr A.P. Jacob, Minister for Environment.

Mr K. Taylor, General Manager.

Mr S. Beilby, Director, Business Operations.

Mr A. Sutton, Director, Assessment and Compliance.

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

[Witnesses introduced.]

The CHAIRMAN: The member for Gosnells.

Mr C.J. TALLENTIRE: I refer to the total appropriations on page 819. The 2012–13 figure was \$14 million, but for 2013–14 there has been a substantial drop to \$9.7 million. How is that explained?

Mr A.P. JACOB: I thank the member for the question. The government has proposed that fees will be introduced for environmental impact assessment services that are provided by the Office of the Environmental Protection Authority, and from proponents under part V of the Environmental Protection Act 1986. No fees currently apply. At this stage, the government is considering the benefits of introducing fees and the approach that will be taken.

Mr C.J. TALLENTIRE: The minister is telling me that the drop-off is countered by a planned introduction of fees; is that correct?

Mr A.P. JACOB: Yes.

Mr C.J. TALLENTIRE: Is the minister confident that the fee level will meet that significant shortfall?

Mr A.P. JACOB: That is the plan at this stage.

Mr J. NORBERGER: On page 820, I note that there is to be continued emphasis on streamlining and providing guidance to proponents. That is in the second dot point under “Significant Issues Impacting the Agency”. Does the minister endorse a risk-based approach in environmental impact assessments to consider impacts to subterranean fauna?

Mr A.P. JACOB: Subterranean fauna policy and practice has evolved over time and it has been part of wider changes to the environmental impact assessment process. Subterranean fauna have been recognised as a key environmental factor for about 40 major projects that were assessed between 1994 and 2011. Since 2000, approximately 60 per cent of proposals in the Pilbara region that were assessed by the Environmental Protection Authority had impacts on subterranean fauna as a key environmental factor. A decision to reconsider the approach to subterranean fauna in the EIA process was supported by the increasing amount of scientific knowledge. As a result of the survey, environmental impact assessments and compliance work, the EPA made a decision to review its existing policy and guidelines to determine whether a more strategic and risk-based approach to the assessment of environmental impacts on subterranean fauna could be adopted. The “Environmental Assessment Guideline for Consideration of subterranean fauna in environmental impact assessment in Western Australia”, released in June 2013, provides for a risk-based approach to assess impacts on subterranean fauna. This approach will ensure that the information provided in the EIA is sufficient to avoid unnecessary survey efforts and delays to ministerial approvals of proposals.

Mr C.J. TALLENTIRE: Referring to the issue of the fees that are going to be introduced, I would like to know what —

The CHAIRMAN: Are you referring to page 819?

Mr C.J. TALLENTIRE: I refer to the income statement on page 823 in which an income line shows \$4 million this year, then \$4.1 —

The CHAIRMAN: It is important, member, that we are accurate with that for the purposes of *Hansard*.

Mr C.J. TALLENTIRE: It shows income from fees of \$4.2 million onwards. What commitments have been made to industry to justify the imposition of this fee, bearing in mind the obligation on government agencies to provide services for the fees that they charge?

Mr A.P. JACOB: At this stage, this is a proposal of government.

Mr C.J. TALLENTIRE: If the minister is saying that it is only a proposal, why does the budget depend on it?

Mr A.P. JACOB: No, that was in answer to the member's question around the industry conversation more generally. This is a decision of government.

Mr C.J. TALLENTIRE: I will repeat my question. The government is introducing a fee of about \$4 million a year. To justify that fee to industry, it must be offering some level of service that goes beyond what industry has already been receiving—what is that service?

Mr A.P. JACOB: Implicit in that question is a presumption, and I do not think that the member has established the presumption that we are offering a service for that.

Mr C.J. TALLENTIRE: So the minister is telling me that no service is being provided—no additional service is being provided?

Mr A.P. JACOB: Certainly, there is a service that is provided by the Office of the Environmental Protection Authority. But if I am to understand the question that the member is asking, I think he seems to be implying that at some level, through charging for fees, the government is proposing to shortcut the environmental approvals process or provide something. I am not really sure where the member is heading with this.

Ms M.M. QUIRK: Just answer the question.

Mr C.J. TALLENTIRE: I think that is the best thing to do; answer the question, minister. There is \$4 million a year, so the government must have offered something to industry; it must be giving industry something else, because it previously got this service for nothing and now the government is introducing a fee. What additional service is the government providing to industry?

Mr A.P. JACOB: Member, there is a presumption in that question —

Ms M.M. QUIRK: No, there is not.

Mr A.P. JACOB: Yes, there is.

The CHAIRMAN: Member!

Ms M.M. QUIRK: Is the minister not offering any additional —

The CHAIRMAN: Member, you have a chance to ask questions if you want to.

Ms M.M. QUIRK: I am trying to clarify the question for the minister.

Mr A.P. JACOB: The member for Girrawheen should clarify the question for the member who is asking it. Ask the question again for me, please.

Mr C.J. TALLENTIRE: What additional service is the government providing for this fee that it is introducing?

Mr A.P. JACOB: This is a proposal to introduce fees for the service that is currently provided through the Office of the Environmental Protection Authority.

Mr C.J. TALLENTIRE: Is it only a proposal?

Mr A.P. JACOB: Member, as I have said, it is, as outlined, a way of recovering some of the costs of going through the part IV approvals under the EP act. Effectively, if you like, it is a fee for service.

Mr C.J. TALLENTIRE: I have a further question.

The CHAIRMAN: This is the final further question on this.

Mr C.J. TALLENTIRE: This is an issue that the minister is struggling with and I would have preferred to have finished it more quickly. There is \$4 million for some additional service; you cannot be charging that amount for a service that the proponents were already getting for nothing.

Mr A.P. JACOB: The member would make it much easier for me if he would stop making statements like “you cannot do this” implicit in his question. Please ask very specific questions on this. That is where I am finding it a little difficult in the questions that the member is asking.

The CHAIRMAN: Thank you, minister. Member, that was your final further question on that point. If you want to ask another question, feel free to. At this point, I pass the call to the member for Swan Hills.

Mr F.A. ALBAN: I will make it a bit easier, minister! I refer to page 820, and the third dot point, the very last line on the page, under “Significant Issues Impacting the Agency”. What is the Environmental Protection Authority's role in the strategic assessment of the Perth–Peel region?

Mr A.P. JACOB: I thank the member for that question, which deals with a very important issue. The strategic assessment of the Perth and Peel regions is being undertaken by the commonwealth Department of

Sustainability, Environment, Water, Population and Communities—SEWPAC—and the government of Western Australia. The Department of the Premier and Cabinet is the lead agency for the strategic assessment; however, there is involvement from the Office of the Environmental Protection Authority and a range of other state agencies. This project involves the commonwealth assessing the impact of the future development needs of Perth, as it grows to be a city of 3.5 million people, on matters of national environmental significance, which are covered under the federal Environment Protection and Biodiversity Conservation Act. This includes the areas that are identified in “directions 2031 and beyond” and a range of other measures, such as basic raw materials extraction and resources in and around that. The previous Minister for Environment requested that the EPA provide strategic environmental advice on environmental matters of interest to the state. The EPA will provide a report to me on the strategic environmental implications of proposed future developments and the policy and guidance that can be used to optimise subsequent approvals processes to ensure that environmental outcomes are delivered in the most efficient and timely manner.

I guess the key opportunity in this project is the parallel consideration of state and commonwealth environmental issues very early in the strategic process, which will allow for future streamlined environmental and planning approvals. As someone with an outer north-eastern metropolitan electorate, it will be very, very relevant to the member for Swan Hills, because there are some fringe development implications in his area. This is, if you like, a holistic environmental approval approach for the Perth–Peel region. There are potentially significant savings for government and for future government or private developers, and that will also have significant implications for housing affordability. More broadly, on the environmental front, with issues such as Carnaby’s black cockatoos, it is a fantastic opportunity to consider environmental issues on a regional basis and to make sure that we provide the appropriate offsets and safeguards we need across the entire region, rather than the piecemeal or ad hoc approach of taking each piece in isolation.

[9.00 pm]

Ms M.M. QUIRK: I refer the minister to page 823 and the line item under “Income” for regulatory fees and fines. Is the \$4 million-plus figure for each of the budget years 2013–14, 2014–15, 2015–16 and 2016–17 based on the number of applications or how is that figure calculated?

Mr A.P. JACOB: The number includes some recouping of fees for conducting environmental impact assessments, or part IV approvals under the Environmental Protection Act. That is the amount that is planned to be recouped under a fee-for-service model.

Ms M.M. QUIRK: Was it calculated using X-number of assessments a year and multiplying that by a certain figure to come up with \$4 million?

Mr A.P. JACOB: It is not a proposal for full cost recovery by any means. I do not imagine the income would come close to that, but it is a proposal to recoup some of the costs that are incurred in the process.

Ms M.M. QUIRK: Does the minister anticipate, for example, that those who are now paying the fee would expect that the assessment be made in a more timely fashion or does he have any other expectation that would need to be addressed once a fee is charged for what was previously free?

Mr A.P. JACOB: I do not believe so, no.

Ms M.M. QUIRK: Finally, will the introduction of this fee be done by way of regulation or how is it proposed to introduce this fee?

Mr A.P. JACOB: I will pass over to the CEO on that one, but I believe it will require some changes.

Mr K. Taylor: It will require some legislative and regulatory changes.

Ms M.M. QUIRK: By legislative changes, does the CEO mean that is by way of regulation or does the substantive legislation have to change as well?

Mr A.P. JACOB: I believe it is the substantive legislation that will need to change.

Mr D.C. NALDER: I refer to the line item for grants and subsidies on page 823. Does the Environmental Protection Authority receive funding from environmental offsets?

Mr A.P. JACOB: No, it does not, and neither the EPA nor the Office of the Environmental Protection Authority receives funding from offsets. I believe it could create an impression of conflict of interest if they did so. The government’s environmental offsets policy released in 2011—as I said earlier in questions on the Department of Environment Regulation—emphasises greater transparency and accountability in and around offsets. In taking this lead, the EPA has introduced the practice of systematically reviewing offset proposals and making recommendations to the Minister for Environment as to whether they are appropriate. As a consequence of this changed practice, all offset proposals under part IV of the EP act are now subject to independent review by the EPA and are documented in EPA reports, and are open to public appeal and subject to enforceable conditions.

Additionally, they are documented in the online environmental offsets register. This policy is bringing about greater transparency and accountability, and better governance, and should help in and around perceptions of consistency for environmental offsets.

Mr C.J. TALLENTIRE: I also refer to the fees. On page 820, mention is made of the environmental impact assessment process. Acknowledging the vast amount of information that is collected through the EIA process, I refer to the Liberal Party promise during the election to create a virtual environmental data library; a promise worth some \$8 million. Where is that commitment in these budget papers?

Mr A.P. JACOB: Principally that would be a question for the Minister for Mines and Petroleum.

Mr C.J. TALLENTIRE: Is it not connected at all with the environmental impact assessment process, given that the vast amount of data that is collected in this state comes from the EIA process? Those are documents that the minister would see when people submit their EIA documentation, which are very good studies. Is the minister saying they will not be connected to the work of his agency?

Mr A.P. JACOB: Member, the fantastic thing about being environment minister is that I am more or less connected to pretty much every agency. That is what makes it such a fascinating portfolio and one with a lot of hard work in it. As much as I would like to roll everyone's commitments into mine, as far as I am aware that commitment sits under the Department of Mines and Petroleum. No doubt we will be working in concert with it, but it is the lead agency on that.

Mr C.J. TALLENTIRE: Is the minister saying he is unaware of anything progressing on this front at this stage? Does the minister concede that his agency would be involved in some way?

Mr A.P. JACOB: No; I am saying that is a question for the Minister for Mines and Petroleum.

Mr C.J. TALLENTIRE: Does the minister accept that an environmental impact assessment would be one of the primary sources for the information that would go into this virtual environmental data library?

Mr A.P. JACOB: As I said, we play a part in just about every area of government. That is one of the great things in holding the environment portfolio and I imagine I will certainly play a part in that. I am happy to keep going down lines of questioning that have absolutely nothing to do with my budget chapters, if the member wants to use his time on those.

Mr C.J. TALLENTIRE: The minister has acknowledged that his agency would be the primary source of information going into this—yes or no?

Mr A.P. JACOB: As I said, the member is asking me a question about something that is not in the budget papers; it is a question on an election commitment in the mines and petroleum portfolio. That is my answer.

The CHAIRMAN: Let us leave that and move on to the next question at this point.

Mr J. NORBERGER: My question relates to page 822—monitoring and compliance with ministerial statements. Has the OEPA been monitoring Magellan Metals' lead carbonate project; and, if so, how much effort has been invested into monitoring this proposal? Is this monitoring ensuring that Rosslyn Hill Mining Pty Ltd is compliant with the conditions of the ministerial statement?

Mr A.P. JACOB: The Office of the EPA has a structured compliance management program to ensure that resources are efficiently and effectively allocated to monitor proposals based on that proposal's priority ranking. The program also ensures that resources are available to respond to unforeseen incidents, if and when they do occur. Within this program, Magellan Metals' lead carbonate project is ranked as a high priority proposal and is closely monitored. Magellan Metals' lead project is now operated by Rosslyn Hill Mining. In March 2013, the proposal was audited as a part of the OEPA's 2012–13 compliance program and this audit was completed before the transportation of lead carbonate concentrate was allowed to recommence. The audit identified that the proponent had complied with all the relevant conditions prior to the first shipment of lead leaving the mine site. The OEPA also conducted two site inspections in the first half of 2013 to inspect the packaging and transport infrastructure at its Wiluna mine site and the storage and the road-to-rail transfer facilities at Leonora. In addition to this work, the OEPA regularly reviews audit compliance and monitoring reports that are submitted by proponents to ensure they are complying with all the conditions of ministerial statement 905, and resources can always be made available should they be required to respond to unforeseen incidents, as happened recently when one of the containers buckled while being loaded at Fremantle port. To date, the Office of the Environmental Protection Authority's monitoring activities have confirmed compliance with all conditions of ministerial statement 905, which I stress are the strictest conditions ever applied to a project of this type in Western Australia, to ensure the safe transportation of lead carbonate concentrate in double-sealed bags and sealed containers and the protection of the environment and public health.

[9.10 pm]

Mr C.J. TALLENTIRE: I refer to page 823 and the heading “Income Statement”. Under the subheading “Expenses”, mention is made of the project tracking and case management system. How does this tracking system relate to the election commitment that was made for a \$10 million tracking system for the resources sector?

Mr A.P. JACOB: This is probably a question for the chief executive officer.

Mr K. Taylor: The department has been funded separately for a case management system that we are developing. That has been provided for in previous budgets. So it is not directly related to the commitment by the previous Minister for Mines regarding additional funding by government.

Mr C.J. TALLENTIRE: I seek some clarification. That strikes me as a duplication, because the government is looking at creating two systems—a system for project tracking and case management of proposals that are going through the environmental impact assessment process, and a system for project tracking that will, no doubt, include EIA proposals, and probably also proposals that are going through the DMP process. Why would we ever contemplate such a duplication?

Mr A.P. JACOB: I do not think it is a duplication. I think this relates specifically to the OEPA. But I will ask Mr Taylor whether he would like to expand on that.

Mr K. Taylor: Yes. As the minister has pointed out, our system will relate to applications that are processed through our processes, the Department of Minerals and Energy will have a system that processes its applications, and the Department of Aboriginal Affairs will have a system for its processes. But it is intended to have proper linkages of the systems so that they can talk to each other as such and there is consistency of information. But there is no duplication in terms of the system that we are developing. Our system is to deal with and process the applications that are dealt with under the Environmental Protection Act, which is quite properly our responsibility.

Mr C.J. TALLENTIRE: I am intrigued to know why this project tracking system is such an issue when in previous estimates processes I have asked for a copy of a tracking sheet and it has been given to me. Why is this such a new thing?

Mr K. Taylor: This is not intended to be a new thing. The department has been working on the case tracking system for about 18 months, and we have made substantial progress on that during the last 12 years. We have developed phases 1 and 2 of the system, and we will be commissioning those over the coming six months. It is just related to work that was undertaken in 2012–13 and is continuing into 2013–14.

Mr C.J. TALLENTIRE: Why would industry groups accept the option of having to consult three different tracking systems, namely the ones that Mr Taylor has outlined?

Mr A.P. JACOB: Member, I think again that this is speculation and it is not directly related to the budget papers, although it is good to see that the member is being an advocate for industry in this case.

Mr C.J. TALLENTIRE: I am asking why we are contemplating having three systems. I thought there might be potential for two systems, but from what Mr Taylor tell us, there will be three. Mr Taylor is talking about perhaps having them talk to one another. But I do not hear a guarantee of that either.

Mr A.P. JACOB: As I have said, member, we keep straying into the area of the Department of Mines and Petroleum. I am happy to speak specifically to my department.

Mr C.J. TALLENTIRE: I am referring to the minister’s department as having one of these three systems and I am asking why we are triplicating something.

Mr A.P. JACOB: I think I have answered this a number of times already, member.

Mr C.J. TALLENTIRE: So there is bureaucratic triplication in this case. Thank you.

Mr A.P. JACOB: That is not what I said. The member is asking the same question and trying to get a different answer.

Mr D.C. NALDER: I refer to page 821 and the efficiency indicator “average cost per environmental assessment”, which I note in 2012–13 was lower than the estimated cost and is estimated to be low again in 2013–14. What current bilateral agreements do we have with the commonwealth government on environmental assessment, and are those bilateral agreements contributing to the increased efficiency of the Office of the Environmental Protection Authority?

Mr A.P. JACOB: I thank the member for the question. This is a very important issue and one that is raised with me repeatedly as Minister for Environment. The EPA assesses proposals that are likely, if implemented, to have a significant impact on the environment, under part IV of the EPA Act. If the EPA decides to assess a proposal,

it determines the level of assessment as either assessment on proponent information or public environmental review. If the proposal may also impact on matters of national environmental significance, the assessment is then set at the public environmental review level; and, if agreed, the state will assess the proposal on behalf of the commonwealth under the bilateral agreement and the commonwealth Environmental Protection and Biodiversity Conservation Act. The bilateral agreement is designed to reduce duplication of environmental assessment between the commonwealth and state governments by allowing the commonwealth to accredit Western Australia's assessment processes for proposals that affect matters of national environmental significance, and the PER process is the only process that is currently accredited for this. Following assessment and the receipt of public submissions, the Environmental Protection Authority makes a recommendation to me as environment minister and I then decide whether or not to approve the proposal.

Mr C.J. TALLENTIRE: Stop reading, minister!

Mr A.P. JACOB: If it is assessed under the bilateral agreement, the commonwealth minister also has the power to decide whether or not to approve the proposal. Although the bilaterals are designed to reduce duplication, that is unlikely to be a contributing factor to the improved efficiency of the EPA. It is more than likely a result of streamlining the assessment processes and also providing greater clarity to proponents.

The appropriation was recommended.