

Division 17: Mines, Industry Regulation and Safety — Services 1 to 3, Mines and Petroleum; Industrial Relations, \$279 716 000 —

Ms S.E. Winton, Chair.

Mr W.J. Johnston, Minister for Mines and Petroleum.

Mr D. Smith, Director General.

Dr P. Gorey, Deputy Director General.

Mr I. Munns, Deputy Director General.

Mr D. Kavanagh, WorkSafe Western Australia Commissioner.

Mr R. De Giorgio, Chief Finance Officer.

Mr M. Banaszczyk, Executive Director, Corporate Services.

Mrs J. de Jong, Executive Director, Strategic Business Innovation.

Mr G. Newcombe, Executive Director, Service Delivery.

Mr N. Roberts, Chief of Staff, Minister for Mines and Petroleum.

Mr D. Alexander, Principal Policy Adviser.

Mr J.E. Welch, Senior Policy Adviser.

[Witnesses introduced.]

The CHAIR: This estimates committee will be reported by Hansard. The daily proof *Hansard* will be available the following day. It is the intention of the Chair to ensure that as many questions as possible are asked and answered and that both questions and answers are short and to the point. The estimates committee's consideration of the estimates will be restricted to discussion of those items for which a vote of money is proposed in the consolidated account. Questions must be clearly related to a page number, item, program or amount in the current division. Members should give these details in preface to their question. If a division or service is the responsibility of more than one minister, a minister shall be examined only in relation to their portfolio responsibilities.

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, 31 May 2019. 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 through the online questions system.

I give the call to the member for Hillarys.

[10.20 am]

Mr P.A. KATSAMBANIS: Just initially on division 17, I ask for clarification from the minister about which service areas he is actually responsible for, and what falls under the Minister for Commerce. I do not want to waste time asking commerce questions of this minister.

Mr W.J. JOHNSTON: As Minister for Mines and Petroleum, I am responsible for anything to do with resources. As Minister for Industrial Relations, I am responsible for the resource safety division, WorkSafe, and public and private sector labour relations. As I understand, I am also the principal minister if members want to ask administrative questions about the department, such as headcounts and that sort of stuff. I can answer that as well.

Mr W.R. MARMION: My question relates to the mines safety and inspection levy expenditure. Point 6 on page 231 refers to the repayment of borrowings of \$6.5 million. Is the ability to repay these borrowings reflective of higher employment numbers in the mining industry, and is this trend expected to continue?

Mr W.J. JOHNSTON: When we came to government, there was a deficit in the mines safety and inspection levy, so we had to increase it. Because of the rise in employment in the industry, we have been able to repay the outstanding amount to the Treasury. This is reflective of the fact that employment levels are higher than we had budgeted for when we made the decision to increase the levy. We have not had to increase the levy this year, and we have been able to repay the Treasurer's advance, so we are now free of that, and that means that we can now set the levy based only on the needs of expected expenditure rather than having to worry about Treasury.

Mr W.R. MARMION: As the minister knows, the industry talks about this levy regularly. This is a question that the industry has asked me to ask anyway, and they used to ask it of me as well. Has the minister made any efforts to improve the efficiency of that area? I know that when I was minister there were suggestions that there may be

some cross-subsidisation of some other areas in the department. I am sure that that did not happen, but I guess the question is: is the minister keeping a watching brief on the efficiency of that indicator?

Mr W.J. JOHNSTON: We have set up a process to allow greater transparency for industry, and there is more consultation. There was obviously a bit of a shock when we increased the levy in our first year of government. There were complaints from the Association of Mining and Exploration Companies and the Chamber of Minerals and Energy about that, so we worked together with those organisations to try to provide increased transparency on the expenditure by the department. I am sure that the industry would like us to do things more efficiently, and we do continue to ask how we can become more efficient, but we also have a proper role to play in maintaining safety.

Mr W.R. MARMION: Noting that the levy rate remains at 21¢ per billable hour for 2018–19, does the minister have any idea of when he might expect this levy rate to be reduced?

Mr W.J. JOHNSTON: I anticipate that we will be able to reduce it next year, depending on how things go this year. We certainly do not expect any further increase. Originally, it was to increase over a number of years, but we have now capped that out.

Mr P.A. KATSAMBANIS: As a follow-up to my previous question, I refer to the Fiocco report.

Mr W.J. JOHNSTON: That is commerce.

Mr P.A. KATSAMBANIS: Can I then ask about the inquiry into wage theft? It is listed as a significant issue on page 225, and on page 224 there is a budget allocation for this current year, but not for future years. When is that inquiry expected to report, and does the minister have a time frame from there for the government response and when any possible legislation may be introduced?

Mr W.J. JOHNSTON: The inquiry has a \$200 000 allocation. It is due to report very soon, if not at the end of June, then the end of July. I know that Mr Beech has well-developed ideas about what he should report. When he reports, just like the Ritter review, the report will have to go to cabinet, and then we will talk in public about it. The online collection of data is complete, and the report to government is expected at the end of June. Once the government has considered the report, we will publish the report and our response. If legislative change is recommended, the government would have to consider that.

Mr P.A. KATSAMBANIS: As a further question, so I can tidy these areas up and get onto the other areas, I refer to the ministerial review of the state industrial relations system. We have seen the government's response. When is the first tranche of legislation expected to be introduced?

Mr W.J. JOHNSTON: When it is written.

Mr P.A. KATSAMBANIS: When it is written? Okay, I will take that as an answer! Does the minister intend to consult with relevant stakeholders on the legislation when he receives the draft? I know that we have been around this before, but recommendations turned into legislation can have some interesting implications. Does the minister intend to have that consultation before the legislation is tabled, or an open discussion once we have it in this place?

Mr W.J. JOHNSTON: The normal process is for some informal consultation before anything gets to Parliament. We would be mad to spring things on people, so although I am not committing to a formal consultation process, I can tell the member that we will make sure that relevant organisations know what is in the legislation before we table it in Parliament.

Mr P.A. KATSAMBANIS: I was really asking about a more informal process, because clearly there will not be a formal process after the review. Based on the government's response, and also based on what the minister has previously told me in estimates, is there a feeling that the legislation in this term will cover some of the areas and then further work may be done in a future term of government, or is it intended that all the recommendations be adopted and legislated during this term of government?

Mr W.J. JOHNSTON: I have made a public announcement, and a media release has gone out about this. The decision of cabinet is that we have an immediate agenda, for which we are waiting for the legislation to come back from parliamentary counsel about some urgent issues, but clearly a range of issues will not be included in that. We made that clear in our response. As an example, part of Ritter's terms of reference was the question of access to the commission for public sector employees, but of course his report shows that much of that is actually regulated under the Public Sector Management Act, which is not mine—it is the Premier's, as Minister for Public Sector Management. A longer term piece of work is clearly needed for some of that. I made clear in my media release what we were going to do straightaway. That includes the question of closing the gap on who is or is not an employee regulated by the act.

[10.30 am]

Mr P.A. KATSAMBANIS: The minister mentioned that he was essentially responsible for questions of headcount in the department. I refer to pages 228 and 229. In all three service areas there is quite a significant increase in this current year between the budgeted and the estimated actual full-time equivalents. Resources advice and regulation

had an increase of 59 FTEs, safety advice and regulation had an increase of 22 employees, and industry advice and regulation had an increase of 32 employees. However, the cost of services did not significantly change. Can the minister explain why those increases in employee numbers were necessary and why they did not have a major implication on the cost of services?

Mr W.J. JOHNSTON: Absolutely. This is very good news. We are converting people from precarious employment to permanent public servants. I think it is something to be celebrated. We talked about this in estimates last year. The government has had a specific agenda to provide a real opportunity for people to have a better life through permanent employment. For years we have had a shadow workforce in the public sector, and we need to eliminate it. It has been shadowed in two ways. The first is the use of temporary and casual employees in the sector. Even more of a difficulty for everybody has been the use of labour hire. Labour hire is outrageous because it is just a tax. Some company takes a share of taxpayers' money to provide a body to do the work. We may as well just employ the person and cut out the middleman, which is what we have been trying to do. Because we have been able to make decisions to put programs on a long-term footing—the exploration incentive scheme is an example of that—we have been able to bring people off contract onto permanent employment. I will ask the director general to make some more specific comments about this because this has been on my agenda with Mr Smith, but we try to find opportunities for permanent ongoing employment wherever we can.

Mr D. Smith: The increase in the FTE number that is represented in the budget papers reflects, as the minister described, the conversion of work that was being undertaken by contractors into permanent positions. Those contractors were previously not paid out of the salary budget, but out of the non-salary budget. We applied, and it was agreed in the budget process, to swap money from the non-salary budget into the salary budget to cover the conversion of positions. That is why, as the member rightly observed, there is an increase in FTE but no change in the total cost of service. We have just swapped non-salary expenditure into salary expenditure.

Mr P.A. KATSAMBANIS: I know the minister is not responsible for the ticket scalping legislation going through Parliament, but he indicated that he was responsible for the headcount of the department. Has there been a provision for any additional FTE, or additional non-employee resources, to deal effectively with the new provisions that will be introduced by that bill, and when will an assessment be made about what resources will be required?

Mr W.J. JOHNSTON: I would not be able to answer that question.

Mr P.A. KATSAMBANIS: Who would be?

Mr W.J. JOHNSTON: The Minister for Commerce. However, it may well be that no additional resources are needed.

Mr D.T. REDMAN: I would like to seek some clarification of the jurisdiction of this division. Does this cover work on state agreements? Does the minister engage in advice about state agreements?

Mr W.J. JOHNSTON: The member can ask me his question. I watched him with the Treasurer yesterday. If he asks me some questions, I will see how I go.

Mr D.T. REDMAN: The Premier has made some statements about getting legal advice about changing the state agreements for the Clive Palmer and CITIC deal. Has the minister's agency provided advice about that?

Mr W.J. JOHNSTON: No, not about Clive Palmer.

Mr D.T. REDMAN: Not about the state agreements and what that entails. What about any changes that might need to be made in order to meet CITIC's requirements?

Mr W.J. JOHNSTON: My agency provides advice to the Department of Jobs, Tourism, Science and Innovation on a range of technical issues regarding approval processes and other issues. I would not describe it in the way that the member has asked the question.

Mr D.T. REDMAN: I have a question along the same lines, although I am not sure whether this trips over the state agreements space. In Esperance there has been a shift in the company dealing with the iron ore resource in Koolyanobbing from Cliffs Natural Resources to Mineral Resources. Subsidies have been paid by government to offset that. I will ask a very direct question, but I do not know whether it falls within the minister's jurisdiction. It is my understanding that there was an exit payment requirement of some \$50 million to be paid by Cliffs to the port. Can the minister give me a reason why Cliffs was not required to pay that in the transition from Cliffs to Mineral Resources?

Mr W.J. JOHNSTON: Technically, the member should ask the Minister for Ports about this matter, because I do not look after ports. However, I can point out one of the reasons. Let us think about the way Cliffs behaved. It said that it was going to shut in the future, then it suddenly said that it was going to shut in two months' time. It gave the government almost no time to respond to its decision to shut on a specific date. It said it would shut in February, then in March or May it said that it would shut at the end of June. Because of the way Cliffs behaved, the government had a very short time to respond. A number of companies were talking to Cliffs about taking over the

operations. They were doing commercial negotiations beyond government. We had no line of sight over those negotiations. Those commercial parties were talking to us about what we could do to help them keep the operation going. We had to make some very quick decisions. It is interesting that the rebate for the royalties has had no cost to the budget because my agency had already written out the future revenue from Cliffs. It had always made the assumption that, regardless of what Cliffs was saying publicly, there would be no royalties from Cliffs beyond 30 June that year. It did not cost the government anything to give a 100 per cent royalty rebate for the Koolyanobbing operation. I am not aware of the details of the operation of the port, so I cannot tell the member what decisions were made. As the Premier has said in answers to questions in the chamber, it cost the budget less to provide the assistance we have than if we had not provided the assistance.

Mr D.T. REDMAN: Does the royalty rebate run for the life of the mine, which is five years?

Mr W.J. JOHNSTON: That is my understanding.

Mr D.T. REDMAN: Is that the 100 per cent royalty rebate?

Mr W.J. JOHNSTON: Yes.

Mr W.R. MARMION: Was any consideration given that if iron ore reached a certain massive price, that the rebate might drop out? I can understand the reason for the 100 per cent rebate for the commercial viability of the project. However, if at some stage the iron ore price is \$500 a tonne, the state could be losing quite a lot of revenue. A prudent formula could have been to do as we did with Atlas Iron when I was minister. When iron ore reached \$90 a tonne, the rebate dropped off.

[10.40 am]

Mr W.J. JOHNSTON: It is like the magnetite rebate, which was not dependent on price; neither was this one.

Mr W.R. MARMION: I refer to page 228 of budget paper No 3 and the Building and Construction Industry Training Fund levy under “Operating Revenue”. I guess the minister is aware that the industry is concerned how much money will be generated from this levy.

Mr W.J. JOHNSTON: The member should ask that question of the Treasurer. I am not able to answer anything relating to budget paper No 3. I can only answer questions relating to budget paper No 2.

Mr W.R. MARMION: I thought the minister might like to comment on the Building and Construction Industry Training Fund levy.

Mr W.J. JOHNSTON: I would be happy to do so if the member can find a line item for me to comment on.

Mr W.R. MARMION: I have a question relating to the actual service allocation on page 223 of budget paper No 2. I refer to the total appropriation, or the budget estimate, for service 1, mining. Can the minister outline or advise by way of supplementary information the average cost for a native vegetation clearing permit in Western Australia under his department?

Mr W.J. JOHNSTON: It is probably not possible to do that. I am happy to ask Dr Gorey to make some comment. The \$950 000, if that is what the member is referring to, was the Department of Water and Environmental Regulation’s calculation of how much we should get out of that fee increase. I am not able to provide the information the member has asked for.

Mr W.R. MARMION: I would like a comment on how the department assesses the application fee.

Dr P. Gorey: For all the fees and charges that the department administers, we have a process whereby we do modelling of the costs back to a particular activity, so native vegetation clearing permits are no different from that. That is part of the various practices that the agency carries out to ensure that it has line of sight around appropriateness of fees when there might be some advantages, and also to give a very clear signal around where opportunities or challenges might be for a difference between revenue versus administration.

For the native vegetation clearing permits, because this is an activity that we are delegated to undertake, the principal legislation remains the Environmental Protection Act and the regulations under the Environmental Protection Act. In this case, we and the environment portfolio through the Department of Water and Environmental Regulation actually contributed to the assessment of costs and charges. In this case, the model and the proposal for changes to fees and charges was done by looking across the entire business sector for Western Australia. The changes and the uplift in fees for native vegetation clearing permits that are now reflected in our budget are consistent. A decision was made consistently across the sector by the Minister for Environment, essentially, through introducing those regulations. In that way, there is some consistency around that.

Mr W.J. JOHNSTON: I can provide further information. DWER put a submission to the joint standing committee. It obviously had to justify in that submission that it was not doing over-recovery. The member could get more detail from that submission, which obviously did not come from our agency.

Mr W.R. MARMION: It is a confusing area. Obviously, in terms of clarity and accountability, industry is obviously seeing that the average cost has risen from \$34 000 to \$40 000. It is suggesting that the minister's department might be more efficient in doing the permits as it is now costing more money. That is the industry's concern.

Mr W.J. JOHNSTON: One thing I know that the industry wants is that the Department of Mines, Industry Regulation and Safety continues to carry out vegetation-clearing processes for the mining industry. I am sure that we speak with one voice when we say that that is what we are seeking.

The director general has just given me some of the outcomes. Under our delegated authority, we are meeting our time lines in 78 per cent of cases. That is slightly under our target of 80 per cent. We keep a very clear eye on wanting to achieve the proper outcomes. The DG and I talk regularly about making sure that we meet these targets because we understand how important it is. As I said, it is not our intention to hand this work back to other industries; we want to continue to do it, because the industry is very strongly in favour of that.

Mr W.R. MARMION: I wish to reinforce what the minister just said, which I agree with. He may want to comment on the application put forward by a mining company to clear land. As the minister would know, it was rejected in order to protect four flowering plants. A letter to the editor in today's newspaper highlighted to me that people in the mining industry have a lot of information on the environment, but if it is siloed into another department, which makes an assessment without communicating with at least the minister's department, we get poor outcomes, or people trying to reinvent the wheel. Often the department has all the information because it has been used in previous applications for clearance. I would not mind the minister's comment on that aspect.

Mr W.J. JOHNSTON: If the member is referring to the decision made at the Edna May mine, I make the point that that decision was made by the Department of Mines, Industry Regulation and Safety's officers. Clearly, if the agency that regulates the mining industry did not think it was appropriate to approve that application, that says a lot. We should think about that. The next thing I would say is that, yes, absolutely, we think we are the best agency to carry out these clearances because, as the member said, we are the ones with all the information. With other agencies, we are looking at a database. I will ask Dr Gorey to comment on that. The idea is to have a single database of information shared between all agencies on environmental matters to avoid reinventing the wheel—the very thing the member is talking about. I will ask Dr Gorey to comment.

Dr P. Gorey: The Department of Mines, Industry Regulation and Safety was one of the foundation members for the Western Australian Biodiversity Science Institute and very supportive of that model to do exactly what the member is talking about, which is to marshal together the data that is available to government and departments and make that available regularly and easily in a confident way to those officers who make decisions. The department has been quite successful in progressing some of those systems. Our quick appraisal exploration application system, which was recently launched, about a year ago, is now not only delivering approvals quicker than the old paper version, but also making visible to officers all of the available spatial information on a single system. The information covers threatened species, threatened communities, sensitive environmental receptors and so forth, and puts them into a single portal, which essentially allows officers to make the decision. We very much work with other agencies to support them in their similar exploits in developing the same data exchange arrangements.

[10.50 am]

Ms J.J. SHAW: I refer to the eleventh issue impacting the agency on page 225 of the *Budget Statements*, which refers to the performance of the resources sector. I wonder whether the minister could provide us with some more information on the performance of the exploration incentive scheme.

Mr W.J. JOHNSTON: What a great question. Last year, I was able to bring the exploration incentive scheme back into the agency as one of the ordinary functions of the department. One advantage we have had from that, as we talked about a minute ago with the member for Hillarys, is that staff are now permanent public servants and have a long-term commitment to the work. I have been out to the core library and shaken hands with a number of them, and they are very excited about the opportunity that has given them. We have recently announced round 19 funding, with another \$5.124 million in grants offered to 45 companies.

One of the most interesting things about this is that they are going after commodities related to the new battery industry such as nickel, lithium, cobalt, rare earth elements and graphite. Western Australia is unique in the world in having all the materials that go into a battery. We do not have a lot of graphite, so we would love to find some more. There is strong support for the government's future battery industry strategy, for which, obviously, we have been very pleased to get the Future Battery Industries Cooperative Research Centre. The great thing about the CRC is that it aims to support every element of the battery chain, from exploration to applications in the electricity system. We can see that that is a really exciting opportunity.

The exploration incentive scheme continues. Although people concentrate on the co-funded drilling element, the other part of the EIS is the work done by the agency. Dr Phil Gorey's team spend as much money on pre-competitive data collection as it does on the co-funded drilling program. This is one of the reasons that, after

a century, Western Australia remains one of the world's leading jurisdictions for exploration. We do the work in advance, so that when companies come to invest, they can more easily target their investment. I give the example of Gruyere, the goldmine in the Yamarna belt, where a geologist used publicly available geophysical information to identify a target. He put together a syndicate, got money from the co-funded drilling program, went out, put a hole in the ground and, believe it or not, with his first drill he found the ore body, which is an extraordinary story. Now it is a \$750 million goldmine that will open in July. We can see that the combination of this publicly available pre-competitive geophysical information combined with the drilling incentive is making Western Australia one of the world's leading jurisdictions —

Mr D.T. REDMAN: A good policy from the Liberal–National government.

Mr W.J. JOHNSTON: It was Norman Moore; I have always credited Norman Moore for it. But the difference here is that Norman Moore funded it out of the department, but then it stopped being funded out of the department, and now I have put it back into the department. That means it is long term. It is now part of the ordinary business of the industry.

Mr W.R. MARMION: The industry fully funds it.

Mr W.J. JOHNSTON: The industry has always fully funded it, so this is the good thing.

Mr D.T. REDMAN: No, it did not.

Mr W.J. JOHNSTON: Royalties for regions money temporarily funded it, and that was a mistake, because that meant it was not funding the good work —

Mr D.T. REDMAN: The minister said the industry has always funded it, but that is not the case.

Mr W.J. JOHNSTON: It is, because it comes out of royalties; it is exactly the same.

Mr D.T. REDMAN: That is like out of taxes!

Mr W.J. JOHNSTON: The even worse thing is that it was being taken out of the pockets of the member for Warren–Blackwood's constituents and given to mining companies, so this is a much better approach.

Mr D.T. REDMAN: I refer to the fourth significant issue impacting the agency on page 224 that refers to the impact on fly in, fly out workers. A code of practice is in place and there is a requirement for organisations to put in place what is described there as a “health and hygiene management plan”. Can the minister give us some indication of the level of compliance with the new responsibilities and whether there are data capturing processes in place to see whether the policy is having an impact on mental health, the tragic number of suicides and things like that?

Mr W.J. JOHNSTON: Firstly, I acknowledge the work done by Dr Graham Jacobs in his role as chair of the parliamentary inquiry into this issue in the last term of government. One of the principal recommendations of that inquiry was for a FIFO code of practice. I am pleased that we have been able to introduce that. It was introduced only in February or March, or whenever it was, so it is only recent. We do not expect an instantaneous response. We think this will build up over time. I invite Ian Munns, the deputy director general of the safety regulation division, to make some comments.

Mr I. Munns: The mines safety area is working very closely with the mining sector on health and hygiene management plans. As the minister has indicated, the FIFO code of practice is a relatively new document available to all parties in the mining sector. We are in the process of capturing that data the member speaks of. Our safety regulation system, which is referred to in the budget papers, is a database where all that sort of information is gathered, and over time we are able to identify trends and commit our resources to the areas we take our attention to in order to ensure that requirements are being adhered to.

Mr D.T. REDMAN: What is the allocation of resources within the organisation towards this FIFO code and the issues of compliance with codes of practice?

Mr W.J. JOHNSTON: I will throw to Mr Munns in a second, but I just make the point that the department has appointed an inspector for mental health issues in the resource safety division, so that shows the interest the department has in this issue. I invite Mr Munns to make comment.

Mr I. Munns: As the minister has indicated, we have a specialist inspector who specialises in mental health issues and was instrumental in the preparation of the FIFO code. We also have a number of other inspectors who are specialists in the health and hygiene area and actively work with the mining sector to develop its health and hygiene management plans. There are around 60 inspectors across the mines safety inspectorates. They do not all work on that topic, but they are mindful of the issue and refer the matters to our specialists in the mines safety area.

Mr D.T. REDMAN: Does the department have any problems or challenges in getting data from private organisations? I expect the level of FIFO to increase, given some of the mines coming on now. Is the department

able to get data from them about how many people are FIFO and the nature of the mental health challenges that sit within those organisations?

Mr I. Munns: We do not actively capture that precise information at the moment. There is certainly a lot of data in the agency that we could crossmatch to identify the likely number of FIFO workers in the sector. As the minister said, this is a relatively new piece of work and we will be moving towards mechanisms to ensure that we are able to track the effectiveness of the code.

Mr W.J. JOHNSTON: Chair, I notice it is nearly eleven o'clock. Are we going to put the question?

The CHAIR: I have noticed the time. Member for Nedlands, make it quick, please.

[11.00 am]

Mr W.R. MARMION: I will be quick, and it will be a quick answer then!

I refer to the line item "Lithium" under the heading "Royalties" on page 235 of the *Budget Statements*. Can the minister firstly explain the royalty rate for lithium, and has any consideration been given to changing the royalty rate depending on the processing of lithium into lithium hydroxide and other refinements? Is that reflected in the forward estimates?

Mr W.J. JOHNSTON: Reflected in the forward estimates is the current lithium royalty rate.

Mr W.R. MARMION: Which is?

Mr W.J. JOHNSTON: It is five per cent on spodumene and 7.5 per cent on ore.

The appropriation was recommended.