

Division 41: Department of Water and Environmental Regulation — Services 1 to 3 and 5, Water, \$129 376 000 —

Mr D.A.E. Scaife, Chair.

Mr D.J. Kelly, Minister for Water.

Ms M. Andrews, Director General.

Ms H. Manderson, Chief Finance Officer.

Mr M. Awang, Acting Director, Water and Ecosystem Planning.

Mr S. Taylor, Executive Director, Regional Delivery.

Ms S. McEvoy, Executive Director, Strategic Policy.

Mr L. Clarke, Chief of Staff, Minister for Water.

Ms L. Peters, Senior Policy Adviser.

[Witnesses introduced.]

The CHAIR: The estimates committees will be reported by Hansard. The daily proof *Hansard* will be available online as soon as possible within two business days. The chair will allow as many questions as possible. Questions and answers should be short and to the point. Consideration is restricted to items for which a vote of money is proposed in the consolidated account. Questions must relate to a page number, item or amount related to the current division, and members should preface their questions with these details. Some divisions are the responsibility of more than one minister. Ministers shall only be examined in relation to their portfolio responsibilities.

A minister may agree to provide supplementary information to the committee. I will ask the minister to clearly indicate what information they agree to provide and will then allocate a reference number. Supplementary information should be provided to the principal clerk by close of business Friday, 3 June 2022. If a minister suggests that a matter be put on notice, members should use the online questions on notice system.

Are there any questions? I give the call to the member for Cottesloe.

Dr D.J. HONEY: I refer to page 693 of budget paper No 2, volume 2. In the table under paragraph 1 is an efficiency indicator that shows 95 per cent of referrals were dealt with within targeted time frames. In relation to the assessment of referrals and the like, and we will talk a bit more about specifics later on, industry is saying that those time frames have blown out considerably. Have the targeted time frames changed in this budget?

Mr D.J. KELLY: No, member. There has been no change in the targeted time frames for this budget.

Dr D.J. HONEY: I have a further question. Just carrying on from that, one of the issues we hear about from industry is that the stop-the-clock principle is used by departments to effectively stop recording the time that it has taken for their assessment to occur, or at least the full time. Do these time frames that are measured in this section incur stop the clock? Have we seen a greater increase in that? Just to cut to the chase on this one, I am interested because I believe it is the case that in other areas staffing has been an issue.

[4.50 pm]

Mr D.J. KELLY: The stop-the-clock provision applies to these applications. The reason for that seems to me to make quite a bit of sense. If the department is dealing with an application or a request for advice, sometimes the information provided by the proponent is not complete, so the department may require the applicant to provide additional information in order for the application to be properly considered. In that circumstance it is on the applicant to provide the information to allow the department to complete its work. It is a little unfair, for example, to say that the department has taken 100 days—I just pulled that figure out of the air—to deal with an application, if for 50 of those days the department has been waiting for information to be provided by the applicant. I am told by the director general that this issue of stop the clock and whether it should apply to applications is being dealt with as part of Streamline WA, which is this government's initiative to improve the way applications are dealt with across government so that there is consistency across government departments. That is being looked at. There is logic in saying that if someone wants government to process an application, the time that the applicant takes to provide sufficient information should not be recorded against the government as part of the time frame it has taken to make a decision.

Dr D.J. HONEY: This is the last question I have on this matter. Are staff shortages used as justification for the stop-the-clock provision, or is it only if it is waiting for information from proponents or another department?

Mr D.J. KELLY: Member, no, staff shortages are not used to stop the clock. My understanding is that it is only applied when the applicant has been asked for additional information. In the member's discussions with industry

he might indicate to them that one of the problems the department has is when staff are poached by industry. Industry makes offers to members of the department who do this type of work; they snaffle them up then say to the government, “Why aren’t you able to deal with my application in an expeditious way?” I do not wish to stifle the career path or job opportunities of members in the department—though I think working in the department is one of the greatest callings ever—but the member might just say to some members of industry that if they allowed our public servants to get on and do their work rather than whisking them away with job offers, that might assist.

Dr D.J. HONEY: Referring to the same table, there is a significant increase in federal funding flowing through the budget in 2022–23. Could the minister briefly outline the projects that will be funded by that additional revenue?

The CHAIR: We are on page 693. Is there a particular line item?

Dr D.J. HONEY: There is a comment that additional funding is flowing through with an increase in federal funding under the heading “Explanation of Significant Movements”.

Mr D.J. KELLY: Is the member talking about the first note there?

Dr D.J. HONEY: Yes.

Mr D.J. KELLY: We sought for some federal government funding to expand on non-potable water projects in the great southern and wheatbelt primarily, but I think some of them might be in the midwest. We were successful in getting what I would call a modest amount of money out of the previous government to expand a program that we have been undertaking to bring back online water sources in those regions so that they would be available for firefighting purposes, animal welfare purposes and the like. In the end I think it was a \$7.3 million program, with 50 per cent funding from the state and 50 per cent funding from the commonwealth. That enabled us to fund about 70 additional projects in the regions. It also enabled us to increase funding to projects that we had 50/50 with local governments on community water projects up to \$100 000 in those regions as well.

Dr D.J. HONEY: Are those projects mostly refurbishment of town dams and community dams?

Mr D.J. KELLY: It is a variety, but certainly there are old town dams that used to be the primary water source for those towns that have been disconnected for water quality or reliability issues. They have sat there and some have fallen into disrepair. As part of this program, by cleaning up the catchment and making them more accessible, they can be used for those non-potable purposes, but it might also be old railway dams, for example. I visited one that was almost 100 years old. By putting in place a pump, a bit of piping and a tank, farmers would be able to access that water on the main road. A variety of assets are being brought back online.

Dr D.J. HONEY: On that same table, FTEs were increased by 11 this year. What new work did the additional staff carry out, please? Just to help, it is the line item “Employees (Full-Time Equivalent)” and the 2020–21 actual was \$124 000. I see now it was increased by 10. The budget was \$135 000 and the estimated actual is \$134 000. The budget for 2022–23 is \$135 000.

Mr D.J. KELLY: There are a couple of reasons for that. We have additional resources to implement the Peel–Harvey estuary protection plan. There was an additional \$5 million to fund that plan, which was an election commitment and there are some additional resources there. Resources were provided to the department to implement the Yamatji Nation Indigenous land use agreement as part of that native title settlement. I think it is the first time there has been a water allocation in that settlement. There was \$20 million in that settlement to enable the native title owners to work up that water resource. There is work to be done around that in the department. There were also some additional resources for regulatory approvals of which, given the member’s earlier question, he would probably approve.

[5.00 pm]

Dr D.J. HONEY: The minister mentioned the Peel–Harvey protection plan. Has that manifested as a published plan or is it still work in progress?

Mr D.J. KELLY: We launched the plan publicly at the end of 2020–21.

Dr D.J. HONEY: In relation to the historic allocation of water—effectively the portion of the available water in that area to the Yamatji Nation—has there been a development of water assets under that agreement or, again, is that still work in progress?

Mr D.J. KELLY: Sorry, member; I was trying to get confirmation that the figure of \$20 million was correct. I am not 100 per cent sure because that money went to the native title holders as part of the settlement. It did not go to the department, so no-one from the department can confirm that figure.

As far as that water being commercialised, I am advised that the Yamatji Southern Regional Corporation has already entered into a water licence agreement with mining company Perpetual Resources to access 560 000 kilolitres of water per annum to facilitate mining operations around Eneabba.

Dr D.J. HONEY: Is it effectively a requirement of the department that the water allocated to the Yamatji Nation be used before any other licence applications for groundwater or other water use is made by the department?

Mr D.J. KELLY: My advice is that that is not how it works. That catchment is not fully allocated. Under the native title settlement—it was negotiated under the Native Title Act 1993, and not by the department—a portion of the unallocated water in that catchment has been reserved for the native title holders, but my understanding is that other water remains so if someone wants to put in application and water is available, that water can be accessed by any other applicant.

Dr D.J. HONEY: Thank you very much, minister. I refer to the exact same table. There was a substantial increase in the average cost per water measurement site managed by 42 per cent from the 2021–22 estimated actual. What drove that substantial 42 per cent increase in cost? I am happy to take the answer as supplementary information, minister.

Mr D.J. KELLY: The advice is that obviously these averages are worked out on the total cost of the service divided by the work that is done, whatever it is. In this case, a significant cost was deferred until the next financial year. I am advised that some of it was maintenance on projects that could not be done because of COVID. If the work is not done and it is shunted into the next year, that affects the total cost of service. There was also a deferral of some of the small grants programs and new funding for the implementation of the Peel–Harvey estuary protection plan. It was really just timing with some of those costs moving from one financial year to the other rather than any sort of permanent reallocation. That is my understanding.

[5.10 pm]

Dr D.J. HONEY: The minister can give a quick yes or no answer to this question. If we look at the increase in the average cost per water measure site managed from the 2020–21 actual to the 2021–22 estimated actual, we see a 32 per cent increase as well. Can I assume that increase would be justified in the same way?

Mr D.J. KELLY: I can give the member a quick answer, and that is yes.

Dr D.J. HONEY: I refer to page 693 of budget paper No 2, volume 2, and service 2 “Water Planning, Allocation and Optimisation”. The table refers to the total cost of service but there is no reference to a direct line item in that table. As I told the minister earlier, his department put out a discussion paper on managing water in the Fitzroy River catchment in November 2020. I told the minister I thought that was a very measured approach to developing water resources in the Fitzroy River. I do not recall hearing about any public commentary or any progress on that plan. Given the potential for really substantial job creation in a community that needs jobs, has there been any progress on further implementation of that plan? I understand that consultation was slowed down a bit by COVID, but has there been any progress since the release of what is a very sensible document?

Mr D.J. KELLY: The member is correct that we put out a discussion paper that included a number of options that might form part of a water allocation plan for the Fitzroy River. The discussion paper generated significant interest. I think there were 43 000 submissions. The department is still working on a response to that discussion paper. It is complicated because it is an area where traditional owners have, and should have, a significant say in how that resource is managed, developed or protected, and COVID made that process more difficult than it would have been otherwise. Many of those remote communities were locked down for significant periods. Although I will endeavour to get a response to that discussion paper as soon as possible, it is still a work in progress.

Dr D.J. HONEY: How many of the submissions that the department received on that discussion paper were from Western Australia versus from other corners of the globe and the eastern states?

Mr D.J. KELLY: I do not have those figures with me. I know there was a significant number of submissions from the Kimberley, but I do not have exact figures. Presumably, that consultation report will come out at some point, and it is my understanding that those sorts of details might be in it.

Dr D.J. HONEY: Does the minister have a timetable in mind? As the minister knows, I have spent a reasonable amount of time in the Fitzroy talking with a range of stakeholders, including Aboriginal communities and senior Aboriginal representative organisations, and it is fair to say that although there is diversity of opinion, there does seem to be an appetite for that plan in some groups in particular. In fact, particular communities, not all of them, saw a huge opportunity to develop their water assets. Does the minister have a time line in mind for when the department will come to some sort of conclusion on this matter?

Mr D.J. KELLY: I am really reluctant to put a definite time line in place because we do not know what disruption is going to come our way, but I hope within—again, it is only an estimation—the next 12 months there will be progress on that issue. I am certainly not trying to delay it, but a substantial amount of work is involved and we live in uncertain times.

Mr M.J. FOLKARD: I refer to page 694 of budget paper No 2, volume 2, and service 3 “Water Regulation, Licensing and Industry Governance”. I understand that the department through this service has developed draft guidelines for spring exemptions. Can the minister outline why these guidelines have been developed and whether the department has received any criticism on this matter?

Mr D.J. KELLY: I thank the member for the question. It is a very topical issue. Spring exemptions have caused some controversy amongst water users. If a person has a spring on their property, they are not required to seek a licence. In some areas of the state, the question of whether a person’s spring is exempt from licensing has become a hot topic.

In the south west, around Manjimup in particular, which is an area that is largely fully allocated and has no water to be licensed left, there is quite a lot of discussion about whether a farmer has a spring exemption on their property.

This issue has bubbled away, if you like, for many years. Under the previous government, the minister put in place a process whereby farmers were invited to go to the department and get advice on whether what they believed was a spring was exempt from licensing. That resulted in farmers going to the department to seek that advice, causing some difficulty because some farmers got the answer they wanted and others were told that an exemption would not apply and some people were disappointed by that advice. To try to resolve the issue, we asked the department to work with the Warren Donnelly Water Advisory Committee, which represents locals from the area, to come up with some guidelines to inform farmers about what is a spring, essentially. The department put many hours into that process. Spring guidelines were put out for public comment and they are now being considered.

Given the department's hard work, I was very disappointed that the member for Cottesloe on one of his regular podcasts was highly critical of the agency and the public servants who had done that work. He said that last week he spent three days down in Manjimup and surrounding areas talking to farmers who are deeply concerned about what the government plans to do about their existing licences and some future changes that are proposed to water laws—the bills and at least the acts—that regulate water management for farming, in particular. He went on to say that the government came in with a heavy-handed approach that was threatening to farmers, and that farmers feel utterly intimidated by —

Mr R.S. Love interjected.

The CHAIR: Just a moment, minister. The member for Moore has raised a point of order.

[5.20 pm]

Mr R.S. LOVE: I seek your advice, chair. The budget estimates process is a chance to interrogate the budget. I do not see what the relevance is to the budget process of the minister reading out the comments of another member of Parliament. I seek your guidance, but I believe those comments are out of line and out of order.

The CHAIR: There is no point of order, but as members will know, I play a pretty straight bat in estimates in terms of who gets the bulk of time, and I am sure the minister will draw his answer to a close shortly.

Mr D.J. KELLY: I will just finish by saying that the member described the farmers feeling that they had been utterly intimidated by heavy-handed inspectors coming out and threatening their capacity to utilise the water on their farms. I find those comments highly offensive. The members of the department that is funded by these budget line items are dealing with a very controversial issue. It is not an issue of those agencies' making. They are dealing with legislation and policies that were put in place by the former government and I think it is disrespectful and, in many ways, dangerous for members of Parliament to whip up those sorts of sentiments against public servants who are just trying to do their job. I urge the member for Cottesloe to choose his words more wisely than to whip up those sorts of feelings against public servants who are very professional, are trying to deal with a difficult situation and, essentially, are just trying to do their job.

Dr D.J. HONEY: I am glad the minister got onto that topic, because that was one of the areas I was keen to get some clarification on. Who was consulted about developing the guidelines that were developed? For example, were the government's own hydrogeological experts consulted on that? Were other hydrogeological experts consulted on it? I will say that I have had extensive feedback from hydrogeologists that the conclusions reached in that document, particularly the concept of underground streams, defy hydrogeological science.

Mr D.J. KELLY: I am glad the member for Cottesloe has asked me another question on that. As I said, he is entitled to question what we have done, but these are public sector workers who go out into these communities and deal with farmers who may be, in some cases, quite emotional about these issues. It really does not help to have the member whipping up anti-government sentiment in the way that he has. Quite frankly, I actually thought he was better than that. I know we have disagreed on a number of things, but I thought he was better than to use the quite inflammatory language that he has used.

Ms M.J. DAVIES: Just answer the question. The minister has already had one go; just answer the question. It is a waste of time. None of the minister's colleagues has been doing it; only he has. I have sat through it all.

Mr D.J. KELLY: Sorry, member for Central Wheatbelt; I did not hear any of that. Does the member want me to answer the question?

Ms M.J. DAVIES: I can repeat it. The minister is wasting the chamber's time. None of his colleagues has done this in any of the other estimates hearings and he has already made his point.

The CHAIR: Members! Leader of the Opposition! Minister.

Mr D.J. KELLY: The question was: who was consulted? The Warren Donnelly Water Advisory Committee, which includes, amongst others, the Shire of Manjimup, was deeply involved. Local licence holders, the shire, all

water licence holders and representative stakeholder organisations were notified that this process was in place. The department's own hydrogeologists were deeply involved in the formulation of the spring exemptions document, which I stress to the member is out for public consultation; it is not a final document. I am personally aware that it is quite long. When advice is being given, the purpose of which is to make user-friendly provisions in the legislation, it has to be ensured that what is being given to people is correct, but that has resulted in quite a long document. There was extensive public consultation and professional advice was sought before that document was put out.

Dr D.J. HONEY: In relation to the surface water in that catchment, it was put to me by the local farmers that what are called streamlines were developed remotely by someone using topographical maps. Does the minister know whether that is the case?

Mr D.J. KELLY: As the member for Cottesloe can tell, it is a quite complicated process. I am advised that under the process that has been contemplated in the guidelines, there certainly would be a process of on-the-ground verification as part of that process. Although some of it might be done from information gathered remotely, there would certainly be on-the-ground verification.

Mr R.S. LOVE: I refer to page 694 of budget paper No 2 and the heading "Explanation of Significant Movements". Paragraph 1 refers to the total cost of service due to delivery of the Gngangara allocation plan, and water licence and permit application assessments for various things. I understand that the department is currently also involved in allocation planning for the Gingin shire. I think it is reshaping some of the previous models of allocation plan boundaries. People are saying that they have been told that they will have a cut in their allocation. I am wondering whether the minister can tell me a little about where that plan is at, when it will be delivered and whether there have been any communications with licence holders to indicate that they are to expect a reduction?

[5.30 pm]

Mr D.J. KELLY: The member will probably be aware that that plan borders the Gngangara plan area. The Gngangara plan is currently out for public consultation. I am advised that there has been no work commenced on a new Gingin plan, so there has been no communication to people that there is likely to be a reduction in water allocations. I could be wrong, but I think I have had one bit of correspondence from someone in Gingin about a potential reduction in their water allocation, and I think they mistakenly thought that they were going to be covered by the Gngangara plan, so there may be some confusion that the reductions in water available under the Gngangara plan may apply to the Gingin area. I have something in the back of my mind telling me that I have had at least one bit of correspondence of that nature. I am certainly advised that work has not yet begun on a new plan for Gingin, and so there is no basis upon which to say that there is going to be a reduction in water, because there is no work being done yet.

The CHAIR: Before we go on, given the time, I want to make members aware that we have 30 minutes and three off-budget authorities remaining before all these divisions and off-budget authorities have to be put. Further question, member for Moore.

Mr R.S. LOVE: I just have one follow-up. Is there going to be a revision of the plan; and, if so, when will it commence?

Mr D.J. KELLY: I am advised it is in the forward works plan. I am just trying to get the member a bit more detail than that. I am told that the work will begin in the next financial year—not the current year, but the next financial year, so 2022–23.

The CHAIR: New question, member for Cottesloe.

Dr D.J. HONEY: Thank you. I made the fatal mistake of muting myself, and only the host can unmute me, which may serve some people!

Just quickly, if I could, please, minister, coming back to the area of the Warren–Donnelly catchment, whilst I was there, I was shown a large area that was subject to forestry where there has been replanting of karri or jarrah. The areas have been planted at a density of around 3 000 stems a hectare, which is a completely unnatural density of trees. I am told that the watertable in those areas has declined enormously, over nine metres in area, because there are many more trees than would be in a natural forest and there does not appear to be any thinning activity. The locals' concern was that thinning activity seems to have stopped. There are two issues. Firstly, if we have a drought, large areas of those trees are going to die because they will lose water. Secondly, the forest there is 85 per cent of the area of the whole shire. It is the single largest user of water. If there are concerns about environmental streamflow, part of that has to be management of the forest and the density of trees in the forest, especially in those unnatural areas that have been replanted rather than seeded naturally. I wonder if the minister can tell me whether there is a plan to deal with that as well.

It concerns me that there is an enormous amount of focus on the farmers. My understanding is that the farms only comprise 15 per cent of the total area, but it appears that there is no management of the large sections of the forest that were subject to forestry and have been replanted to manage environmental water flow to the streams.

Mr D.J. KELLY: I am glad the member raised those points. The claim that the forest is the biggest user of water in the catchment and that farmers have an infinitesimal influence on the water within a catchment—that catchment

in particular—was one of the points the member raised in his podcast. I have to say, it does not indicate that he has a great understanding of how these matters work. Those forests have been there for thousands of years, and I think that to describe them as the biggest water user in the catchment really misrepresents and causes confusion amongst people who might take that seriously.

The Department of Water and Environmental Regulation works very hard with the Forest Products Commission on forestry issues. The rules on which forests are harvested and where they are replanted are set out in the forest management plan. As the member knows, the current plan finishes at the end of 2023; there will then be a new one. Public comment is currently being called on that, so if farmers have issues with the way forestry is being conducted in that catchment, they can make that comment to the Department of Biodiversity, Conservation and Attractions, which leads that process. Again, I would just ask the member to be a bit cautious about his language. I can assure the member that the Forest Products Commission, the Department of Water and Environmental Regulation and the DBCA, even though it is not one of my agencies, take the science around this stuff very seriously. I urge the member to be a bit careful about some of the things he is saying.

Dr D.J. HONEY: I thank the minister very much. If there is one thing I am very aware of, it is the science. A natural native forest evapotranspires 70 per cent of the rainfall or more, so in a typical forest, only around 30 per cent or less of the water actually enters the ground. But in those areas that have been replanted—I would encourage the minister to go and look at them—the stems are literally less than an arm’s length apart. It is a completely unnatural forest. In fact, I would bet that there is essentially no water entering the streams from those areas that have been reforested. It is a completely unnatural environment. My concern is twofold—it is not only the water issue, but also the bushfire risk of those areas. My understanding is that the Fire and Emergency Services Authority has asked for tracks to be pushed through those areas because of its concerns about the bushfire risk. The minister will probably give me the same answer. Those areas were being thinned, but it appears for some reason that the thinning has stopped. There has been a dramatic reduction in the ground watertable and that means there is a dramatic reduction in water going to streamflow from those areas. That was my point. The forests there are not thousands of years old; that is just not geologically or scientifically correct. The fact is that there is run-off from those replant areas. I saw streams in those areas that were completely dry when streams in other areas of natural forest were flowing.

[5.40 pm]

Mr D.J. KELLY: I am not really sure how to respond to that to be honest. When we came into government, we inherited forests that had been managed under the previous government. Some of those areas that the member describes as being unnatural were areas that were obviously harvested under the previous Liberal government. Thinning programs are currently in place. One of the things we have said is that under the next forest management plan, we would like further thinning of those areas that have previously been harvested. We are conducting thinning trials, in conjunction with the Forest Industries Federation (WA), because we understand that there are probably some things to learn about how to best conduct that thinning so that we not only get a more natural forest, but also perform the thinning without causing further damage to the forest around the areas that we are thinning. We understand that more thinning needs to be done. I suppose that for the member for Cottesloe to give us lectures about the requirement to do thinning, given that very little of that was done under the previous government, is a bit rich.

The appropriation was recommended.