

Ms Rita Saffioti; Mr John Day; Mr Matt Taylor; Mr Chris Tallentire; Ms Margaret Quirk; Ms Eleni Evangel; Mr John McGrath

Division 30: Western Australian Planning Commission, \$103 781 000 —

Mr I.M. Britza, Chairman.

Mr J.H.D. Day, Minister for Planning.

Mr E. Lumsden, Chairman.

Ms G. McGowan, Director General, Department of Planning.

Mr N. Thomson, Assistant Director General.

Ms S. Sherdiwala, Acting Chief Finance Officer.

Mr T. Hillyard, Manager, Strategic Property Unit.

Ms S.J. Burrows, Executive Director, Department of Planning.

[Witnesses introduced.]

Ms R. SAFFIOTI: In respect of the metropolitan region improvement tax, how much is expected to be collected in 2014–15; how much will be spent on land acquisition; and how much will be spent on other items, such as Whiteman Park? I would like a breakdown of the collections of the metropolitan region improvement tax.

Mr J.H.D. DAY: As to how much is expected to be collected, that appears on page 343. For 2014–15, we expect to collect \$92.6 million; the amount expected to be expended is listed lower in that column, being \$49.2 million. The net cost of services is \$16.1 million. There is a note attached to that, but I will not read it out, because it is all there on page 343. In relation to the allocation for Whiteman Park and —

Ms R. SAFFIOTI: All of the other items that are funded from the MRIT. I think there are about five or six.

Mr J.H.D. DAY: The main one is land acquisition; secondly, the services of the Department of Planning, which we referred to a moment ago; Whiteman Park is approximately —

Ms R. SAFFIOTI: If it is easier, I will ask for the answer by way of supplementary information.

Mr J.H.D. DAY: We can do some of it now. Whiteman Park is about \$7 million, and —

Ms R. SAFFIOTI: Sorry, minister; can we have it broken down properly, by way of supplementary information? I am seeking the total MRIT and what it is being spent on in 2014–15.

Mr J.H.D. DAY: We will provide a breakdown of the expenditure of the metropolitan region improvement fund expected in 2014–15.

[*Supplementary Information No B71.*]

Mr M.H. TAYLOR: I refer to the second dot point on page 344, regarding the strategic assessment for Perth and Peel regions. Can the minister advise the purpose behind this assessment and what the blueprint will offer once completed?

[8.40 pm]

Mr J.H.D. DAY: This is a major project that is being undertaken by the state government in conjunction with the commonwealth government. Within the state, it involves the Department of Planning, the Department of Parks and Wildlife and the Department of the Premier and Cabinet. The intention is to provide a much greater level of certainty about where development can and cannot occur in the Perth metropolitan and Peel regions, and in particular the coastal plain parts of those regions, over the next 20 years; in short, it takes into account the requirements that the commonwealth has under the Environment Protection and Biodiversity Conservation Act 1999. That is the overall purpose of it. It is well underway and we hope more information will be put out publicly towards the end of this year. I will ask the chairman and then the director general to make some comments.

Mr E. Lumsden: The commission required the Department of Planning to develop strategic structure plans for the various subregions. When we were in the process of doing that, it became apparent, through discussions with Premier and Cabinet and the Department of Environment and Conservation, that the issues involving the commonwealth Environment Protection and Biodiversity Conservation Act were starting to have an impact on potential proposals as well as perhaps areas in which we may have been looking to facilitate further development, whether it was urban, residential, industrial or rural residential et cetera. There has also been some demand through the government and the wider sector for bringing into closer alignment the environmental approval process and the planning approval process. The commission saw this as an opportunity, through the department, to bring those processes together to ensure that any structure plans prepared by the department on behalf of the commission and endorsed by the commission could be implemented. After the introduction of the Environment Protection and Biodiversity Conservation Act, we found that a number of areas that had previously

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been zoned urban, particularly in the north west corridor, such as Joondalup and Wanneroo, had major issues involving Carnaby's black-cockatoo and other flora and fauna, which meant that although the development industry expected some certainty from the zoning that it could be transformed into urban development, that was not possible.

We have taken the opportunity to run the strategic environmental assessment in parallel with the preparation of structure plans so that we resolve the requirements of not only the commonwealth in line with the requirements of the Environmental Protection Authority from a state legislation point of view but also land-use planning from a planning point of view, so that we give a greater degree of certainty and take into account the environmental issues rather than them being a second thought. We will produce a subregional structure, which gives far better certainty. We will not be advocating development proposals, which we know will not be approved by either the EPA or the commonwealth. This will not only improve the efficiency of the planning approval process in terms of the layers I referred to earlier, but also give greater certainty to how development will occur, in particular, to the infrastructure agencies so that they are not planning on the basis that something will be developed and then suddenly it is not developed. That can have major impacts, and has done so in successive governments.

Mr J.H.D. DAY: I will ask Gail to add a little.

Ms G. McGowan: The overall outcome is obviously to secure those approvals for the urban industrial and infrastructure development plus the basic raw materials issues that we have so that we can have some degree of confidence that projects will not need to go back for separate approval. We are trying to avoid a lot of longstanding land-use conflicts, as the chairman said. The matters of national environmental significance that we are looking at dealing with are things such as the Carnaby's black-cockatoo and the Peel-Harvey estuary.

I turn to the main work that we have been doing. There is an overall rapid assessment of the sorts of footprint we might have for development across the whole area from Perth to the Peel, which virtually covers from Yanchep down to the Peel region. Our job in the planning sense is to do those subregional structure plans based on avoidance of areas that we think would be no-go zones from an environmental point of view.

Mr C.J. TALLENTIRE: I can appreciate how complex the project is but I also recognise how it will have this very long-term benefit. How is the agency going about resourcing it so that it gets done? I see that the time line has been pushed back because of the complexity of the project. Are a substantial portion of the WAPC staff allocated to working on this, in addition to those people in the DPC and elsewhere?

Mr J.H.D. DAY: Yes, there is quite a substantial staffing allocation. I do not know whether people are involved on a full-time basis or whether it is part of what else they do.

Ms G. McGowan: We have a team of people internally within the department; probably two or three working full time plus a significant number of others helping. There are similar numbers within the Department of the Premier and Cabinet, the Department of Parks and Wildlife and the Environmental Protection Authority. We are also looking at longer term implementation by bringing together a cross-government team and probably co-locating them. We are currently going through some of the resourcing impacts of that. The proposal is that we seek approval through the metropolitan region improvement fund. That would be subject to a commission decision and would obviously go through Economic and Expenditure Reform Committee processes.

Ms M.M. QUIRK: I wish to continue my questions about the Florence Hummerston building. I think the minister told the committee that about \$250 000 has been offered to the plaintiff and the matter is now going to litigation. Has the plaintiff given any indication of what figure would be acceptable?

Mr J.H.D. DAY: My understanding is that they have made an ambit claim, as I describe it, but it has not been accepted by the state. Whether it is appropriate to give that figure, I am not quite sure. I will take advice from Tim Hillyard and ask him to add some more information on the process that is underway.

Mr T. Hillyard: Wang Nominees, the lessee, has formally lodged a claim for compensation. It then increased that claim. An offer of compensation has been made by the Western Australian Planning Commission. That has been rejected as an outright settlement but has been accepted as an advance payment towards settlement. The full details of the claim have not been particularised as yet. The matter has just been raised in the Supreme Court. It is now moving progressively through those preliminary steps with a view to mediation occurring sometime after June this year. At that point the full details will be discussed.

Ms M.M. QUIRK: What is the highest offer that the government has rejected from Wang Nominees?

Mr J.H.D. DAY: What is the highest claim it has made?

Ms M.M. QUIRK: Yes.

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Mr J.H.D. DAY: It is a lot more than what it was paid but I am not sure whether it is appropriate to detail that. It is different now from what it was originally. It was initially over \$20 million. We hope that the final outcome will be a lot different from that.

Mr T. Hillyard: Prior to the land being resumed, some early negotiations occurred. The then lessees sought a substantial amount, which we were unable to accept. When it comes to a compensation claim, it is probably not appropriate to say that the claim was rejected as such. Once a claim is received, it is appropriate that the Planning Commission in this case was the taking authority in response to that claim based upon professional independent advice. It is now a matter, as is appropriate, for Wang Nominees to pursue its claim and to defend that claim.

[8.50 pm]

Ms M.M. QUIRK: I am having trouble with the assertion that it is not appropriate, because this committee is trying to look at the government's financial exposure. Admittedly, we accept that it is not an amount the government is prepared to proceed with but I think it would be helpful to know a ballpark figure of what the likely settlement will be, even if it is a round figure.

Mr J.H.D. DAY: I did say that the initial claim was in excess of \$20 million, between \$20 million and \$30 million. I would describe that as an ambit claim and certainly not one the state expected at all.

Ms M.M. QUIRK: Has there been any movement downward on that from Wang Nominees?

Mr J.H.D. DAY: As Mr Hillyard just outlined, Wang Nominees has yet to really outline the details of its claim in the action it has initiated in the Supreme Court.

Ms M.M. QUIRK: It appears that after the Western Australian Planning Commission indicated that it would be taking over the area, Wang Nominees undertook two lots of building improvement on the restaurant. I wonder if Wang Nominees has argued that the government should have taken steps to indicate that it should not proceed with those approvals given that the ultimate plan was to ask them to vacate and to dismantle the building.

Mr J.H.D. DAY: I am not sure when those building improvements or the renovation of the kitchen or whatever it was were undertaken, but the government's decision to go ahead with the project was, from memory, formally taken in early 2010.

Mr T. Hillyard: There were a number of approvals granted from the time that Wang Nominees took up the lease offer from the City of Perth and they were progressively expanding the business within its leasehold area. It was not possible to require them not to proceed with their lawful approval while negotiations were underway. It was only when a decision was made to proceed with the project and the compulsory acquisition was required that facts and timetables were able to be established as part of the Elizabeth Quay project. It was at that point that advice was given about a vacation date; first of all within the negotiations, but following that upon advice that it was necessary to proceed with compulsory taking and a vacation date.

Mr J.H.D. DAY: The amount ultimately required to be paid, whether that is a variation of what Wang Nominees has already been paid or not, is a commercial negotiation process and I do not think that it is productive to guess what the final outcome may be, because we do not want to prejudice the negotiation.

Ms M.M. QUIRK: Just on the commercial-in-confidence, it is not like there is a competitor to Wang Nominees that is in a position to take commercial advantage of this. It is not a situation where information is being disclosed to competitors.

Mr J.H.D. DAY: I have given quite a bit of information in terms of figures—what it has been paid and what the original claim was. It is now up to the court process.

Ms M.M. QUIRK: Was someone called Finn, working for the WAPC, involved in the negotiations with Wang Nominees?

Mr J.H.D. DAY: The member is probably referring to Mr Glen Finn, who is a highly regarded officer of the department. I am not sure whether he has been directly involved in negotiations, but he certainly was involved in the development of the Elizabeth Quay project and other major projects within the department.

Ms M.M. QUIRK: According to Wang Nominees, Mr Finn advised in 2011 that he would leave the restaurant in place for as long as possible and that it would probably be required to vacate sometime in 2014. Does the minister concede that Wang Nominees might have acted to its detriment because of that advice?

Mr J.H.D. DAY: No; I would not concede anything like that. Where has that information come from—Wang Nominees? Has the member had contact with the Wang family?

Ms M.M. QUIRK: No; it is from the statement of claim.

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Mr J.H.D. DAY: Has the member got a copy of the statement of claim? It is in the public arena? Okay.

Ms M.M. QUIRK: That is all right; Mr Hillyard cannot assist the minister with this.

Mr J.H.D. DAY: That is a statement of claim and it will be subject to court process.

Mr C.J. TALLENTIRE: I have a further question on the strategic assessment for the Perth and Peel regions. I want to know the level of engagement and commitment that the agency has to the publication of the final document. We touched on the time line, but can the minister advise when initial drafts will be made available?

Mr J.H.D. DAY: We expect that the documents will be released for public comment late this year, around November or thereabouts, and will include the matters of national and environmental significance plan; an impact assessment report; subregional structure plans for the north west metropolitan, north east metropolitan and south metropolitan–Peel regions; and also the basic raw materials of state planning policy.

Ms G. McGowan: Towards the end of the year or early next year.

Ms R. SAFFIOTI: I have a question about the compensation process when a reservation is placed on land; for example, for a road reservation. I have been advised that the way to determine compensation has changed recently and that compensation used to be paid when the reservation was made and when a development approval had been put forward and rejected. Have there been any changes to the way that compensation is paid for road reservations and other reservations?

Mr J.H.D. DAY: I am advised that there has been a slight change, so I will ask Mr Hillyard to answer.

Mr T. Hillyard: The quantum of payment has not changed. Traditionally, it was thought that there were two triggering events for the payment of compensation; that is, on the basis of being the first affected landowner, as a result of either wanting to sell the property or the refusal of a development application would be affected by the reservation. There was a part decision in Temwood that suggested that a claim for compensation did not arise for subsequent purchasers of a property already reserved. Because we have a number of properties on which a reservation has been in place for many years and the properties have changed hands a number of times and people have bought those properties with the knowledge that there is a reservation, injurious effect has already taken effect if ever it was going to take effect. The situation is that the commission continues to buy reserved land, but a claim for compensation effectively is argued to exist only for someone who is the first affected landowner and/or that landowner lodges either a development application that is refused or seeks to sell the property in its affected state.

Ms R. SAFFIOTI: Again, the advice I have is that the current legislation reflects the previous situation, not the revised situation. Is that correct, and will the WAPC be seeking to change the legislation to reflect the new arrangements?

[9.00 pm]

Mr T. Hillyard: It is one of the points that is canvassed in the reform document—the second phase.

Ms R. SAFFIOTI: Are there situations where subsequent purchasers of land with reservations are unaware of the reservations? Does the minister believe the system is transparent and that all prospective purchasers are aware of reservations or other encumbrances on land to be purchased?

Mr T. Hillyard: Yes; in the normal process in which someone purchases the property, the settlement agent will make those inquiries. Also a vendor when selling property is obliged to advise both the real estate agent and purchasers of any matters that the purchaser should be aware of. It is very unusual for a landowner to not know of a reservation affecting their property. They always know how their land is zoned, so we expect that they would know if any reservation was affecting their property. But, as I say, it is generally a matter that is dealt with through the real estate agent when a property comes to be sold; they must advise a potential purchaser of all matters affecting that property. There is also the process in which a certificate is obtained from the commission. Upon the payment of a fee, a person can get a certificate to inform them whether a property is affected by a reservation or a proposed reservation.

[Ms L.L. Baker took the chair.]

Ms R. SAFFIOTI: In relation to this new method, there will be situations where the government will not be paying any money for land that is reserved. What I am trying to say is that if a person was purchasing land from a subsequent owner and they had never been paid for the reservation in a sense—the value of that reservation or compensation—there would be the situation where a person is purchasing land compensation for which has never been paid; is that true?

Mr J.H.D. DAY: Are you asking about situations where people will not be paid?

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Ms R. SAFFIOTI: It is very difficult to describe. Let me put it this way. Owner A has a reservation put on their land. They do not get paid any compensation. They have not claimed or been paid any compensation. They sell to owner B and then owner B sells to owner C. Then the government comes along and wants to use that reserved land to build a road, but owner C does not get any compensation because it is only applicable to owner A; is that possible?

Mr J.H.D. DAY: Is what the member is referring to an example of what is happening on Stirling Highway possibly?

Ms R. SAFFIOTI: Possibly.

Mr T. Hillyard: No, that would not occur. The person who is the holder of the land at the time it is required by, let us say, Main Roads in the case of Stirling Highway, is the owner of that land at that time and gets paid the compensation. They own the whole of the property and they get paid.

Ms R. SAFFIOTI: Would it be paid at a discounted rate?

Mr T. Hillyard: No. All land is transacted at the date of the actual transaction, so it does not matter if it is today or in 20 years' time, the value of the land will change over the next 20-odd years and the compensation will be paid at that time at the value of the land at that time, and it is required to be valued disregarding the reservation or public work requirement and any blighting effect that may have occurred over the period of time that that reservation has been on the property.

Mr J.H.D. DAY: Sometimes if people or owners are given an increase in development ability on the remaining land, then, as I recall, they have to provide free of charge the land that is required for the road widening. I think I am right in saying that. But that is part of an arrangement where they get an increase in the development potential, as I said.

Ms R. SAFFIOTI: This is a broader issue that relates to where structure plans are in place, particularly in public and district open spaces. We have significant issues of this in my electorate. Is the minister happy with the current DCP process and how councils are, sort of, very risk-averse now, and use the DCP process to de-risk themselves completely, which puts a lot of the risk onto the landowners and developers? Does the minister envisage any changes to this process, because it seems to be a very lengthy and costly process that is pushing up land prices?

Mr J.H.D. DAY: A review of the state planning policy on development contributions is underway. That has been the case for a while now, so I think it is accepted that some revisions probably need to be made.

Ms R. SAFFIOTI: Is it both on the hard and soft infrastructure—that is, community infrastructure and the hard infrastructure?

Mr E. Lumsden: It can be. I think the whole intent of the policy is to be open, transparent and accountable from an audit point of view. I think it is fair to say that from my personal opinion, as chairman—obviously I am not reflecting on the whole of the commission—but I have heard that this is an issue of great concern in the development industry, and there have been some occasions in the past on which local governments have put up, shall we say, proposals in their DCP, but the commission has not agreed with the whole gamut of the proposal. But we are becoming increasingly concerned about the variety of application of approaches, is the best way of putting it.

Ms R. SAFFIOTI: Just a point, it seems a good idea, but the implementation is very difficult. Like I said, it appears in a sense that a lot has now been shifted away from councils. A lot of responsibility has been shifted away from councils, and it is impacting house portability.

Mr J.H.D. DAY: Does the member mean the responsibility of councils to provide the infrastructure or to administer the process?

Ms R. SAFFIOTI: There are a couple of things. Councils are, in a sense, de-risking on the price of the infrastructure and the scope of what is provided. There is a thesis somewhere on what a first-home buyer is buying in Ellenbrook or in Dayton, for example, compared with what a first-home buyer got 30 years ago when they bought a block and what council provided. It is an interesting issue.

Mr J.H.D. DAY: I will ask Sue Burrows, who has been dealing with some of this as well, to make a comment.

Ms S.J. Burrows: The department has undertaken a review of the policy in particular—the application both in the soft and hard infrastructure—and there has always been a basis of the policy that goes through a scheme amendment process that the minister signs off on so that it is open and transparent. It is really based heavily on nexus being established. Generally costs associated with any development contribution plan have to be established through a need and nexus, and that is usually a shared need and nexus through that community—in

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other words, they are sharing the cost of use. That is currently under review and at the moment we have developed some guidelines and are about to liaise with major stakeholders on those guidelines.

Ms E. EVANGEL: I now refer to page 345 of the WA Planning Commission and the final bullet point, which refers to the commissioner's funding relationship with the Department of Planning being reformed. Could the minister advise what this means in practical terms and the benefit of this service delivery agreement?

Mr J.H.D. DAY: To some extent, this covers what we touched on earlier, and it is intended to provide a greater degree of accountability and transparency on the actual costs being incurred by the department on behalf of the commission and to ensure that the funds that the Planning Commission are providing are being accounted for. We covered this to some extent earlier. Neil, do you want to add further to what you said earlier?

Mr N. Thomson: To elaborate on the issue of transparency and accountability, this has been part of the journey of the agency and the commission to ensure that we operate as two distinct entities and is part of some of the reform occurring internally in the department to properly allocate costs. Members may recall that last year we talked about some of these issues that were obviously collected by the commission for the agency as part of the undertaking of statutory work, and the importance of some internal work going on in the finance area of the department to fully cost-recover for those services when proponents, say, lodge an application. This is part of a broader ongoing reform and is really about those principles of transparency, accountability and, as I said earlier, the improvement of reporting and the clarification of reporting arrangements between officers and the department, and the roles of various committees of the Western Australian Planning Commission.

[9.10 pm]

Mr C.J. TALLENTIRE: I ask this question on behalf of the member for Mirrabooka. It relates to the Mirrabooka bushland, but I think it is a situation that is probably replicated across the metropolitan area; that is, there are Bush Forever sites that suffer from mismanagement or a lack of general upkeep. Specific to the Mirrabooka bushland, when will the management be transferred to an authority or organisation that can ensure that it is properly looked after in such a way that it becomes the Kings Park of the eastern suburbs?

Mr J.H.D. DAY: We already have one of those; it is Whiteman Park, as I am sure the member for West Swan would agree! This raises the wider issue of land being transferred from the acquirer, the Western Australian Planning Commission, to, ideally, the management of the Department of Parks and Wildlife. From this portfolio's point of view, we would like to transfer as much land as possible, but there are obviously funding implications for that more widely across government, which is why it takes quite some time in a lot of cases. I know the issue of Mirrabooka has been raised in the past. I think quite a significant effort has been put in by the WA Planning Commission to try to ensure that the land is adequately protected. I think some fencing has been undertaken now, but I will ask Tim Hillyard to elaborate because I think he is familiar with this location.

Mr T. Hillyard: The Mirrabooka bushland area is considered to be an area that has been quite successfully protected. It has been progressively fenced by the WA Planning Commission and an eradication of feral animals was undertaken. We trialled some signage and involved the community to take on some ownership of the area. That has been very successful with reports coming into the office of any breaches of the fence and of off-road vehicles, which are a scourge in many of these areas. We have continued to manage that area quite successfully in consultation with the community and the friends group that is there. Contemplation is being given to the transfer of that to either the Department of Parks and Wildlife or the City of Stirling, which has expressed an interest in managing the area. We are working between the two organisations to consider which one is the preferred end manager when the commission is ready to transfer the land.

Mr C.J. TALLENTIRE: Closer to my electorate, what is the situation at the Anstey–Keane blocks on Keane Road? I think a land acquisition is yet to be completed, but there is also a management problem. Can the minister update us on that please?

Mr T. Hillyard: Yes, we agree that the Anstey–Keane area warrants some urgent action on management. The finalisation of the purchase of one of those properties this financial year is a priority for the WA Planning Commission and valuations have just commenced. We are looking to complete the purchase of that Bush Forever area. The minister has set that as one of the priorities for the department and we and the commission are acting on that presently.

Mr J.E. McGRATH: I refer to the last dot point on page 344 of the *Budget Statements*, which mentions the release of five regional planning and infrastructure frameworks. I wonder whether the minister could advise which regions will be involved in these frameworks and how they will be used by regional communities and local governments. Pardon me if we have already touched on the subject, but I had to leave the chamber for a little while.

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Mr J.H.D. DAY: No, we have not today. The work being done by the department and the commission in regional areas in putting these draft frameworks or completed frameworks together has been substantial. They are significant and they provide a lot of information about the particular regions covered. They are worth reading if people want more detailed knowledge about what is happening in those regions and they also generally identify the major infrastructure needs of the area that needs to be addressed over the next few years or the next decade, ideally, to facilitate further economic development. The most recent one that is going out for comment—I do not think it has been completed yet—is for the Gascoyne region. It was only just considered by cabinet in the last couple of weeks or so. The five other draft regional planning structure frameworks that are out for public comment at the moment, with the consultation period closing on 5 June, are for the Kimberley, goldfields–Esperance, wheatbelt, south west and great southern regions. They are the specific frameworks out for comment at the moment in addition to that of the Gascoyne. The Pilbara framework was put into place couple of years or so ago and it has been quite a useful reference document for other agencies up to this point. The purpose, essentially, is to ensure that land-use planning considers the particular characteristics of those areas, takes into consideration the liveability of towns and an appreciation of the regions’ natural and cultural values, and the need for economic diversification and self-sufficiency, as well as the level of services that the regions, hopefully, could attract.

The appropriation was recommended.