

STANDING COMMITTEE ON PUBLIC ADMINISTRATION

WATER RESOURCES LEGISLATION AMENDMENT BILL 2006

**TRANSCRIPT OF EVIDENCE TAKEN
AT PERTH
WEDNESDAY, 28 MARCH 2007**

Members

**Hon Barry House (Chairman)
Hon Ed Dermer (Deputy Chairman)
Hon Matthew Benson-Lidholm
Hon Vincent Catania
Hon Helen Morton**

Hearing commenced at 11.30 am**ROSAIR, MR PAUL****Director, Business and Regional Operations, Department of Water, examined:****LONEY, MR JOHN****Director, Water Resource Planning and Policy, Department of Water, examined:****ROBERTS, MR JOHN****Project Director, Water Law Reform, Department of Water, examined:**

The CHAIRMAN: On behalf of the committee, I welcome you to the meeting. This is a formal hearing, but we will try to keep it as friendly as we can. You will have signed a document entitled "Information for Witnesses". Have you read and understood that document?

The Witnesses: Yes, we have.

The CHAIRMAN: These proceedings are being recorded by Hansard. A transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the full title of any document you refer to during the course of this hearing for the record, and please be aware of the microphones - they are not for amplification but for recording purposes. I remind you that your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today's proceedings, you should request that the evidence be taken in closed session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. Please note that until such time as the transcript of your public evidence is finalised, it should not be made public. I advise you that premature publication or disclosure of public evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege.

A bill was referred to this standing committee for its consideration, and today's hearing is in that context. Welcome once again. Would you like to make an opening statement?

Mr Loney: With your permission, Mr Chair, I will make an opening statement and I will ask my colleagues to join in with information about their areas of expertise as well, particularly in terms of the background to this bill and the context of the legislative reform program and the water reform program, because much of the bill needs to be seen in the context of that bigger water reform program. I thought that we would initially make a statement providing that context. That will answer many of the questions for which we have supplied answers, but we indicated that we would have a verbal discussion of the questions in part B. Many of those may be covered by the introductory statement. With your permission, we will proceed with that.

The CHAIRMAN: Thank you.

Mr Loney: The Water Resources Legislation Amendment Bill is designed to give effect to the recommendations of the Machinery of Government Taskforce review. That review recommended the abolition of a number of commissions and agencies to reduce what was seen as a large number - 160 - of government agencies of all descriptions. One of the recommendations was the abolition of the Water and Rivers Commission. I gather that recommendation was introduced to the Parliament in 2003 in two separate bills, but those bills were not considered before Parliament was prorogued

prior to the 2005 election. I understand that much of the information in the current bill had been considered back in 2003. One of the things that you particularly asked for was a chronological listing of the agencies that had managed the water resources in this state over the past 15 years. We had prepared such a list, but to be perfectly honest, on the way up here we realised that we had left off a couple of agencies from that list, because there are quite a number. My colleague, Paul Rosair, who has considerable operational experience, can talk you through that, or alternatively we can submit a revised list, probably by tomorrow. If you are interested, we could quickly go through it now, going from the establishment of the Water Authority in 1985 right through to now, or alternatively we can provide a handwritten copy.

The CHAIRMAN: If you would give us a brief verbal run-down while you are here, that would be helpful to us. We could then follow it up with the documents.

Mr Loney: I will ask Paul Rosair to do that because, quite frankly, he has worked in many of them.

Mr Rosair: You asked for the past 15 years in your questions, but we probably need to go back to 1985 to put it in the context of water resources changes over the years. Prior to 1985 we had the Metropolitan Water Supply, Sewerage and Drainage Board, the Country Water Supply in regional areas and the Public Works Department, which operated both in the metropolitan area and regionally. Those three entities formed the basis of water resources management pre-1985. In 1985, the Water Authority of Western Australia, or WAWA, was created. That was a combination of the Metropolitan Water Supply, Sewerage and Drainage Board, the Country Water Supply and the water resources components of the Public Works Department. The remainder of the Public Works Department went off to the Building Management Authority at that time. In 1996, WAWA was separated into two entities - the Water Corporation and the Water and Rivers Commission - and a third, regulatory body, the Office of Water Regulation. The Water and Rivers Commission was formed as a water resources management component of the Water Authority, but it also integrated the waterways commission, which administered a number of management authorities across the state, including the Peel Inlet Management Authority, the Leschenault Management Authority in Bunbury and the Wilson Inlet Management Authority, and administered the Waterways Conservation Act. Some of the groundwater assessment components of the Mines Department also came together to form the Water and Rivers Commission in 1996. At the same time, the Swan River Trust became a statutory body operated by the Water and Rivers Commission, which complicates the story even more. In 2001, the Water and Rivers Commission amalgamated with the Department of Environmental Protection to create what was known at the time as the Department of Water and Catchment Protection. The Department of Water and Catchment Protection became the Department of Environment in 2003, which administered both the Environmental Protection Act and the 14 water acts that we can talk about as part of this process today. Separate from that, of course, the Water Corporation continues in its own right today. In 2005, the Department of Environment split off into a number of entities. The Department of Water was created in October 2005. The Department of Environment then continued on to amalgamate with the Department of Conservation and Land Management to create the Department of Environment and Conservation in 2006. The only responsibility for water that this department has is through the Environmental Protection Act and the EPA assessment process. The Department of Water, which is in existence today, has also taken on board the Office of Water Strategy from the Department of the Premier and Cabinet. We have now ended up with two departments - the Department of Water and the Department of Environment and Conservation - and the Water Corporation. We will table that more formally in a written submission. As the committee can see, there has been a long process in formulation to get to where we are today. As an aside to that, the Economic Regulation Authority was also formed in recent years to take on some of the water service licensing components that fell under the Office of Water Regulation. I know that is probably difficult to comprehend in a verbal submission such as this.

[11.40 am]

The CHAIRMAN: That is quite a few letterhead changes!

Mr Rosair: I suppose the intent of this structure now adds weight to Minister Kobelke's submission to Parliament in which these new provisions enhance the roles and responsibilities of water management in the state. That is where we are at now.

Mr Loney: To return to the current bill, most of the powers of the Water and Rivers Commission as they stand in the current act are transferred to the minister, who has the power to delegate, and we provided a list at question 1.13 as requested. Most of the powers go to the minister and some to the chief executive officer. All of the assets and liabilities of the Water and Rivers Commission are also transferred to the ministerial body which will be created by the proposed bill. A list of the headings of all those assets and liabilities is provided at question 1.25 - all the things that are transferred to the ministerial body. The minister can then exercise statutory functions by way of dealing in land and property, so in effect the principle aim of the legislation that we are looking at is the transfer of the Water and Rivers Commission properties functions to the minister. Occasion has also been taken to tidy up some relatively minor amendments or loose ends with drafting errors - as the committee pointed out a couple of times in its questions - which have been picked up as a result. It is really a transfer that requires an enormous amount of work, as the committee can imagine, with all those transfer orders. We are happy to discuss those at a later stage, because it is not simply a case of abolishing a commission and transferring everything to the minister; in fact, everything that is transferred has to be itemised, and that is the very extensive process that we are going through right now.

One of the other prime aims of the bill is to seek to establish a Water Resources Council. This has become necessary because there was one prior to the Water and Rivers Commission - I do not know what the precise name was at that stage - but then the Water and Rivers Commission is a board of a number of people, so they effectively replaced an earlier version of the Water Resources Council. However, now that we are abolishing the commission, we need to re-establish a Water Resources Council to make sure that we get appropriate community input. Again, Paul Rosair's areas of responsibility include the management of all those committees. Are there any further comments you would like to make on that, Paul?

Mr Rosair: Yes, I refer to a number of questions in which the committee has alluded to the operations of committees of the Water and Rivers Commission Board and all the subcommittees of the board, and there are some 26 of them around the state. There were some questions as to what their roles and responsibilities are, and whether they will change under the amendments of this legislation. I can, if the committee wishes, talk about the Water and Rivers Commission Board, the new Water Resources Council, the existing 26 subcommittees that exist around the state, and give the committee a bit of an overview of what they do and their intentions for future roles.

I will endeavour to simplify this as far as possible, but as John mentioned, the Water Resources Council was in existence prior to 1996, before the creation of the Water and Rivers Commission. It was a council set up under the Water Authority of Western Australia, and it provided community advice to the Water Authority and the minister, as part of water resources management, not water utility management; that is separate from drains, sewers and pipes. That committee was abolished with the formation of the Water and Rivers Commission. In putting a commission in place, there is a statutory obligation to create a Water and Rivers Commission Board. It is a board of management, and in fact it is a lot different from an advisory board. In creating the commission, there is a statutory obligation to have a board of management, which was put in place over the past 10 years. The board of management has a number of responsibilities, but it basically manages the operations of the Water and Rivers Commission, which is administered by the Department of Water. The board gets involved in the management of the Water and Rivers Commission's finances, policy and procedures, and licensing processes. It is a board of management rather than an advisory board. The board of management is being abolished under this process. However, the

management will now fall under the minister and the Department of Water, including management operations, financial management, policy and procedures, licensing, and other obligations under the act. There will be no Water and Rivers Commission Board. However, there was seen to be a need to retain some of the functions of the Water and Rivers Commission Board and to again create a Water Resources Council. The functions of the council are outlined in the amendments to the legislation. However, I remind the committee that it was designed to create membership that was representative of water resources management across the state and had expertise and experience in water resources management, conservation, economic development, community interests, law, mining and agriculture, as well as being representative of indigenous people and people who live in regional Western Australia. The membership of the council has been identified under the act as numbering between six and eight. The council will exist to provide advice to the minister - and to the department through the minister - on all matters related to water resources management. However, the council will not have a management role - as the existing board does - in financial management, policy development and the like. The terms of reference are represented as functions in the act, which will eventually become more detailed terms of reference. The functions of the council will be to advise the minister in relation to management of water resources generally, or on any matters that the minister refers to it for advice; consulting with persons or bodies having functions under or related to the purposes of the Water Resources Act; and advising the minister about whether the objectives of the Water Resources Act are being achieved. The board will be replaced by the Water Advisory Council.

In addition to the Water and Rivers Commission Board, the Department of Water administers some 26 committees under the Water and Rivers Commission Act and the Rights in Water and Irrigation Act. Those committees are established under both of those acts and they are generally advisory committees to the department in its operations. I can provide more detail on those committees and where they are located. They include the Broome Groundwater Advisory Committee; the Carnarvon Water Allocation Advisory Committee; the Canning-Wungong-Southern River Irrigation Advisory Committee; the Cockburn Groundwater Advisory Committee; there was a Rockingham and Stake Hill committee that has now suspended operations; the Serpentine-Dandalup-Murray Rivers Irrigation Advisory Committee; the South West Groundwater Advisory Committee; the Swan Groundwater Advisory Committee; the Wanneroo Groundwater Advisory Committee; and the Warren Water Management Area Advisory Committee.

The CHAIRMAN: Why has the Rockingham-Stake Hill body been suspended?

[11.50 am]

Mr Rosair: It has not met for a number of years. Under the amendments of 2001, we are creating water resources management committees around the state. The committee will be aware of the Whicher Water Resource Management Committee and the Gingin-Dandaragan Water Resource Management Committee. Those committees have a broader role than the advisory committees that we have traditionally operated under. The intention is to roll out those water resources management committees throughout the state. We have a map of some of the areas around the state where we need to establish some of these committees. Because the Rockingham and Stake Hill committees had not met for some time, rather than re-establish the membership, which had expired, our intention is to create a water resources management committee in the Peel-South Perth area to take on the roles and responsibilities of that advisory group. Rather than reconvene these two groups for a short time, the intention is to establish a water resources management committee. As I said, it might be worthwhile providing a submission on those committees, their terms of reference, and even, if possible, their current membership, if that is allowable, and other relevant information so that the committee can have that at hand.

The CHAIRMAN: That would be useful.

Mr Rosair: As far as this legislation goes, those 26 committees will continue to operate as is, but they will report to the minister rather than to the Water and Rivers Commission board. That is the only change. The terms of reference will not change. The department has undertaken a review of the 26 committees. The intention is to realign them into 12 or 14 water resources management committees across the state and align them with the water resources regional planning boundaries as part of the National Water Initiative commitment. Rather than have some very localised advisory committees, we want to make them more strategic and align them with our planning obligation under the NWI.

Hon HELEN MORTON: Will the committees report directly to the minister or to the water resources council?

Mr Rosair: They will be committees of the Minister for Water Resources. Currently they are subcommittees of the board of the Water and Rivers Commission.

Hon HELEN MORTON: I understand that.

Mr Rosair: Their terms of reference will enable them to provide advice to the minister and the department will be able to use them for accessing advice on the department's operations. The amendments show that after some negotiation the committee chairs and the CEO of the Department of Water will have access to the Department of Water's resources and services in administering and operating their committees.

Hon HELEN MORTON: Is the membership determined by the minister?

Mr Rosair: The membership of the water resources council, which is the primary council advising the minister statewide, will be determined by the minister. The department will advertise and provide a short list, but the ultimate decision of the membership of the board must be signed off on by the Minister for Water Resources.

Hon HELEN MORTON: What about the councils?

Mr Rosair: Currently recommendations on the membership of the advisory councils come through my division of the department and a recommendation is made to the Water and Rivers Commission board. The board endorses the statewide membership of the local advisory committees and the water resources management committees. The endorsements are then referred to the Minister for Water Resources for endorsement and to the Department of the Premier and Cabinet for establishing the administrative arrangements so that the members can be paid in accordance with the Department of the Premier and Cabinet guidelines.

Mr Loney: I thought it would be good to focus on two things for the remainder of our statement. When the minister introduced this bill, he indicated that this was the start of an extensive legislative reform program. It will be useful for John Roberts to talk about the future program. Many questions have been asked about what changes in policy will be made as a result of the bill. The answer is it will make very few changes because the bill deals with administrative matters. All the policy changes and the future effects will be contained in the future legislative reform program, which John will now outline.

Mr Roberts: As members are aware, over the past 15 years or so the water industry in Western Australia and Australia has undergone significant change. Back in 1994 the COAG water reform agenda was pivotal in introducing further changes because it allowed the commonwealth government to tie the reform agenda to some funding. In 2003, or thereabouts, the COAG water reform agenda was replaced by the National Water Initiative, which continued the agenda but also added to it. The state signed the National Water Initiative about 12 months ago. The signing of that initiative imposes on the state a number of obligations for water reform that it must now meet. In addition, following the setting up of the state water strategy, back in the early 2000s, an irrigation review was carried out. That review looked primarily at the irrigation sector but also encompassed the water industry in general because they are both interrelated. The review made a number of

recommendations that were picked up by the government. The irrigation review then became the blueprint for water reform. Since then, there has been a government response to the blueprint for water reform. From that review have come a number of recommendations for the reform of the water industry. We have the NWI initiatives, the government's response to the blueprint for water reform and on top of that we have the state water plan. Three significant policy objects are now informing the reform of the industry.

To be able to implement those requires some significant amendments to the water legislation. That is the program that the Department of Water has now embarked upon. Phase one of that program is the legislation that we are discussing today to establish the Department of Water and to transfer the functions and powers of the Water and Rivers Commission to the department. Phase 2 is where the real action is, and it is being run on two fronts. We will condense about 14 pieces of legislation into three. The water services legislation will pick up 10 acts. I can leave the committee with a copy of those. I will not list them all, but the principal acts are the Water Agency (Powers) Act, the Water Corporation Act, the Water Services Licensing Act and the Country Areas Water Supply Act. Those acts will be condensed into two acts. The first act is the water services act, which will look at how the powers and regulations of these water service providers operate. The second act will be what we call a water corporations act, which will replace the Water Corporation Act and also bring under that umbrella the Bunbury and Busselton water boards. Therefore, they will all operate within the same commercial, regulatory and legal environment. The water resources side of the equation will come under one act, which will be a water resources management act. Put simply, the main part of it is to replace the Rights in Water and Irrigation Act, which dates back to 1914. It has had some significant reviews over the years and in 2000 significant amendments were made to it. However, in the main it is now incapable of allowing the state to implement a number of the initiatives required by the National Water Initiative and the blueprint.

[12.00pm]

We are in the process of developing new legislation. On the water services side we have now sent a minute to cabinet seeking approval to draft. On the water resources side we are a bit further behind; we have developed a paper that sets out recommendations for the legislation and there are some workshops and consultation on that and then we will prepare a cabinet minute seeking approval to draft. It is our aim to have the legislation before Parliament by the end of the year. That is the context of where we are going forward. As John said, this current piece of legislation being considered allows us to get the Department of Water up and running, but a lot of the new policy will be picked up in the forthcoming legislation.

The CHAIRMAN: I had a question on the National Water Initiative too. You have mentioned a couple of times the conditions attached to that. Is that your next point?

Mr Loney: That was going to be my next point. I was going to say this legislation will enable the results of our signing the National Water Initiative and in parallel with that the recommendation from the water reform committee. The irrigation review was an independent committee chaired by Ross Kelly and had extensive consultations around the state. It made nine recommendations to the government in July 2005. One of those was to establish a water resources ministry and department, which has been established, and another was that we needed a proper state planning framework. A state water plan is virtually at the final stages. Many people may have seen a draft copy in October last year, but it is hoped the final version will be released in April; however, we are not sure exactly when that will happen. It is at the final stages and we hope it will shortly go to cabinet for final approval.

That sets out the planning framework for state and regional plans, as Paul indicated earlier, and below that the various water allocation plans. The idea is that the whole planning framework will be there. Of the nine recommendations, the other seven linked closely with the National Water Initiative. I will go through those in a moment. Again, the government asked the irrigation review

implementation committee, as it was then called, to consult more deeply on those recommendations, which it did with another round of consultations. It took the opportunity to change its name to the water reform implementation committee, because clearly it started by looking at irrigation but extended the terms of reference much more broadly. The committee came back with a final blueprint, which I think members have seen, and the government has accepted most of the recommendations. This document, which was released last month, is the government response to the blueprint and it contains a list of both the recommendations from Ross Kelly's committee and the government response to each of those. That travels very closely with the National Water Initiative, but as John has indicated, the way water is managed will really be turned upside down in the next few years.

The CHAIRMAN: Can you give us the titles of those two documents?

Mr Loney: This one is "Government Response to a Blueprint for Water Reform in Western Australia", and the other is "A Blueprint for Water Reform in Western Australia: Final Advice to the Western Australian Government". That was in December last year.

I want to refer to the intergovernmental agreement that sets up the National Water Initiative, and its aims. In broad terms they want to have a nationally compatible market, regulatory and planning-based system of managing surface and groundwater resources for rural and urban use that optimises economic, social and environmental outcomes. They want to do that by having nationally compatible characteristics for secure water and access entitlements, so we will be changing from a system of getting a licence for a certain period to a perpetual entitlement. This is all set out in the documentation relating to the rationale and policy changes. So, there will no longer be a licence for a specified volume for, say, five or 10 years; it will be a perpetual entitlement to a share of what is defined as the pool of water. A person might have a two per cent share in the pool and every year, two years or five years, he will be told that his two per cent share for the next period will be so many megalitres. If there has been good rainfall, it may go up; if it has been a poor year, it may go down. While there will be a perpetual entitlement, a person will not know specifically what the precise volume will be.

Hon ED DERMER: It is a proportion rather than a quantum.

Mr Loney: Exactly. As I say, a person might have a two per cent share in this consumptive pool and that will mean certain things depending on the size of the pool. We will have statutory-based water planning. There are four statutory plans about to get under way. We have received funding of \$15 million from the commonwealth, which we have matched. There is a clear process spelt out in the National Water Initiative as to how that is done. It has a statute behind it and it cannot be appealed. Before we can go with confidence to make a statutory plan there is an awful lot of work that goes into the drilling and community consultation to make sure we have got it right.

Another issue is that we have to progressively remove all barriers to trading in water. This is a really interesting matter, which I do not think will ever be as big an issue in Western Australia as it is on the east coast because in the Murray-Darling basin, which is a surface water system, there is extensive trading already. In that system a person can trade by turning off his pump and letting a person downstream use his water. It can be a perpetual or a permanent trade, whereas in Western Australia, which has a much more groundwater-based system, the concept of trading across groundwater areas is extremely difficult because there would literally have to be pipes in place to do it. That is happening in the Harvey Water trade to the Water Corporation at the moment, but we anticipate there will be some small trades within a groundwater area either on a perpetual or permanent basis. The east coast has a very well-established market and people can look in the paper every day and find out what the price of water is and trade just like the stock market. I do not think we will ever get to anything like that in Western Australia because of our groundwater-based system.

As part of that, we will separate land title from water title. There will be a separate registry of water with a Torrens-based system very similar to the system at the Department of Land Information, which is now called Landgate. Water will become a separate mortgageable entity, which can be traded or sold, or whatever. As you can imagine, that will require a very detailed system. Our department will have a registrar of water, if you like, just as the Department of Land Information has a registrar of land titles. The systems we have to have in place for that department will be quite enormous, as you can imagine, if we are going to set up a system which will list all water in the State, the water accounting framework, the trade, and who has what. It will really be an enormous system, so over the next couple of years the department of water will undergo some substantial changes.

The CHAIRMAN: In the transitional provisions is there a water title that has been nominally allocated to a piece of land that will form the basis of the new title?

Mr Loney: The new system can only come into place where there is a statutory water management plan and the consumptive pool is defined. We will have dual systems, in reality, until we progressively introduce statutory water management plans across the state. The department will have to run two systems - the existing licensing system, which gives a licence related to that bit of land, and a new system which sets out the access to water on the part of the entitlement. As part of the water entitlement there will then have to be a separate process to say, okay, I need a site use, which has to be done now, and there will be conditions about how someone can access that water. Clearly one needs to have access to land if one is to access the water. We have a lot of thinking to do, to be quite honest, and planning and working out how it will happen.

The CHAIRMAN: I guess the question is how will the system acknowledge a property that has very good water sources, such as streams and so on, and another property just up the road that has very limited water resources? How will that be allocated in the transition of the property whose value is largely determined by its water resources, compared to the other one?

Mr Rosair: Obviously policy is being developed on that but there will have to be an account of existing licences and existing use. People who have existing licences and existing use will be recognised as having prior right to that water. We have many groundwater areas and surface areas around the state. Some of those areas - not many - are now fully allocated around the state, and those that are licensed for existing use would be recognised as a prior right in whatever system we have to develop for the entitlement system.

[12.10 pm]

The CHAIRMAN: How will the system cope with new players into -

Mr Rosair: Into those existing fully allocated systems?

The CHAIRMAN: Yes.

Mr Rosair: Again, with the water reforms, trading, entitlements and agreements in the trading of water through those systems. That is how the fully allocated systems would be managed through the trading mechanism. We already have areas such as the Swan groundwater area that are fully allocated, and the only way people can get water is through a trade or a transfer.

Mr Loney: Trading is permitted under the changes to the Rights in Water and Irrigation Act.

The CHAIRMAN: I can understand that with artesian water, but what about surface water, say, if a new player in the wine industry in our area wanted to put in a big surface catchment?

Mr Rosair: The areas that we are talking about have not yet been proclaimed and are in a process of being proclaimed currently, so there is no actual licensing in a lot of those surface water areas - if you are talking about the cape to cape area.

The CHAIRMAN: Yes, for me personally, but Matt Benson-Lidholm represents the same region.

Mr Rosair: There are no licences because they are not proclaimed areas. They have a licence to put in a dam, but as far as I am aware they are not proclaimed areas down there, and they do not have an entitlement or a licence. Some of the areas would, in Capel and around those areas, but we are still proclaiming some of those areas, and we are working with the Whicher group to have those proclamations put in place now. However, existing use will also be recognised in whatever allocations we make. This is being tied in with a lot of other national water initiatives, one of which is increasing our measurement of water resources around the state to get a far better understanding so we know how much sustainable water can be allocated in the various parts of the state, so it is complementary to our statewide measurement program. In some areas we have a very good understanding of our water resources because of our historical groundwater records, and in other areas we have to do additional monitoring and measurement to understand the nature of the resource and how much needs to be set aside for environmental water provisions and how much is available for allocation. It depends on the particular area of the state and the nature of that understanding as to how much water is available and how much existing licences have made. However, in all of our assessment, existing and prior use will be taken into account in anything we formulate.

The CHAIRMAN: What about potential? If there is a property with enormous potential to develop a surface water dam, but it has not been done, how will the system manage that?

Mr Rosair: Again, you are getting into the policy area of water allocation and licensing. At the moment we have a policy, which is that we understand how much water is available in a particular groundwater or surface water area. We take applications for that water, and we usually apply a first-in, first-served policy for dealing with those applications. Under the Rights in Water and Irrigation Act, under what is known as clause 7.2, we do an assessment of that licence to determine how much water is available, what the impact of that water is on the environment and what the impact of that water entitlement would be on existing uses and neighbouring uses, and make a judgement and an assessment based on the information we have and the data we have as to whether that licence should be allocated. Any new uses would go through that process, so in each case around the state we take into account our knowledge of the groundwater or surface water system, our understanding of how much divertible water and how much sustainable water is available, the existing allocations, the impact on other users and the environmental water provision, and make a decision on a case-by-case example on a new application, until we feel that the system has been fully allocated, of which there are a number around the state as we speak.

Hon ED DERMER: It is quite a checklist.

Mr Rosair: It is a checklist. This legislation will not change that process; it will change the administrative arrangement. However, you probably refer to clause 7.2 - I would have to remember the section of the Rights in Water and Irrigation Act - to see that process, and that translates.

The CHAIRMAN: Yes. I sidetracked into some detail, but we are more interested in the structure.

Hon HELEN MORTON: I am interested in following up a little on that, just to make sure that my understanding of what you are saying is correct. If, for example, a subdivision were to take place on an existing part of land that is within that area that you said is already fully allocated, would that mean that the sum total of water that any one of the new subdivisions could use would still be equivalent to the existing total?

Mr Rosair: I am trying to recall the actual procedure on that, but my recollection is that in the subdivision the entitlements would be separated out according to the existing licence allocation, obviously not to exceed the existing licence allocation. If someone has an entitlement to a licence, and it is subdivided into two properties, that person would be entitled to two separate licences, not exceeding the current allocation of the one licence.

Hon HELEN MORTON: The second part of that is that if a private owner is selling land, can he trade the water separately as a sale?

Mr Rosair: There are a number of considerations, but the standard process is that if somebody is selling the land under the existing rights in water and irrigation legislation, at the moment he is entitled to transfer the licence to the new purchaser.

Hon HELEN MORTON: I am not talking about to the new purchaser; I am talking about to some other person who might give me a really good price for the water, but the land is going to someone else.

Mr Rosair: Depending on the area of the state, they can look into a trading option if it is a fully allocated system, but because the licence is currently associated with the land, the activities and the licence are associated with the land, so that the person he was going to trade it to would have to use the licence on that land.

Mr Loney: But under the new legislation - not the current legislation - that would be possible, yes.

Hon VINCENT CATANIA: A person may have X amount allocated and be paying whatever the amount is for that, and that is his licence. If he wanted to downgrade and sell off some of that, he would be able to do that and virtually change the licence and -

Mr Loney: He will be.

Mr Rosair: Under the existing situation, such as in Carnarvon, for example, current licensees can lease that land and have an agreement in place for someone to go and use that water on their land as well. That is under the existing legislation as well.

The CHAIRMAN: It might help to know where we come from, by the way. Vince is based in Carnarvon, Matt is based in the great southern, I am based in the cape to cape area, Ed is in Perth and Helen is in the hills.

Hon HELEN MORTON: In the hills, but we also have a property in Pingelly.

Hon ED DERMER: I am north metropolitan and Helen is east metropolitan.

Mr Loney: Just on that concept, there was an article in *The Australian* just last week that indicated that there was a big property for sale in the Riverina for about \$10 million, and it indicated that of that \$10 million, \$7 million was the worth of the water, so in answer to your question, yes -

Mr Rosair: I suppose, further to that, in existing areas of the state where we have systems that are fully allocated, or, if we get further information, may be actually over-allocated, there are mechanisms in the trading process to draw back water to reduce the allocation to what we think is a more sustainable limit.

Hon ED DERMER: Maybe I am not as quick on the uptake as my colleagues, but I am just trying to visualise how you define the title, under a Torrens-style system, for the water. Obviously, there is a map for the land, and it indicates surveyors' drawings of where the boundaries are. How would you visualise that the title would record the water allocation?

[12.20 pm]

Mr Loney: To be honest, this is a thing that is confronting all the states. The concept is to use a Torrens-type system whereby a bit of paper indicates what the water entitlement is and it will have encumbrances etc, just like the Torrens-type system. It will indicate that the water will come from a certain groundwater area, but it will not belong to that parcel of land, as you would have previously expected.

Mr Rosair: It may not have a geographical association.

Mr Loney: It will have within a groundwater area, but it will not have "according to the block" and define things like one would expect for a bit of land.

Hon ED DERMER: So the land title will be defined by the boundaries on the map and on that record as the Torrens system records all the various bits of relevant information -

Mr Loney: Mortgages etc.

Hon ED DERMER: It would say that this land is entitled to - not a quantum of water -

Mr Loney: No. That is correct.

Hon ED DERMER: - but a proportion of water from a particular source. How will that work in the suburbs?

Mr Loney: We do not anticipate -

Hon ED DERMER: If it is scheme water, this does not apply. When you pay for it, you use the normal water rate system.

Mr Loney: This is not for scheme water at all.

Hon ED DERMER: Basically it is for all areas outside scheme water; is that how it works?

Mr Loney: I think that is correct.

Mr Rosair: Yes. But in the metropolitan area we have groundwater areas where people take superficial and artesian water from non-scheme sources.

Hon MATT BENSON-LIDHOLM: You are talking about market gardeners?

Mr Rosair: Yes, market gardeners in the Swan Valley area. Industry takes groundwater from artesian aquifers down in the Kwinana industrial strip.

Hon ED DERMER: What happens if people on a suburban block are using scheme water for normal domestic purposes even though they have an artesian well?

Mr Rosair: I do not think that a normal suburban block would have an artesian well.

Mr Loney: Are you talking about a backyard bore?

Hon ED DERMER: Yes.

Mr Rosair: The backyard bores are exempt from licensing in the current legislation.

Hon ED DERMER: And there is no proposal to change that?

Mr Rosair: Definitely not in this legislation.

Hon ED DERMER: Or in the areas that John referred to in future legislation?

Mr Loney: No, domestic bores are not affected by any of the future legislation.

The CHAIRMAN: I could ask why, but I will not, because that is in the detail.

Mr Loney: There are 160 000 of them, I think.

The CHAIRMAN: It is an issue about which there is some concern. That is sidetracking from our major purpose.

Mr Loney: Our advice has been not to consider that in the legislation, so we have not.

The CHAIRMAN: In terms of the National Water Initiative, are there any other conditions besides the titles and so on?

Mr Loney: There are two things. One is an obligation to move towards more metering. At the moment, many of the licences are not metered. One of the conditions in the National Water Initiative - it has been agreed to by the government in its response - is that all licences above 50 megalitres per annum - mega being ten to the sixth, so 50 million litres a year - will have to be metered. All new licences of whatever size will also have to be metered.

Hon ED DERMER: If you are going to work out proportions, surely you would have to meter them.

Mr Loney: Exactly. If you are going to trade, how do you trade without metres?

Mr Rosair: I will provide a relevant example of what 50 megalitres is. A golf course generally takes 10 000 kilolitres or 10 megalitres for each hole; therefore, a golf course would normally take 180 000 kilolitres, which is 180 megalitres.

Hon ED DERMER: Per annum?

Mr Rosair: Yes, per annum.

The CHAIRMAN: That is to keep the lakes that I hit my balls into filled!

Mr Rosair: They would be required to be metered under this legislation.

Hon ED DERMER: If the lakes were drained out, Barry, your handicap might improve!

Hon MATT BENSON-LIDHOLM: It can be organised, Barry.

The CHAIRMAN: How do you quantify catchment dams under that process? It is quite simple to work out metres on a bore. However, if people provide their own infrastructure and construct dams, is the water considered their water, or will it be brought into this equation?

Mr Loney: If it is above that size it will be brought into this equation. Paul might be in a better position than I am to explain how we will do that.

Mr Rosair: It is a challenge. There are a lot of dams in Gidgegannup and down south. That is why I said that it is important to put water reform in the context of better measurement and monitoring of water resources statewide. The department has a measurement-monitoring program in place that monitors bores and stream flows around the state. The National Water Initiative has recommended that that program must be improved nationally to support the understanding of our water resources and to account for water resources in the water accounting component of the NWI. Under current licences we can require licensees to do certain things; they can have certain conditions of licence. They could be required to monitor and measure upstream and downstream of the dam and account for the water in the dam. As I said, we have some 20 000 licensees around the state. We have not monitored and metered licences in the past other than some of the big ones in industry. The new legislation and the new monitoring and metering requirements will drop that down to 50 megalitres, and that will need a measurement and monitoring program to go with it. We can do that. John can correct me if I am wrong, but I understand that the department is paying for the metres in the Gnamangara area. Depending on where in the state, the nature of the resource, the capacity of the department and the licence conditions, the cost sharing arrangements for all those around the state is yet to be determined. All the metres in Carnarvon have just been replaced at a cost to government. However, where that starts and finishes if we are going to roll this program out is yet to be determined by policy. It may well be that it is part of the infrastructure and construction of a dam. There might be a requirement for upstream metering and downstream metering as part of the licence condition or depending on the rollout, the nature of the rollout and the government funding that we get from NWI, it might be that another model is used.

The CHAIRMAN: The obligations under the National Water Initiative have been outlined. What does WA get out of it?

Mr Rosair: John is better placed than I am to talk about that.

Mr Loney: We hope to get a lot of money to implement a lot of these things. We have put in applications for funding for some of the big projects, such as an extension to the Harvey trade. Ultimately, we hope to have a much better managed, monitored and metered system so that we will not have any over-allocated systems. Rather, we will have a well managed water resource system. That is one of the reasons for the delay in signing up; we did not have the problems of over

allocation like much of the east coast. We have to get suitable funding to do a lot of this and then we will end up with a good system at the end.

Mr Rosair: Currently the systems for monitoring and measurement are not in place for the places that you are talking about. For example, recently in Rosabrook a particular downstream user claimed that insufficient water was being released. A person was using more water. It was what we call sensibly diminishing the flow, which is a current terminology in the Rights in Water and Irrigation Act. The mechanisms for us to deal with that matter under the licence and licence conditions are there if we believe that a person is not operating within a licence or their licence conditions under the Rights in Water and Irrigation Act. In an unproclaimed area, which that was at the time, the only other mechanism is a civil remedy through the courts. That person took the matter through the civil process and gained satisfaction from that process. That mechanism is currently used in many of those circumstances. With water becoming a national initiative, and with the need for us to better monitor and manage water with better metering on new licences and arguably dams, a better framework for management and monitoring will go with all of these licensing changes. That is what we are about.

[12.30 pm]

Hon ED DERMER: If I drilled a bore to access the existing underground water resource -

Mr Rosair: Around the Perth metropolitan area?

Mr Loney: Is this in your backyard?

Hon ED DERMER: No, in the areas beyond the scheme. You are saying that I have a certain allocation, which is a proportion of the totality of the water that can be drawn safely -

Mr Loney: You will have under the new system.

Hon ED DERMER: If I bored down in that area, there is an underground aquifer that provides water. I am allowed to have a proportion of that and no more?

Mr Loney: Yes.

Hon ED DERMER: If I have a dam that draws water from a stream that runs down a hill and through my property and, in its natural course, runs out of my property into a neighbouring property, I would be drawing on an existing resource. That would be monitored and I would be allowed to take a finite proportion from the stream. What if I set up some infrastructure to catch and store rainwater?

The CHAIRMAN: They call that a dam!

Hon ED DERMER: A dam could be on a stream that flows through my property from outside my property. If I take a proportion of water, that would be restricted. I am visualising something more like a reservoir or a water tank, whereby I pay for the infrastructure to capture the rainwater that would otherwise be wasted, and I store it.

Mr Rosair: That is getting into the detail of the definitions in the Rights in Water and Irrigation Act. The definitions in that act are watercourse, wetlands, sump, modified watercourse, drain and a number of other definitional stuff that can go into a lot of detail. In fact, there is no legislation that manages the collection of rainfall into a tank and that infrastructure. However, if you modify a watercourse, it definitely does.

Hon ED DERMER: If I pay for the infrastructure to capture water that would not otherwise be captured, there would be no restriction on my use of that?

Mr Loney: I do not think so, if it does not modify a watercourse.

Mr Rosair: If you are not taking water out of a sump or something.

Hon ED DERMER: I am not taking it out of the system; I just pay for my own infrastructure to capture the water that would otherwise be wasted.

Mr Loney: How would you capture it? Do you mean off the roof or something like that?

Hon ED DERMER: Yes.

Mr Rosair: We encourage people to use those sorts of things.

The CHAIRMAN: This is all very interesting, but we had better move on.

Mr Loney: One last thing that might risk creating a debate is that we are committed to water resource management charges. The first instance of that is the issue of licence fees, which has been in the press lately. The government has signed up to the fact that, yes, we will go towards full cost recovery in due course. The first stage of that is the introduction of licence fees, and the proposed schedule of fees is set out in the documents that I referred to earlier. No doubt you will have seen the press on those issues, and particularly how they relate to dams.

Mr Rosair: There will be another bite at that cherry.

Mr Loney: There will be.

Hon HELEN MORTON: Can I confirm that there is no restriction on dams capturing rainfall?

Mr Loney: Dams capturing rainfall?

Mr Rosair: If they capture it on a watercourse or a modified watercourse, there is.

Hon HELEN MORTON: Just because they are on a slight incline down a hill?

Mr Rosair: That is not defined as a watercourse.

Mr Loney: I think "overland flow" is the technical term for it.

Mr Rosair: A farm dam in the agricultural area on a hillside is not covered by existing licensing legislation.

Mr Loney: Pingelly, for example.

The CHAIRMAN: But it will be covered - or not?

Mr Loney: No.

Hon HELEN MORTON: It is not covered by the proposed legislation.

Hon ED DERMER: If I understand correctly, you are saying that if the rain falls on your land and you capture it, you are not restricted in that. However, if the rain falls further up and it comes down in the stream running through your land, you are restricted. Is that a fair estimate of what you are saying?

Mr Rosair: If the land is large enough for you to capture water that goes into an existing watercourse - in other words, if it is captured into an existing watercourse or a modified watercourse - it will be subject to licensing, even if it is not on your land because that is a natural watercourse.

Hon ED DERMER: Even if the entire watercourse is on your land?

Hon HELEN MORTON: If you build some contours and channel water off flat land into your dam, that is fine.

Mr Rosair: That generally is the case in the normal pastoral and wheatbelt areas around the state, but if you modify a watercourse, you need a permit. You cannot interfere with a bed or bank of a watercourse under the Rights in Water and Irrigation Act without a permit in those proclaimed areas.

The CHAIRMAN: There is a difference between a runoff dam and a stream dam.

Mr Rosair: Obviously, there is an interpretation of this in case-by-case circumstances.

Hon ED DERMER: Our country members seem to naturally understand this, but Helen and I want further clarification.

Mr Loney: With our National Water Initiative, we have to submit an implementation plan for how we will do everything that we promised to do when we signed the document in April last year. This was submitted to the National Water Commission two weeks ago, and we have indications that it is happy with the plan. If the commission approves it, we will be the first state to get it done in the year that we were given after signing. Every other state has taken two or three years, so perhaps there are some benefits in signing last.

Hon ED DERMER: Will it give us extra money or any other bonus?

Mr Loney: That is what we are going to work on. We have done our bit. For each and every clause we need to indicate what we are going to do, how we are going to do it, the resources it will take and the timeframes. It has also given us a very detailed set of performance indicators that we have to report on regularly.

Hon MATT BENSON-LIDHOLM: What is that document?

Mr Loney: It is called “Western Australia’s Implementation Plan for the National Water Initiative”. It is still a draft, until it has been ticked off by the National Water Commission. However, we understand that the board looked at it the week before last and we are waiting to hear formally that, with a few minor modifications, it is okay.

Hon MATT BENSON-LIDHOLM: Would it be useful for this committee to receive some copies of that document in the not-too-distant future?

Mr Loney: I am more than happy to leave this copy. I also have copies of the government’s response and the blueprint for water reform. I stress that this is the future legislation, rather than the existing bill.

The CHAIRMAN: Thank you, John.

Mr Loney: I think we have finished our introductory remarks!

The CHAIRMAN: That was very comprehensive. It has covered a fair bit of the ground that we were going to cover.

Mr Loney: I was hoping that it would anticipate a lot of the questions, but we are happy to answer any more questions that you may have.

The CHAIRMAN: If we cannot get through what we need to do today, we may have another session at the same time next week to finalise some of these matters. In terms of the Waterways Conservation Act 1976, the committee understands that the bill will remove the role of the EPA in relation to management areas. Can the department enlarge on the current role of the EPA under the Waterways Conservation Act 1976?

Mr Loney: Is that an existing question or is that a new question?

The CHAIRMAN: No, this is an additional question.

Mr Loney: Would you mind repeating it? I am sorry; I was flipping through my papers, trying to find whether it was an existing question.

Mr Rosair: A previous question alluded to this, didn’t it?

The CHAIRMAN: Yes.

Mr Rosair: I am trying to remember which question it was.

The CHAIRMAN: This question seeks further information. The committee understands that the bill will remove the role of the EPA in relation to management areas. Can you enlarge on the

current role of the EPA under the Waterways Conservation Act, and what will be the relationship between the minister's role and the EPA following the amendments proposed in this bill?

Hon ED DERMER: What is the EPA's role now and what will it be if this bill becomes an act?

Mr Rosair: For example, the Waterways Conservation Act establishes management boundaries and management authorities around the state. I alluded to them in our committee structure earlier. For example, around the Peel-Harvey area, we have the Peel Inlet Management Authority, which was established many years ago in 1976 with the establishment of the Waterways Conservation Act. That was administered by the Waterways Commission, which I also alluded to earlier, which rolled into the Water and Rivers Commission. We had a number of these management areas around the state. I think there are five or six: the Wilson inlet, the Albany waterways, the Avon River Management Authority, the Peel Inlet Management Authority and the Leschenault Inlet Management Authority. A number of management authorities are in place. Those management authorities no longer exist. The Peel Inlet Management Authority was transitioned into the Peel Inlet Management Council, and the Wilson Inlet Management Council replaced the Wilson Inlet Management Authority.

[12.40 pm]

So those authorities no longer exist, as dictated in the legislation, but they have been replaced by councils that provide advice to the department. Each of those has management plans for their particular areas. For the Peel-Harvey catchment there is a management plan that is being either approved or endorsed by the EPA. That is the management plan that you often see referred to when we had the Peel Inlet, the Dawesville Cut. There were some water quality targets within those management plans that had been endorsed by the EPA through the EPA process, and they have water quality initiatives that go with them. The EPA approved those management plans for each of those areas, and there is one for the Peel area. Under that Waterways Conservation Act, the EPA has - I am trying to remember the name of it. It is the Peel Inlet management plan that needs to be reviewed regularly by the Minister for the Environment as to whether or not the targets and achievements of that management plan are being met. That is the role of the EPA under the Waterways Conservation Act as it exists now. That water quality improvement initiative plan is being reviewed currently, and I would have to refer that matter to the EPA. Rob Sippe, the policy and planning director of the EPA, would be able to give the update of where that plan is at and what review processes it is going through at the moment. So that is how it currently exists. The EPA manages and monitors those plans, and there needs to be a report to the minister on a 10-yearly basis. That is the current arrangement.

Hon ED DERMER: Ten years?

Mr Rosair: I think it is a 10-year review.

Hon ED DERMER: Once every 10 years, to the best of your recollection?

Mr Rosair: I would have to refer some of these questions to Rob Sippe -

Hon ED DERMER: Sure.

Mr Rosair: - who is the director of policy and planning for the Department of Environment and Conservation who administers the services to the EPA, to say exactly what the role of the EPA is and the review process for them under the Waterways Conservation Act. But I know the water quality initiative for Peel is currently under review at the moment.

Mr Loney: Can we come back with more information?

Mr Rosair: Yes, on that one?

The CHAIRMAN: Sure.

Mr Rosair: Anything can be referred to the EPA at any time for these matters anyway outside of any of the legislation that is in place here.

Hon HELEN MORTON: But I think the point is that there will not be any requirement for the minister to involve the EPA.

Mr Rosair: The Minister for the Environment, as you call him?

Hon HELEN MORTON: No, I was talking about the Minister for Water.

Mr Rosair: No, currently I think the Minister for the Environment reviews and reports on those.

Mr Loney: Through the EPA.

Mr Rosair: Yes, through the EPA, not the Minister for Water as it exists now, but I think we need to take some of that on notice.

Mr Loney: But it is transferred to the Minister for Water under the proposed 157.

Hon ED DERMER: You have explained the current role of the EPA.

Mr Loney: Yes, but that function will be taken -

Hon ED DERMER: How would this bill impact on that if it became an act?

Mr Loney: As it exists, the minister will have the responsibility. That function is transferred from the minister, if necessary.

Mr Rosair: To review the water quality plan.

Mr Loney: We will just double check that with the EPA.

Hon ED DERMER: Okay, and send written advice.

Mr Loney: Yes, we will send written advice.

The CHAIRMAN: Just moving on a little bit, will the committees constituted under the bill be remunerated and have any volunteer members?

Mr Loney: This is the range of the 26 committees that Paul talked to earlier?

The CHAIRMAN: Yes.

Mr Rosair: All the committees that exist at the moment were established under the Water and Rivers Commission Act and the Rights in Water and Irrigation Act. All the committees that were established under the Rights in Water and Irrigation Act will remain and still be established under the Rights In Water and Irrigation Act. The committees established under the Water and Rivers Commission Act, again, will be constituted under the Water Agencies (Powers) Act amendments of the new legislation. All members of these committees currently are paid in accordance with the Premier and Cabinet guidelines.

Mr Loney: And that will continue.

Mr Rosair: Yes, that will continue, but we adopt the Premier and Cabinet guidelines for committees in administering committees statewide and they are all currently paid. So any new constituted advisory council or committee will be paid in accordance with Premier and Cabinet's guidelines.

The CHAIRMAN: There are no volunteers in the sense that some people do it without any remuneration?

Mr Rosair: On all of the committees we have people who are entitled to payment and travel in accordance with Premier and Cabinet guidelines, and that will continue to be the basis for that remuneration. So we intend to operate within that framework.

Hon HELEN MORTON: Can I just be clear. You are talking about the arrangements around sitting fees and remuneration for travel -

Mr Loney: For travel, yes.

Hon HELEN MORTON: - and accommodation if they have to stay in Perth?

Mr Loney: Yes.

Hon HELEN MORTON: So there is no payment as in a weekly wage or some payment or anything like that.

Mr Loney: Sorry, sitting fees.

Hon HELEN MORTON: It is purely sitting fees and -

Hon ED DERMER: Expenses.

Mr Rosair: Yes, although the chairman does have a remuneration of a yearly amount.

Mr Loney: You used the word “volunteers”, but most of the people are in fact from local groups and in that sense they are volunteers who receive a sitting fee and travel costs.

The CHAIRMAN: Yes.

Mr Loney: I was just intrigued about “volunteers” as against people in paid employment, if this is what you were asking.

The CHAIRMAN: Yes, that is the distinction that we are trying to make.

Mr Rosair: Chairmen sometimes receive more than just the base sitting fee. They actually have remuneration for the chairmanship.

Hon MATT BENSON-LIDHOLM: Sort of like an honorarium?

Mr Rosair: Yes, it is like a fee. For instance, the chairman of the Cockburn Sound Management Council has an entitlement of some \$20 000 per annum.

Hon HELEN MORTON: I understand that if they are government employees they do not get a sitting fee.

Mr Loney: Correct.

Mr Rosair: Absolutely.

Hon HELEN MORTON: I am aware of that.

The CHAIRMAN: Clause 141, proposed section 112, and clause 191, proposed section 79, create offences for misuse of information, which also creates an offence. Will members of the committees be liable for this penalty?

Mr Rosair: I think the definition of “person” is very broad and relates to members of committees and other persons and licensees. We would have to go back to the interpretation -

Mr Loney: Of the word “person”; exactly.

The CHAIRMAN: So that will include members of a committee who may be liable?

Mr Rosair: Yes, may be.

The CHAIRMAN: Even if they are serving on a voluntary or part-time basis?

Mr Rosair: There is a code of conduct for all of our committees, which outlines the responsibilities as a committee member about what information can be made available externally through the committee process, and when being inducted into the committee they are made aware of those code of conduct responsibilities. Obviously it is “knowingly and willingly” providing information that is not in accordance with the code of conduct; it is not accidental or in the spirit of the act.

The CHAIRMAN: Can you tell us why penalties under clause 141 are higher than those proposed under clause 191?

Mr Loney: I do not think I can; I will have to clarify that.

The CHAIRMAN: If you are happy to take it on notice -

Mr Loney: I will take it on notice, if that is okay.

The CHAIRMAN: Sure.

Mr Loney: It is \$10 000 or 12 months. One relates to the Water Agencies (Powers) Act; the other relates to the Waterways Conservation Act.

Mr Rosair: We will look into that matter.

[12.50 pm]

The CHAIRMAN: The department, in other correspondence, has indicated that it considers the amendments proposed in supplementary notice paper 138-2, issued on 14 September 2006, are unnecessary. Can you expand on why the amendments are considered unnecessary? From memory I think they are the amendments proposed by Hon Paul Llewellyn.

Hon ED DERMER: That is right.

The CHAIRMAN: Incidentally, I am just trying to conclude by about one o'clock, if we can, so that we can move on to other things.

Mr Loney: I think it is because the role of the minister as defined elsewhere - I will need to double-check - already includes that he has to take points (a) and (b) into account in any case. In that sense we thought that it was simply adding something that was already there. I guess we will have to double-check how the minister's role is defined. I am pretty sure that it is already covered and that is the reason we think it is unnecessary. We need to confirm and advise where it is covered.

The CHAIRMAN: Just in terms of the water resources ministerial body, can you please explain the role of the minister as the governor. For example, is the minister a director, a shareholder or a day-to-day manager? I am referring to the water resources ministerial body.

Mr Loney: It is my understanding that the ministerial body is established as a body corporate so, in that sense, I guess it is all those things rolled into one. The distinction is between -

The CHAIRMAN: A director, a shareholder or a day-to-day manager. If you are happy to come back to us on that, that will be fine. Included in that could you give us some information whether the minister as the governor owes a fiduciary duty to the body. We can clarify these questions for you, which will be easier.

Mr Loney: Thank you.

The CHAIRMAN: There are a couple of other aspects of that, too.

Hon HELEN MORTON: I want to make sure that when you respond to the schedule of amendments that were put up by Hon Paul Llewellyn that clause 191 is included in your response, which is the insertion of the word "confidential". Please respond whether you think that is necessary or not necessary. If you do not think it is necessary, please say why you do not. Thank you.

Mr Roberts: We are preparing a response to these amendments that have come through formally from the committee. We are aware that there was a response required and we are doing that.

Mr Loney: On the question of the minister and the ministerial body, that is a vehicle that has been used for some time to the best of my knowledge. I am just intrigued why the particular question has come up. I can remember that the Minister for Industry and Development was a body corporate in

acts back in the 1970s and 1980s. It is not as if it is a new thing and that we are embarrassed that we do not know the answer to the question. At the same time it has been around for quite a while. I am intrigued as to what is behind the question.

The CHAIRMAN: Yes. We will frame a few questions for you. That will be the best way of doing it, I think. Are there any further questions?

We have covered a fair bit of ground. We will come back to you on various aspects for more information. We will certainly do that over the next week or so. I have one question I did not ask: Is there anything else you would like to have seen included in the bill at this time?

Mr Loney: No, not from our point.

Mr Roberts: We are happy with it as it stands.

The CHAIRMAN: That is coming in phase 2.

Mr Loney: Phase 2 will deal with the issues we really want to deal with.

Mr Rosair: Beyond the licensing there is land management, enforcement and a lot of other activities that we will be putting in the new legislation that we think will be very useful.

The CHAIRMAN: Is there anything else you would like to finish up with in conclusion?

Mr Loney: I think our introductory statement was long enough!

The CHAIRMAN: Yes, this has been very helpful for us. We appreciate that. We will maintain a dialogue over the next few weeks.

Mr Loney: You will forward those questions to us?

The CHAIRMAN: Yes. We will do it in writing and then, if for some reason we need another hearing, we will get in touch with you just to clarify something that we do not quite have the hang of. Thank you for your time today. We appreciate it and look forward to catching you soon.

Mr Loney: I think when the new legislation comes through we might become well acquainted over the next few years!

Hearing concluded at 1.55 pm
