

**STANDING COMMITTEE ON ESTIMATES AND
FINANCIAL OPERATIONS**

2016–17 BUDGET ESTIMATES HEARINGS

**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
THURSDAY, 16 JUNE 2016**

**SESSION THREE
OFFICE OF THE ENVIRONMENTAL PROTECTION AUTHORITY**

Members

**Hon Ken Travers (Chair)
Hon Peter Katsambanis (Deputy Chair)
Hon Alanna Clohesy
Hon Rick Mazza
Hon Helen Morton**

Hearing commenced at 2.46 pm

Hon DONNA FARAGHER

Minister representing the Minister for Environment, examined:

Mr KIM TAYLOR

General Manager, examined:

Mr ANTHONY SUTTON

Director, Assessment and Compliance, examined:

Ms VALMA CARTWRIGHT

Chief Financial Officer, examined:

The ACTING CHAIR: On behalf of the Standing Committee on Estimates and Financial Operations, I would like to welcome you to today's hearing. Can the witnesses confirm that they have read, understood and signed a document headed "Information for Witnesses"?

The Witnesses: Yes.

The ACTING CHAIR: Thank you. It is essential that all your testimony before the committee is complete and truthful to the best of your knowledge. This hearing is being recorded by Hansard and a transcript of your evidence will be provided to you. It is also being broadcast live on the Parliament's website. The hearing is being held in public, although there is discretion available to the committee to hear evidence in private. 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 before answering the question. Agencies and departments have an important role and duty in assisting the committee to scrutinise the budget papers and the committee values your assistance with this.

Getting underway, we will start with Hon Lynn MacLaren.

Hon LYNN MacLAREN: Thank you, Madam Chair, and good afternoon. I have a couple of questions on the significant issues impacting the agencies. The first dot point on page 566 is regarding the considerable assessment workload, particularly in the iron ore and uranium sectors. Could you outline how many current applications you are considering in the uranium sector?

Hon DONNA FARAGHER: I will ask Mr Sutton to respond.

Mr Sutton: In the uranium sector there are three proposals at the moment.

Hon LYNN MacLAREN: Is it a particularly complex matter to assess those?

Mr Sutton: Uranium proposals—yes, they are.

Hon LYNN MacLAREN: How many officers would be involved in dealing with those assessments?

Mr Sutton: It is across the Office of the EPA but each of those assessments would have one or two people working on each those at any one time and drawing on probably four or five other people for expertise.

Hon LYNN MacLAREN: Have you rejected any applications for uranium mining?

Mr Sutton: No.

Hon LYNN MacLAREN: We will move on from that. The third dot point is regarding the involvement of the office in the strategic assessment for the Perth–Peel region. I know that the EPA put out a paper about its concerns regarding the clearing of habitat for Carnaby’s, in particular. I was wondering, because now we have had the draft report released for the green growth plan, if you have assessed the impact of the green growth plan and its proposed clearing on the cockatoo habitat?

[2.50 pm]

Mr Taylor: I am not aware of the EPA putting a specific paper saying it was concerned about the extent of clearing of native vegetation for impact on Carnaby’s cockatoos. I am not clear on what that specific paper would be.

Hon DONNA FARAGHER: Can you provide us with a little more clarity in terms of the paper you are referring to.

Hon LYNN MacLAREN: I will try to locate the title of the report to which I am referring when someone else is asking questions. But in the meantime, I know that you are involved in the strategic assessment and there has been considerable concern—once the draft report came out—with the clearing of habitat. Several reports have been released from the community sector and the conservation sector which detail the severe cuts to the Carnaby’s habitat. As you are participating in the green growth plan, do you concur with those very alarming reports that the clearing, as proposed under the green growth plan, will cause an extinction of our Carnaby’s cockatoos?

Hon DONNA FARAGHER: I will defer to the general manager who will make some more specific comments, but can I just indicate, as I indicated in the previous estimates hearing, in relation to this matter, obviously, it has been out for comment and as you have indicated, a number of submissions have been received. I think it is probably not appropriate for the Office of the EPA to be making judgements at this point in time based on submissions that they may or may not have received or considered at this point in time. But it should be remembered that three main agencies are involved. I will say environment generally, because it is not only the Office of the EPA but the other environmental agencies as well, and also the Department of Planning, but the lead agency is the Department of the Premier and Cabinet. I am not sure whether or not the general manager can add much more to that, but I would suggest that they would not make an individual comment on each individual submission that is received, which is going through a process, which are being considered at the moment.

The ACTING CHAIR: Member, can I just clarify: do you still need to locate a document?

Hon LYNN MacLAREN: Yes, I will do that.

The ACTING CHAIR: If I go on to somebody else, I will come back to you.

Hon LYNN MacLAREN: Thank you.

Hon ADELE FARINA: I understand that in the 2015–16 financial year to date, six requests from members of the community have been received by the EPA seeking proposals to be considered under section 38 of the EP act, and I was just wondering if you could provide me with a list of those requests and details on each of those proposals?

Hon DONNA FARAGHER: We can do that, but it will have to be put on notice.

Hon ADELE FARINA: Thank you.

[*Supplementary Information No C1.*]

Hon ADELE FARINA: My next question is in relation to the Pilbara strategic conservation fund. I understand that there have been ministerial approval statements—for example, statement 899—that require FMG Cloudbreak to actually put some money into those funds. Based on the rate of mining at Cloudbreak, how much money does FMG currently owe the fund?

Hon DONNA FARAGHER: Again, we would have to put that one on notice.

[*Supplementary Information No C2.*]

Hon ADELE FARINA: Given that both the company and the minister signed the ministerial approval statement 899 and agreed to pay \$1 500 to \$3 000 for every hectare of mulga vegetation type destroyed, how much does FMG currently owe to the fund?

Hon DONNA FARAGHER: Again, we would have to take that on notice.

Hon ADELE FARINA: Okay. I have got a series here. I will just go through them; you will probably need to take them all on notice.

Hon DONNA FARAGHER: Okay. We might do a global.

[*Supplementary Information No C3.*]

Hon ADELE FARINA: The next one is that there was an agreement to pay \$3 000 for every hectare of samphire vegetation destroyed, and the question is: how much funding does FMG owe to the fund as a result of that? Also, if all the environmental destruction detailed in the ministerial approval statement were fully implemented, how much would be paid into the fund? Lastly, based on the current extent of mining and Pilbara infrastructure activity, how much is currently owing to the fund?

The ACTING CHAIR: These last three items, I understand, will be taken on notice, so that will all continue as part of C3.

Hon ADELE FARINA: Just one further part that is tied up into that: has any serious effort been undertaken to actually collect the money that is owing under that agreement?

Hon DONNA FARAGHER: We can answer that one.

Mr Taylor: A fund has not been established at this time.

Hon ADELE FARINA: Why not?

Mr Taylor: The Minister for Environment has asked the office of the EPA to establish a working group to consult with industry and other agencies on what the appropriate option would be and government's arrangements for operation of such a fund. The working group has provided a report to the minister, and the minister is currently considering that report and will make a decision in due course regarding the establishment of the fund. Once the fund is established, then any funds owing to it would be required to be paid into the fund.

Hon ADELE FARINA: Okay. We do not have a time frame for the minister's consideration of that proposal?

The ACTING CHAIR: Member, can I just see whether Hon Lynn MacLaren has found the document that she is seeking?

Hon LYNN MacLAREN: I was just referring to the "Perth and Peel@3.5 million: Environmental impacts, risks and remedies" interim strategic advice of the EPA, so I will find a specific reference within that document.

The ACTING CHAIR: I do need to go back to the Hon Lynn MacLaren because I broke her line of questioning for her to find that, so I will come back to you. It is up to you now, Hon Lynn MacLaren.

Hon LYNN MacLAREN: Are you aware of that interim strategic advice?

Mr Taylor: The interim advice covered a whole raft of environmental matters—air quality, water, vegetation and the like. There were references in there to potential impacts on the Carnaby's cockatoo, but that was just one of a general matter. That information was provided to the people who are carrying out the strategic assessment to inform them in development of their conservation

strategy and of their conservation program to offset any impact, so it was just their interim advice to be taken into account in the strategic assessment.

Hon LYNN MacLAREN: Since that time they have released the draft green growth plan, so are you making any public comments on the draft green growth plan?

Mr Taylor: The EPA has had some consideration of the draft green growth plan but has not made any decision at this stage regarding whether it would provide any further comment or the timing of that comment.

Hon ADELE FARINA: Just on the green growth plan, my understanding is that the EPA has not undertaken an environmental impact assessment under part IV of the act on the plan. Does it intend on doing so, given that there is a fair bit of community concern about the environmental impact of that plan?

Mr Taylor: No, there is not a plan for the EPA to carry out a strategic assessment under part IV of the Environmental Protection Act. The way that the green growth plan has been prepared, it has been prepared in a form which will be suitable for assessment under the commonwealth Environment Protection and Biodiversity Conservation Act, but not in a form which would be readily assessable under the state act. That is because in the commonwealth legislation, development can be just set at very high levels. All they do is define the classes of action and a footprint, and that can be assessed under the commonwealth legislation. For a proposal to be a strategic proposal under the state legislation, it needs to give quite specific information about the future proposals so that they can be adequately assessed and then subject to conditions and the like.

The two pieces of legislation are very different and the green growth plan has been developed specifically for the commonwealth legislation. The point to appreciate here too is that the commonwealth legislation again is different from the state legislation. Rezoning of land cannot be assessed under the commonwealth legislation. Impacts from land development can be considered only at the subdivision stage. Land developers have to wait until they get down to the subdivision stage before we they can be referred to the commonwealth and have their impacts assessed. That is highly undesirable, of course, because it does not allow you to consider the impacts at the broader land zoning stage where you can take into account holistically the Environmental Protection Act. The state environmental protection legislation allows rezoning of the land to be considered at the zoning stage, so again there are these differences between the two pieces of legislation, which make it more important for the strategic assessment at the commonwealth level, whereas there are more mechanisms under part IV of the state Environmental Protection Act to deal with these sorts of future developments.

[3.00 pm]

Hon ADELE FARINA: If I understand you correctly, you are saying that you do not need a part IV assessment on the plan itself because as components of the plan are implemented, they will be assessed.

Mr Taylor: They can be referred to the EPA and the EPA can make decisions as they come forward as to whether they need to be assessed or not.

Hon ADELE FARINA: Would any vegetation clearance require assessment?

Mr Taylor: It would either be dealt with under part V of the legislation relating to clearing permits or, if it was significant, it could be referred to the EPA for consideration.

Hon ADELE FARINA: If it is a rezoning or subdivision?

Mr Taylor: That is required to be referred to the EPA under the legislation for a decision as to whether it should be assessed or not.

Hon ADELE FARINA: And that is the individual project or does that get assessed at the town planning scheme amendment stage?

Mr Taylor: Under the current state legislation, any planning scheme amendment must be referred to the EPA for a decision as to whether it would be assessed or not. They are the current provisions of the legislation.

Hon ADELE FARINA: If it is assessed at town planning scheme amendment stage, does it then get reassessed again at subdivision stages?

Mr Taylor: No, and the intention of the WA legislation is to deal with matters at the rezoning stage when it is most appropriate rather than having to leave them down to subdivision stage.

Hon ADELE FARINA: My next question is in relation to environmental policies guidelines and position statements. A significant number of these have been suspended since March 2013. Are you able to provide a list of all of those suspended and the reason why they were suspended?

Hon DONNA FARAGHER: We will take that on notice.

[Supplementary Information No C4.]

Hon ADELE FARINA: Did the EPA give advice to the minister before archiving or suspending each of those policies and guidelines or position statements?

Hon DONNA FARAGHER: I will ask the general manager to respond.

Mr Taylor: Not for documents which were its own internal policies and guidelines. That was just a matter of reviewing those policies to see whether they were outdated or superseded. It went through those processes itself. There were three environmental protection policies that were rescinded, and they were rescinded by the minister based on the advice and recommendations of the EPA.

Hon ADELE FARINA: What were the three?

Mr Taylor: They were three environmental protection policies.

Hon ADELE FARINA: Can you just identify which three they were? I think the Swan coastal plain would have been one.

Mr Taylor: They were Environmental Protection (South West Agricultural Zone Wetlands) Policy 1998; Environmental Protection (Gnangara Mound Crown Land) Policy 1992; and Environmental Protection (Swan Coastal Plain Lakes) Policy 1992.

Hon ADELE FARINA: What policies are in place to protect wetlands and lakes now that you have got rid of those policies?

Mr Taylor: It is important to recognise that those policies date back to 1992 and 1998, so they are 23 years old. Since that time there have been considerable changes in the legislation, particularly with respect to environmental harm and clearing legislation, which provides a more effective mechanism for the protection of those areas

Hon ADELE FARINA: Now that you have mentioned environmental harm, I will ask a question so I can get an answer on the record. When the EPA has issued an environmental approval subject to conditions and there is a breach of those conditions, why does the EPA never issue an environmental harm notice or take action under the legislation for environmental harm?

Mr Taylor: A breach of condition is an offence under the act itself and there are powers with respect to a breach of conditions. The environmental harm provision is a separate provision in the act not directly related to part IV conditions. There has not been a prosecution with respect to breach of conditions under part IV of the act. The majority of breaches of condition under part IV of the act have been of a minor nature either having no impact on the environment and being an administrative matter or not having any significant impact. In all cases to date, we have been able to

work with the company to bring the project back into compliance without any significant environmental impact. Therefore, there has been no decision to date to have a need to take prosecution action forward.

Hon ADELE FARINA: That is a very interesting answer given that the state spent over \$20 million putting groynes in at Port Geographe because the developer did not comply with the conditions of the approval in relation to the Port Geographe development over a long number of years. I would have thought that that was a project just asking for prosecution.

Mr Taylor: That is a matter, I guess, of accumulating the evidence and looking at the evidence in detail. The only comment I could make is that the project was approved in about 1992 or 1993. I think the standard of conditions at that time were not written in a form that were necessarily legally robust, and I think that would create some difficulties with respect to using part IV of the act with respect to the impacts that have occurred there.

Hon ADELE FARINA: My other question is: when the EPA issues an environmental approval subject to conditions and the conditions are not complied with, are there any circumstance under which the EPA would terminate or reverse that approval?

Mr Taylor: There is no power under the legislation to terminate an approval.

Hon DONNA FARAGHER: Because it is actually the minister's approval. The EPA provides advice, obviously, but the final decision is with the minister.

Hon ADELE FARINA: Is the government considering any amendments to the EP act to provide for that?

Hon DONNA FARAGHER: I am not aware.

Hon ADELE FARINA: Perhaps that could be taken on notice.

The ACTING CHAIR: What did you want taken on notice?

Hon ADELE FARINA: My question about whether the government is considering any amendments to the EP act to actually address the issue of a cancellation of an environmental approval subject to conditions if conditions have been breached.

Hon DONNA FARAGHER: I am not sure if we will provide any more detail but we are happy to take it on notice.

[Supplementary Information No C5.]

Hon PETER KATSAMBANIS: I have just a couple of questions. First of all, I think there are three uranium projects that you are currently assessing. Is that right?

Hon DONNA FARAGHER: Yes.

Hon PETER KATSAMBANIS: When is the authority likely to release its report and recommendations?

Hon DONNA FARAGHER: I will defer to Mr Sutton.

Mr Sutton: Thank you for the question. The EPA is currently in the assessment process and it is likely that the report and recommendations on those three uranium proposals will be provided in the latter half of this calendar year.

Hon PETER KATSAMBANIS: The latter half of this calendar year. So by the end of the year we will have —

Mr Sutton: The EPA will have reported by the end of the year on the current schedule.

Hon PETER KATSAMBANIS: Are there any likely impediments to that schedule being met?

Mr Sutton: Other than, as we said before, the projects are quite complex, but we are still working through those matters and we intend to report in that time period.

Hon PETER KATSAMBANIS: Thank you. On page 568 there is a section headed “Compliance Monitoring Services to the Minister”. In the last few years, the ministerial statements that have come out in relation to iron ore mines in the Pilbara have included comments around a fund being created for strategic regional conservation initiatives. Is that fund still in consideration or have we moved on from that?

[3.10 pm]

Hon DONNA FARAGHER: I will ask the general manager to respond.

Mr Taylor: The fund is still under consideration. A report has been put to the minister regarding options for establishing the fund, including the governance arrangements. The minister is currently considering that report.

Hon PETER KATSAMBANIS: Am I able to ask about specifics of the recommendations or is that under some form of cabinet confidentiality?

Hon DONNA FARAGHER: As that is under consideration by the minister, it is probably not appropriate at this point in time to provide advice.

Hon PETER KATSAMBANIS: Is there any indication on when a decision might be made?

Hon DONNA FARAGHER: That would be up to the minister, I would suggest.

Hon PETER KATSAMBANIS: I know we have sort of skated around it so far today, but is the commonwealth–state one-stop shop finished? Is that gone? Is that yesterday’s news or is it still likely to happen?

Hon DONNA FARAGHER: I will defer to the general manager.

Mr Taylor: The commonwealth and the state governments have established a bilateral agreement for the state to assess projects themselves without the need for the commonwealth to assess them. It removes the duplication in the assessment of projects, but at this stage projects which affect the commonwealth legislation still need to go through the commonwealth government to get the approval. There had been a proposal to establish a bilateral where the state could both assess and approve projects without the need to go through the commonwealth legislation. There has been an agreement established between the states, but it is reliant on commonwealth legislative amendments for that to be brought into effect. Those commonwealth legislative amendments have not proceeded and there is no indication of when they might be considered again by the commonwealth government. Until they are adopted, there is no capacity for the state to implement the one-stop shop arrangements.

Hon PETER KATSAMBANIS: The agreement was reached in principle and it is awaiting these legislative amendments of the commonwealth Parliament.

Mr Taylor: The bilateral was agreed to and signed by the two ministers, but it cannot be given effect until there are changes to the commonwealth legislation. There is also a need for some minor amendments to the state legislation and a bill has been drafted for that. That will be introduced into state Parliament this year, but that is not at this stage holding up the implementation of the one-stop shop. It is the commonwealth legislation, which is not proceeding.

Hon PETER KATSAMBANIS: Would we need that commonwealth legislation to be passed before the state amendments can be considered or can the two processes run at the same time—concurrently, I guess?

Hon DONNA FARAGHER: The advice I have is that they could be run concurrently.

Hon PETER KATSAMBANIS: I guess we will wait and see what happens on 2 July and move on from there, because obviously from a project assessment point of view, time and cost, it would be preferable that we would get to the second part where it is a true one-stop shop rather than cutting

out some of the duplication, getting the tick-off from the state and then still sending it up to the commonwealth.

Mr Taylor: It would provide significant benefits for the assessment process if that one-stop bilateral process could be established.

Hon PETER KATSAMBANIS: I have asked about this on a few occasions now. I hope I do not have to ask for it in the future. Fingers crossed it happens sooner rather than later.

Hon LYNN MacLAREN: I might just return one more time to the interim strategic advice, because specifically my concerns are about the recommendations that the EPA made about offsets. The process that you have just described to Hon Adele Farina about how the EPA will be able to assess subdivision or rezoning applications, do you have some confidence that that is going to be able to deal with complex issues like trying to sustain a species across the state? One of the problems that we have got is the cumulative impacts of making decisions in silos and not looking at the big picture. The interim advice seems quite clear in saying that offsets should address multiple values, rather than a single species, and that the practice of finding an offset out somewhere—I will use the term Woop Woop—instead of in that area where a population of birds —

The ACTING CHAIR: They have found Woop Woop now.

Hon LYNN MacLAREN: Well, I hope it is offset. So, the problem is: should we go down this path of the strategic plan, the green growth plan, and establish these areas that are supposed to be developed and reserved, how can the EPA fulfil its role of protecting protected species?

Mr Taylor: I think the real significant benefits of the strategic assessment or what we call the green growth plan is that it has brought together a substantial amount of environmental information regarding the conservation values of the Perth–Peel region. There has been over three years of work to pull all that environmental information together including information about cockatoos and what the likely long-term impacts would be. That information was not available, and three years ago the EPA had to go through and consider rezonings and clearings for basic raw materials and infrastructure on a case-by-case basis, which was really leading to a suboptimal outcome. We now have the benefit of that significant amount of information. We have the benefits of clearly predicted long-term cumulative impacts and we have at this stage a strategy put forward to offset those. I appreciate there are different views about whether what is proposed as an offset is adequate or not, but that is part of the process still to be completed and worked through with the green growth plan.

If post the green growth plan rezones come before the EPA, they will be able to consider those in the context of all that information, so they will be able to be able make decisions regarding those individual rezonings in the context of cumulative impact and, therefore, give sound advice with respect to impacts on species and the like.

Hon LYNN MacLAREN: I understand the theory. I think that the green growth plan as presented does not actually meet that standard of including all the important environmental values that are out there. I think that the submissions have expressed that, which currently are being reviewed. The nature of my question is in an imperfect green growth plan, perhaps they are not going to get it right. Perhaps they are going to miss key environmental values or there will be impacts like climate change—induced changes to habitat, for example, and erosion or patches of forest that die off in heat conditions. In that circumstance, will the EPA have any powers to blow the whistle, for example, when the green growth plan is proven to be not adequate to protect our species?

Hon DONNA FARAGHER: I will ask the general manager to say a few words, but can I just again reiterate, I appreciate you are reflecting on submissions that are being put forward suggesting it is going to be an imperfect model and all those sorts of things. Can I just again reiterate, it is still in draft; submissions are being considered and looked at, and that may involve some changes. I do not know at this point in time. That is obviously all work that is being done at the moment and I think it has been appropriate that the government extended the period of time when submissions

were able to be made. I think that an extensive body of work has been done across all the agencies that have a particular interest in this issue. I will refer to the general manager with respect to the roles and responsibilities of the EPA, but again I just reference the fact that perhaps the responses are going to be general because we do not have a final plan.

[3.20 pm]

Mr Taylor: I think the key point is that there is not a final plan. The process is still going through and the EPA may further comment during that process. Notwithstanding what further comment may be made during the process, at this stage the EPA will still retain all of its functions and powers under the Environmental Protection Act, so if there was a development in the future which it considered was likely to have an unacceptable impact, then it would have the powers to call that in and choose to assess it. There is no intention out of the GGP to remove powers of the EPA with respect to call-in, should it consider it necessary.

Hon ADELE FARINA: Moving back to the Swan coastal plain EPP that has been suspended. In your earlier answer you indicated that legislative changes have been passed since that EPP was established that protect wetlands. Would you be able to provide me with a list of those legislative provisions that provide protection for wetlands that previously did not exist when the EPP was first brought down?

Hon DONNA FARAGHER: Yes, we can take that on notice.

Hon ADELE FARINA: Thank you.

[*Supplementary Information No C6.*]

Hon ADELE FARINA: My next question relates to priority listed species and ecological communities. I want to know whether the EPA considers the impact on priority listed species and ecological communities when it undertakes an environmental impact assessment.

Mr Sutton: Yes, the EPA does.

Hon ADELE FARINA: Where do you get that advice from?

Mr Sutton: Most of that advice comes from the agency that has that responsibility, which is the Department of Parks and Wildlife.

Hon ADELE FARINA: So all of their reports in relation to a proposal will include a section that addresses endangered species and priority listed species?

Mr Sutton: Correct; it is usually under flora and vegetation or under fauna in the EPA reports.

Hon ADELE FARINA: Does the Office of the EPA still consider resource enhancement wetlands as part of its environmental impact assessments?

Mr Sutton: If a proposal is impacting on a wetland, then it is one of the considerations.

Hon ADELE FARINA: What criteria do you apply, seeing we do not have an EPP anymore?

Mr Sutton: It is still policy that exists at the moment that refers to the conservation category wetlands and the resource enhancement wetlands as well.

Hon ADELE FARINA: And that is publicly available, that policy?

Mr Sutton: Yes, it is.

Hon ADELE FARINA: Has the EPA assessed the proposed new DPaW office on Koombana Drive in Bunbury?

Mr Sutton: To my knowledge, we have not received a referral on that, no.

Hon ADELE FARINA: Would you be receiving a referral on that?

Mr Sutton: We do not have the details on that at this point in time, so I really could not comment.

Hon ADELE FARINA: How much funding is in the current budget for EPA to be able to access expert advice on the range of areas that you need it in when you are undertaking an environmental assessment? Obviously, depending on the project, it will depend on the sort of expertise that you need, and clearly that is not all provided in-house at the EPA, so you often need to go outside to get some advice. Exactly how much funding do you have allocated for that?

Mr Sutton: The assessment budgets under the service “Environmental Impact Assessment” have funds for staffing but also operational funding, and that funding would cover any peer reviews or additional information the EPA needs. In addition to that, the EPA models are cross-government. If it was, for example, expertise on air quality, I would seek that from an agency such as the Department of Environment Regulation. There is no specific budget, but there is funding available for that type of work.

Hon ADELE FARINA: Have you ever run out of money if you have had a year where you have had a lot of assessments that you need to consider and with expertise that you cannot easily access?

Mr Sutton: Not to my knowledge, no.

Mr Taylor: The EPA is an independent statutory body and it determines how much information it requires to undertake an assessment. So if it seeks further information, then it is the role of the department to see that it always provides sufficient information to the EPA to undertake its duties. It is not a matter of us saying we are not going to pursue that information because we do not have the budget; the EPA decides what information is required.

Hon ADELE FARINA: Sorry, the EPA decides what information is required and you make the decision based on what they have decided you are allowed to consider.

Hon DONNA FARAGHER: I think maybe some confusion has just been caused there. Mr Taylor may clarify if I am wrong, but I think what has just been indicated is that the EPA in their assessment of a particular proposal will identify what information they require and that will obviously take them to the Office of the Environmental Protection Authority, which will provide the necessary advice that they require. I would also suggest that, as part of the assessment, additional advice might be received from other agencies that have expertise in particular areas as well, and that would be part of the consultation process. I will stand corrected by Mr Taylor, but I think what he is indicating is that the EPA will determine what level of advice they need on a particular proposal and they will consult with the Office of the EPA to ensure that advice is provided to them.

Hon ADELE FARINA: That concerns me a little bit, because there has been a mass exodus of people from the public service who have corporate knowledge and experience built up over many decades. They have all left the public service in recent years and a number of officers who are now in those agencies do not have the same level of expertise that the officers who have left had. It was my understanding that the EPA actually went to consultants to get advice when there was a requirement to do so in terms of assessing a project. You cannot possibly have all the knowledge that is needed to assess every proposal within the EPA; it is just not humanly possible.

The ACTING CHAIR: What was your question, Hon Adele Farina?

Hon ADELE FARINA: I think they understand it; they are all nodding.

Hon KEN TRAVERS: Tony Jones would say, “I’ll take that as a comment.”

The ACTING CHAIR: It sounds like it is a comment, that is right. Did you actually have a question that you wanted to ask?

Hon ADELE FARINA: I would like to know how much money in the last financial year the Office of the Environmental Protection Authority or the Environmental Protection Authority actually spend on seeking expert consultant advice in relation to assessment of proposals.

Mr Taylor: Is that seeking external advice from other agencies or from outside government?

Hon ADELE FARINA: No, from the private sector.

Mr Taylor: We can take that on notice.

[Supplementary Information No C7.]

Hon KEN TRAVERS: As I understand it, there is effectively a new EPA being set up to assess the Roe Highway extension. Is that correct? Has that been completed yet? Have we identified all three members to do that?

Mr Taylor: The EPA, with the minister's approval, has delegated its powers and duties for the assessment of that project to three persons and, yes, they have been appointed.

Hon KEN TRAVERS: Pending the court case, if that stays as it is, or until that is overturned, as I understand it you are going to go back and those three will now start the assessment from scratch in terms of the Roe Highway proposal. Is that correct?

Mr Taylor: The delegates will determine the approach to the assessment and the timing of the assessment. They have not determined that at this stage so they have not determined exactly where in the assessment process it will start.

Hon KEN TRAVERS: I want to know the scope of and how broad they can look at this assessment and whether or not there are less environmentally damaging alternatives to the Roe 8 proposal. Is that something they are able to look at? Instead of just looking at that project and saying, "We'll assess that and try and work out whether we can minimise the impacts of it", are they able to look at whether or not there is a better alternative to the Roe 8 proposal in terms of meeting the task that it is intended to meet?

Hon DONNA FARAGHER: I will defer to the general manager, and he will correct me if I am wrong, but as I understand it, the normal process would apply and they would only be able to assess the proposal that is before them. I think what you are suggesting—I will be corrected—is whether or not they can look at any other alternative as part of that assessment. Is that what you are asking?

Hon KEN TRAVERS: I guess there are a range of options, in my view, that could be considered. For instance, when they make the assessment, part of it is about trying to minimise the impact of it. There is the famous EPA report that said the view was they did not think they could ever make it environmentally acceptable. Will they have the scope to, for instance, say that if we built a tunnel—I know the current Minister for Transport is very keen on tunnels—under the wetlands instead of trying to go over the top of them, it would provide less environmental impact and therefore our view is that there is a less environmentally degrading option than what is being put to us. Is that within their scope of options that they are allowed to consider?

[3.30 pm]

Mr Taylor: As the minister indicated, no. The delegates will only be able to assess the proposal that has been referred. It cannot say to the developers, "No, we do not think you should." They are not able to assess an alternative hypothetical proposal. They can only assess what is referred.

Hon KEN TRAVERS: If we wanted to have a strategic assessment, for instance, of the transport plan and the transport proposals for the future of Perth, that would require a policy decision of government to do that rather than the EPA having to deal with the sandwich, let us say, that they are given; and we will not try to define what that sort of sandwich is! It would require the government to make that policy decision to have a strategic assessment of the transport plan and whether there are more environmentally friendly options for meeting the future transport tasks of Perth; is that correct?

Hon DONNA FARAGHER: I will defer to the general manager, but only in terms of the process and the differences.

Mr Taylor: It is not something that the road delegates could decide to do themselves. If the road delegates or the EPA was asked to look at broader options and that is available, it is not a matter for them to determine themselves.

Hon KEN TRAVERS: But as part of the assessment of Roe 8, the state government could, as the proponent of that proposal, ask those delegates to look at a broader assessment of alternative options. I used the tunnel but there are also alternative options in terms of meeting the transport task and outer harbours and future harbour proposals. That would require the government to make that as part of its request to that group of people for the Roe 8 proposal; is that correct?

Mr Taylor: That would be a matter for the minister or the government to determine whether they wish to —

Hon KEN TRAVERS: But if they did, that is possible for them to do, and then that group could make that assessment. If the government made that decision, would it be possible for that group to look at those broader options—that is, if the government made that decision because they are also the proponent in this case?

Mr Taylor: Again, that is just a matter for the minister to determine.

Hon KEN TRAVERS: I am not asking whether they should; I am asking, if they did, would the EPA be able to look at it?

Mr Taylor: There are provisions under the act for the minister at any time to ask the EPA to provide strategic advice on matters. The legislation provides for that.

Hon KEN TRAVERS: My last questions are: Do you have any idea of what the cost for the EPA is going to be to assess the Ocean Reef marina proposals? Have you got an indicative case, or based on other projects of a similar nature—I am happy for you to take it on notice—are you able to provide us with advice about what your estimated cost will be to assess the Ocean Reef marina proposal, both the marine and the terrestrial or land-based components of that proposal?

Hon DONNA FARAGHER: I think we best take that on notice.

Hon KEN TRAVERS: It you could take that on notice, I would appreciate that.

[Supplementary Information No C8.]

Hon LYNN MacLAREN: The other alternative to Roe 8 of course is the accelerated development of the outer harbour at Cockburn Sound. What role does the EPA have in preparing a strategic assessment of that? I know there might be better areas of the sound to locate that harbour, but do you get involved at the stage they are just looking at it into the future, or at what stage does the EPA get involved and perhaps does a strategic assessment?

Mr Taylor: The EPA, at the request of the minister, I think in about 2004, undertook a strategic assessment of development options for an outer harbour. That report is publicly available. It looked at four options and provided broad advice on the likely environmental impacts and the sorts of matters that would need to be considered if a formal development proposal was to be referred to the EPA.

Hon LYNN MacLAREN: That was 2004?

Mr Taylor: Yes.

Hon LYNN MacLAREN: Has there been any assessment since that time?

Mr Taylor: No. The work that was done at that time was very comprehensive. There was a fair bit of information in terms of the concepts of the alternative studied. There was a considerable amount of information regarding the types of impacts including the impacts on benthic communities, impacts on water circulation, so there was a considerable amount of work done as part of that review.

Hon LYNN MacLAREN: Does that level of assessment just identify the areas that would need to be measured as to their current health—for example, seagrass? Does that identify that seagrass needs to be assessed? Is it more or less a blueprint for how you would go about an assessment?

Mr Taylor: Yes. It provides information on the scope of works that would be necessary to be considered in a future assessment of any development proposal for a port.

Hon LYNN MacLAREN: That is obviously a fairly large piece of work, if we were going to go down that route. How long would it take to prepare something so that we could develop the outer harbour? How long would it take, once the government gives you that green light to look at it or asks you to prepare?

Hon DONNA FARAGHER: I think only a general comment could be made in relation to that.

Hon LYNN MacLAREN: It is similar to the question that Hon Ken Travers asked about Ocean Reef marina. How long would it take to investigate?

Mr Taylor: Assessment of a major infrastructure development like that would be in the order of three years. If we looked at the assessment of the Port Hedland outer harbour, any of the major ports in the Pilbara, typically for a port assessment, it would be in the order of three years.

Hon KEN TRAVERS: The strategic assessment of the port, that was only in relation to the actual port facility. The land-based port facilities and the marine side of the port, channels et cetera, and the impact on the marine environment did not include transport links into or out of that port; is that correct?

Mr Taylor: I recall that it actually did look at the transport corridors particularly as they impacted on any of the conservation reserves in the vicinity of the port. It did look at certainly some of the transport corridor impacts.

Hon KEN TRAVERS: My recollection is it did not go all the way back, for instance, to Tonkin Highway. It might have been at the coastal strip, for want of a better term; it looked at how you link that back to the major road networks. At that point there was still debate about Rowley–Anketell, what the major access roads would be from the freeway and Tonkin Highway. It was only those immediate road impacts into and out of the port facility.

Mr Taylor: That is correct.

Hon KEN TRAVERS: You mentioned earlier that the minister could give strategic direction at any time. I know there is the ability for you to call in projects if they are not submitted to you if you think they have an environmental impact; is that correct—not you, but the EPA?

Mr Taylor: Yes, it can call in referrals of development proposals.

Hon KEN TRAVERS: A transport plan that is both public and freight transport that is intended to be the blueprint for managing transport in Western Australia going forward, is that the sort of project that potentially the EPA could call in and say, “We should do an environmental strategic assessment on that”?

Hon DONNA FARAGHER: No.

Hon KEN TRAVERS: Why not?

Hon DONNA FARAGHER: Because it is not a particular proposal.

Mr Taylor: I am happy to look at it, but I do not believe it would provide sufficient specific detail to define the proposal, as to what the proposal would be, for it to be considered a significant proposal under part IV of the act.

The ACTING CHAIR: On behalf of the committee, I would like to thank you for your attendance today. The committee will forward any additional questions it has—it does not appear to have any—to you in writing after Monday, 20 June 2016, together with the transcript of evidence, which

includes the questions you have taken on notice, highlighted in the transcript. Responses to these questions will be requested within 10 working days of receipt of the questions. Should you be unable to meet this due date, please advise the committee in writing as soon as possible before the due date. The advice is to include specific reasons as to why the due date cannot be met. If members have any unasked questions, I ask them to submit these to the committee clerk at the close of the hearing. Once again, I thank you for your attendance today.

Hearing concluded at 3.40 pm
