

PUBLIC



LEGISLATIVE COUNCIL ESTIMATES AND FINANCIAL OPERATIONS COMMITTEE
NOVEMBER 2010

QUESTIONS ON NOTICE FOR 2010/11 ONGOING ESTIMATES HEARING

Monday, 8 November

Office of the Environmental Protection Authority

Question No 1: Giz Watson MLC asked why the net amount appropriated to deliver services fall so significantly from 08-09 actual to 09-10 (both budget and estimated actual)?

Answer: Additional funding was provided in 2008-2009 and 2009-2010 for the environmental impact assessment process due to the number of projects being assessed. This funding was less for the 2009-2010 year hence the decrease in both the budget allocation and the estimated actual for that year. The number of projects under assessment by the EPA has also reduced from 105 in June 2008 to 89 in June 2010.

Question No 2: Why does the net amount appropriated to deliver services recover from the above levels in the 10-11 budget estimate only to taper away again in 11-12 and 12-13? Please provide more detail than is in the notes 1 and 2 on page 843.

Answer: The 2010-11 budget includes funding of \$650,000 to develop and implement a Project Tracking and Management system to improve both the internal and external reporting of the progress and status of assessments. The current process is largely carried out through manual preparation of reports which needs to be replaced with a modern, electronic up-to-date database.

The 2010-11 budget also includes an increase in budget for operating the Office of the Environmental Protection Authority as a separate government agency, which is ongoing.

Page 842; Outcomes, Services and Key Performance Information; Service Summary

Question No 3: What, if anything is the methodology for anticipating how many proposals on which the OEPA will be asked to work?

Answer: The EPA Chairman and OEPA officers meet regularly with proponents throughout the year, and one of the items discussed is to request those proponents to provide an indication of their intended referrals during the next one to two years. This is a key means that the OEPA uses to forecast future referrals of proposals and possible assessments.

The largest number of referrals comes to the EPA as amendments of planning schemes, principally under section 81 of the *Planning and Development Act 2005* but also under various other acts related to schemes. These are primarily predicted on the basis of the number of referrals received in the previous year.

Question No. 4: How, if at all, does the above methodology arrive at an estimate of the number of staff hours required to be involved with an 'average' proposal?

Answer: The number of staff hours required for assessment of proposals varies considerably based on complexity and level of assessment. Therefore, OEPA does not base the allocation of officers on the basis of hours associated with the assessment of an 'average' proposal. The environmental assessment process has a number of definable phases, some of which are the responsibility of the proponent and others are focused on the EPA's part of the assessment. The allocation of proposals in assessment to officers is based in part on identifying projects which have different phases, where officers will work on multiple proposals. Clearly the complexity and issues related to proposals in assessment will also be considered when proposals are assigned to an officer.

Question No. 5: How, if at all, does the above methodology take into account the view expressed to us by prominent Perth academics that the 'average' proposal being dealt with by the EPA is more complex than it was say ten years ago?

Answer: The OEPA agrees that many of the proposals being assessed by the EPA in 2010 are more complex than those in the 1990's. This is in part determined by the intrinsic complexity of proposals referred to the EPA, continued advancement of tools to predict and analyse environmental impacts, and the consequence of the need to examine environmental issues to the fullest extent possible. Consistent with this, the number of staff assigned to environmental impact assessment has increased over time. The skills of OEPA staff and that of other professionals that provide the EPA with advice is also required to keep pace with the assessment and management of increasingly complex proposals.

Question No. 6: Why doesn't the "assessment and policies" side of the OEPA's budget show a strong increase from the budget estimate to each subsequent budget year, given it is very likely that WA will move into another resources boom?

Answer: The 2010-2011 Budget estimate for Service 1 Environmental Impact Assessment and Policies includes a one-off increase of \$650,000 for a project tracking system. When this amount is subtracted, the 2010-2011 Budget and forward estimates show a steady increase each year.

If there is significant growth in the number of projects referred to the EPA, this will be addressed through the usual Budget processes.

Page 842; Outcomes, Services and Key Performance Information; Significant Issues Impacting the Agency

Question No.7: How, if at all, is the OEPA looking to increase its staffing and in-house technical capacity to deal with the "increasing number of large scale marine dredging projects"?

Answer: The OEPA has in-house technical capacity in its Marine Ecosystems Branch. Part of the focus of this branch is to develop guidelines to assist proponents to effectively deal with marine

dredging issues. This is consistent with the recommendations of the EPA's Review of the Environmental Impact Assessment Process in Western Australia (March 2009).

A guideline on the protection of marine benthic primary producer habitat was released in December 2009. Another guideline related to marine dredging impacts was released in October 2010 for public comment. It should be noted that where particular technical expertise is not available within the OEPA, the EPA has wide powers to obtain advice from other sources of expertise through section (16) (d), section 17 (2) and 17 (3) (a) and (c). This is part of usual EPA practice.

Question No. 8: Similarly, how if at all is the OEPA looking to increase its staffing and in-house technical capacity to deal with uranium mining in WA?

Answer: The OEPA has allocated an experienced senior officer to co-ordinate uranium project assessments. The Government will also consider additional funding for the OEPA for uranium project assessments where necessary.

On issues where the EPA lacks the in-house technical expertise, it will exercise its powers through section (16) (d), section 17 (2) and 17 (3) (a) and (c) to obtain advice from other places, including other areas of Government. This is part of usual EPA practice.

Page 842; Outcomes. Services and Key Performance Information; Outcomes and Key Effectiveness Indicators

Question No. 9: What is the methodology for determining whether approved projects have had "actual impacts not exceeding those predicted during the assessment"? How often do such judgements get made without reference to OEPA/DEC auditing of those projects?

Answer: The determination of whether a project has had impacts exceeding those predicted during the assessment is based on information from OEPA audits, audits by other government agencies, reports submitted by project proponents and information reported by the public.

A key measure for this Key Performance Indicator is the number of times that action needs to be taken beyond routine compliance to achieve protection of the environment as specified under conditions in an Implementation Statement. Such action could relate to the issuing of a notice by the Minister for Environment under section 47 (4).

Question No. 10: How is the Government able to predict in 10-11 that 100% of approved projects will have impacts not exceeding those predicted during the assessment, while in the same year 85% of audited projects will have met all of their environmental conditions?

Answer: Please refer to the response to Question 9 above. The 100% and 85% are targets specified in the Key Performance Indicators and the measure is the extent to which the performance of the OEPA achieves or exceeds those targets. However, the targets are about different aspects, one is about realised environmental impact while the other is about compliance with conditions. It is the OEPA's

view that no assessed projects should exceed impacts predicted during the EPA's assessment and authorised by the Implementation Statement issued by the Minister for Environment.

Where a failure to meet environmental conditions is addressed in a timely and adequate manner, or the failure to comply is administrative in nature, it does not automatically follow that implementation of a proposal will exceed impacts predicted during assessment. Robust audit functions will allow the OEPA to achieve sustained improvement of compliance with environmental conditions.

Page 843; Outcomes, Services and Key Performance Information; Services and Key Efficiency Indicators

Question No. 11: With the predicted average cost per environmental assessment in 10-11 of \$37,396, has the Government given consideration for charging proponents at least a fair proportion of this amount? We note full cost recovery is important for this Government in many other contexts.

Answer: There are currently no plans to introduce fee for service arrangements for environmental impact assessment.

Question 12: Further to the above, does the Government have a view about the idea of having the EPA or at least the OEPA hire the consultants for proponents, to avoid the impression that the proponent has been able to unduly influence the science offered by those consultants by being the person that pays their bills?

Answer: A fundamental tenet underpinning the environmental assessment process established by the EPA is that the proponent is responsible for predicting environmental impacts and identifying measures to mitigate those predicted impacts. These are then tested through the assessment by the EPA, on advice of agencies and the public. Most proposals require the use of a number of consultants to address the multiple environmental issues arising from the proposal. The EPA and OEPA will not always be in the best position to identify consultants with relevant knowledge and skills. However, the EPA encourages proponents to appoint peer reviewers to examine scientific approaches used and findings by other consultants employed by the proponent. In some circumstances, the OEPA may employ consultants to provide expert advice where that is not available within government agencies. These mechanisms assist in addressing concerns about undue influence or bias.

Question 13: Why does the Government propose to spend more per environmental assessment in 10-11 than it proposes to spend per environmental audit in the same year?

Answer: The amount of work required to undertake environmental impact assessment of a project is typically more than the work required to undertake environmental audit of a project, hence the forecast expenditure per assessment in 2010-2011 is greater than the forecast expenditure per audit.