

**SUBCOMMITTEE OF THE STANDING COMMITTEE ON
ESTIMATES AND FINANCIAL OPERATIONS**

2012–13 AGENCY ANNUAL REPORT HEARINGS

**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
WEDNESDAY, 6 NOVEMBER 2013**

**SESSION ONE
DEPARTMENT OF ENVIRONMENT REGULATION**

Members

**Hon Ken Travers (Chair)
Hon Peter Katsambanis (Deputy Chair)
Hon Alanna Clohesy**

Hearing commenced at 9.35 am

Mr JASON BANKS

Acting Director General, examined:

Mr ALAN SANDS

Director, Environmental Regulation, examined:

Mr STUART COWIE

Director, Strategic Policy and Programs, examined:

Mrs ELLI GOUGOULIS

Chief Financial Officer, examined:

The CHAIR: Good morning, and thank you very much for coming along. On behalf of the Legislative Council Standing Committee on Estimates and Financial Operations, I would like to welcome you to today's hearing. Can you confirm that you have read, understood and signed a document headed "Information for Witnesses"?

The Witnesses: Yes.

The CHAIR: I note all four witnesses indicate in the affirmative.

Witnesses need to be aware of the severe penalties that apply to persons providing false or misleading testimony to a parliamentary committee. 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. The hearing is being held in public, although there is discretion available to the committee to hear evidence in private either of its own motion or at the witness's request. 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. Government agencies and departments have an important role and duty in assisting Parliament to review agency outcomes on behalf of the people of Western Australia. The committee values your assistance with this.

I think we will go straight into questions, if you are happy with that.

Hon ALANNA CLOHESY: I am pretty sure I have got clear what responsibilities you now have, but do not hesitate to let me know that some of my questions may no longer be relevant to your agency. I am sure you are experiencing that as well. I wanted to look at native vegetation clearing permits. That is on page 21 of the old report. In that report, it says that 64 per cent of decisions on applications to clear native vegetation were processed within 60 calendar days, and a further 33 per cent took longer than 90 days. Did those applications need or require a flora survey to be submitted?

Mr Banks: I have to get specific detail on which of the applications that were determined required a flora survey. With others, the time frames are not solely related to that type of activity. It could be other information we are seeking from other agencies. We, on occasion, do seek additional information from other agencies in regard to water-related issues or land degradation issues.

Hon ALANNA CLOHESY: Okay. So you need to consult with other agencies in some of that, but that is not the only reason that a native flora survey would take longer than 90 days. Are there other reasons?

Mr Banks: As far as I am aware, they are probably the main reasons as to why some of the applications were not processed within the time. The regime provides for a stop-the-clock

arrangement. If we are waiting on the information from the applicant, then that will not feature in these time frames, so it will not be related to us awaiting information from applicants.

Hon ALANNA CLOHESY: What are the main factors considered in conducting a native flora survey? What are the major areas that are looked at? Obviously, you are consulting with other agencies.

Mr Banks: Yes.

Hon ALANNA CLOHESY: What are the sort of scientific factors involved in a native flora survey?

Mr Banks: If I can step back briefly and then perhaps come forward, there are 10 clearing principles under the legislation in regard to which an application is assessed against. Some of those relate to biodiversity factors, some relate to land degradation issues, and some relate to water quality issues. As part of the conditioning of a permit, it may require a flora survey. That will be a condition where the department is of a view that there is a risk because of the unknown nature of the flora within the proposed area to be cleared.

Hon ALANNA CLOHESY: Are there any other factors that are considered in allowing the destruction of native vegetation?

Mr Banks: Yes. In addition to the 10 clearing principles, the director general or the CEO of the agency can have regard to matters, including planning matters, and also other matters, and the “other matters” is quite a broad category of what could be considered there.

Hon ALANNA CLOHESY: And what weighting is given to those, relative?

Mr Banks: It is primarily conducted as an environmental-based assessment, but the other matters could include economic factors or social factors. But the majority of the weighting in initial assessment is based on the environmental factors. Sorry, if I can continue, if that is helpful —

Hon ALANNA CLOHESY: Yes.

Mr Banks: — from my experience—I have only been in the department coming up towards 12 months and have been involved in terms of oversighting this process—the majority of considerations are environmental, and at times they may be social or public benefits. I think a reasonable example of that probably is the Fiona Stanley Hospital, so that will result in a clearing permit being granted, but that may give rise to there still being a significant impact on the environment, leading to requirements for offsets, and I guess that is a case in point.

Hon ALANNA CLOHESY: So it is fair to say that there would be other non-scientific factors associated with the approval of a —

Mr Banks: Yes.

Hon ALANNA CLOHESY: And the non-scientific factors would take precedence in some instances.

Mr Banks: Certainly when there is a high degree of public benefit associated with the activity, and I guess the only other clear one is in the planning context, so when there has been a development approval, they are not required to seek a clearing permit. So that obviously takes precedence as well in terms of availability of land for residential development.

Hon ALANNA CLOHESY: So when native flora work is done, what is the best time for that? Obviously, spring is a kind of good time for that. Is that the recommended time for that to be done?

Mr Banks: Generally, in requesting the flora surveys, the officers will request that they be conducted within a certain time, and as it is relative to the flora, the majority of the ones I have seen are for a spring survey.

Hon ALANNA CLOHESY: There is nothing that insists that a survey needs to be undertaken in spring, or there is no requirement for surveys to be undertaken in spring.

Mr Banks: If we condition the permit, we generally condition it with a timing for when the survey needs to be conducted, because, obviously, if it is not conducted during the appropriate time, then the survey will be not as valid.

Hon ALANNA CLOHESY: Yes. That is what I thought. Are you able to tell us how many hectares have been cleared without the benefit of a flora survey?

Mr Banks: Not off the top of my head.

Hon ALANNA CLOHESY: Is that something we could take as a supplementary?

The CHAIR: Yes. Are you able to provide that as supplementary information?

Mr Banks: Yes.

[Supplementary Information No A1.]

Hon ALANNA CLOHESY: Similarly, the number of hectares that were cleared following a survey done during November last year and August—are you able to specify in that period?

Mr Banks: Look, I do not know the granularity of our database. There may be a substantial body of work involved to provide the committee with the requested information, but if that is of value to the committee, then we will undertake to provide it as supplementary information, subject to potentially the time frames in terms of when the committee requires it. As I say, that may require a manual review process for the data you are requesting there.

Hon ALANNA CLOHESY: Actually, that would be quite helpful, because what it would be good to know is what type and level of data is collected on a regular basis regarding clearances and surveys—so what data sets you use as an analysis yourself.

Mr Banks: Sure. We have an electronic clearing permit system. It is currently going through some revisions. It is really, I guess, and evolving tool, as are most of our systems.

Hon ALANNA CLOHESY: It would be useful to have a general outline of the data sets, too.

Mr Banks: Sure.

[9.45 am]

Hon ALANNA CLOHESY: Is that okay?

The CHAIR: Yes. Is that all under A1 now, or should we make that A2, as a separate —

Hon ALANNA CLOHESY: There are kind of three separate questions in there, are there not, I think?

Mr Banks: Yes.

The CHAIR: All right. We will make that A2.

Hon ALANNA CLOHESY: Yes—so, how many clearances were done, particularly between November and August, and what sort of data sets you used in the analysis of that.

[Supplementary Information No A2.]

Hon ALANNA CLOHESY: Just staying on the information stream for the time being, what do you do to improve the quality of information that you provide to proponents regarding native flora surveys and clearances? Someone comes along and they want to clear some area that is vegetated. What information do you provide to the proponents that want to clear that in relation to the impact that it is likely to have on native vegetation? Do you just say, “No, you can’t do it” or, “You’ve got to do a survey” or, “Keep the lovely flowers” or —

Mr Banks: There are a number of steps in that process. We receive an application and we confirm that it has the required information for us to be able to proceed with the application. The application then proceeds through an initial assessment that will identify those sorts of requirements for additional information, and may also identify at that point whether there is a risk that the clearing will be at variance to one of the principles from within the act. That then proceeds, and if that is resolved, the proponent will be given that information. Then in the final decision there will be a decision report against the 10 principles that will identify where, from our perspective, the proposed clearing is at variance to the 10 principles, and the reasons for either granting the permit or not granting the permit.

Hon ALANNA CLOHESY: I take it that is a fairly detailed report that the proponent could —

Mr Banks: Yes. They range from about five to 10 pages, depending on the matter itself. It is at a summary level, I guess; it is not a massive, voluminous thing; it is supposed to be relatively user-friendly.

Hon ALANNA CLOHESY: Are the proponents provided with supporting information as to reasons for decision?

Mr Banks: That is within the decision report. There are detailed reasons within the decision report as to why we consider something is at variance if we are not going to approve the permit. Those decisions are subject to appeals through an appeals process operated by the Appeals Convenor on behalf of the minister. So the decision may be reviewed and we may have to provide supplementary information to the Appeals Convenor in regard to our decisions.

Hon ALANNA CLOHESY: So when someone wants to lodge an application, does the department provide information to them about the process about native vegetation and the impact of ensuing clearances?

Mr Banks: Yes. We have quite extensive information available on the web, and they also are encouraged to contact and speak with the officers at the native vegetation conservation branch. They get detailed verbal communication from them and there is also quite an extensive suite of information available from the web.

Hon ALANNA CLOHESY: Is that offer to contact the officers taken up very often?

Mr Banks: They have quite a high rate of processing. I guess I would not be aware of those who do not.

Hon ALANNA CLOHESY: Yes. So there is no measure of those who contact initially for general information and those who continue through with seeking further information?

Mr Banks: I am not aware that we are capturing that.

Hon ALANNA CLOHESY: Does it cost to use that service?

Mr Banks: To call the department?

Hon ALANNA CLOHESY: Yes, and to get information.

Mr Banks: No.

Hon ALANNA CLOHESY: Is all that free?

Mr Banks: Yes.

Hon ALANNA CLOHESY: If someone wants to get a permit to destroy native vegetation, can they get information off the web and contact the officers?

Mr Banks: Yes.

Hon ALANNA CLOHESY: Does the department see its role as assisting those people who want to destroy native vegetation and who want to put in a permit application to do that?

Mr Banks: Yes. We have a role to assist people to lodge applications for clearing permits because we are administering that regime.

Hon ALANNA CLOHESY: Equally, does the department have a role to protect native vegetation in that regard?

Mr Banks: The department has a role to administer the regime in accordance with the act. As I say, there are 10 clearing principles, and then there are planning and other matters to be considered.

Hon PETER KATSAMBANIS: Welcome, and thank you for coming along. I know your department has been restructured. Does fire management come under your area?

Mr Banks: No.

Hon PETER KATSAMBANIS: No? Who is responsible for fire management?

Mr Banks: The Department of Parks and Wildlife.

Hon PETER KATSAMBANIS: So I cannot really ask you any of those questions?

Mr Banks: No.

Hon PETER KATSAMBANIS: How about the area in relation to —

The CHAIR: Do they require any approvals or permits from you at all in any way, or do they just do all that themselves?

Mr Banks: In relation to the clearing?

The CHAIR: For burning and controlled burns or anything like that.

Mr Banks: Not that I am aware of, no.

Hon PETER KATSAMBANIS: That was helpful to just delineate the space for us. When there is a restructure, it is always difficult to know where it all lands. I am glad that I asked you first. When they come before us, we can ask them.

Page 806 of the budget papers has a service area called “Environmental Sustainability and Climate Change”. Is that the area where broadly what is described as “industry regulation” falls?

Mr Banks: No; industry regulation is under the environmental regulations.

Hon PETER KATSAMBANIS: What does this area that I am talking about, environmental sustainability and climate change, broadly do?

Mr Banks: A large portion of that area is actually related to the activities of the Waste Authority. Whilst the Waste Authority does not form part of the Department of Environment Regulation, the Waste Authority’s activities are reflected within the budget of the department. It also provides a suite of policy services. I personally think that the naming of the service may benefit from being renamed “environmental policy”. Really, that is what it does; it provides policy in terms of climate change adaptation, and also a fairly extensive suite of services in regard to the Waste Authority.

Hon PETER KATSAMBANIS: I notice in the budget, both historically and for this year, there is an over-recovery, if you like; it is actually a profit centre where it appears to be in the budget. Where does the income come from that in some cases is more than double the cost of providing the service?

The CHAIR: That is a question I was going to ask. I think I know where.

Hon PETER KATSAMBANIS: I am sorry about that.

The CHAIR: No, that is all right; it is a good question. I think I know where the money comes from; it is the waste levy, I am assuming. Is it 25 per cent of the waste levy or is it 100 per cent?

Mr Banks: The source of income is primarily the waste levy—the landfill levy.

The CHAIR: Is it 100 per cent of the waste levy or is it 25 per cent of the waste levy?

Mr Banks: Because this budget reflects the activities of the Waste Authority, it is 100 per cent of the waste levy, but 25 per cent of that is directed towards the activities of the Waste Authority.

Hon PETER KATSAMBANIS: What is the policy rationale for that over-cost recovery? The waste levy is obviously bringing in a hell of a lot more money than is being spent on managing the program.

Mr Banks: Sure. My understanding is that the landfill levy is an economic instrument; it is not actually a fee-for-service-based measure. From our budget statements, we basically receive virtually no appropriation from government because we have a combined income from both regulatory fees that are charged through the licensing processes through industry regs, and also the landfill levy. The regulatory fees are actually charged on a cost-for-service basis but the landfill levy does not bear a relationship to the cost for service; it is actually an economic instrument that is trying to drive a different outcome in terms of a change and a movement away from landfill.

Hon PETER KATSAMBANIS: How do you measure that?

Mr Banks: In terms of the diversity?

Hon PETER KATSAMBANIS: How do you measure the expected outcome? You are obviously levying a fee, or it has been decided that there is a policy rationale here that we will levy a fee to encourage people at every level, from ordinary residents right through, to reduce the amount of waste that ends up in landfill.

Mr Banks: Yes.

Hon PETER KATSAMBANIS: Good idea—great.

Mr Banks: Yes.

Hon PETER KATSAMBANIS: So how do we measure that outcome?

Mr Banks: Through diversion targets. With the chair's agreement, I might refer to Mr Cowie, who is actually is the director from that area and can probably talk more knowledgably about the diversion rates and how we are tracking in relation to the diversion rates.

Mr Cowie: I refer the committee to page 120 of the annual report. One of the key performance indicators is the percentage of waste in the metropolitan area diverted from landfill to recycling. That is one of the performance measures we use to assess both the levy and other activities and programs put in place to improve recycling. Essentially, a survey is conducted where we contact industries that deal with recycling to determine how much materials they have recycled. We have data, obviously, available in the amount of material that is landfilled, and then we can determine the diversion by the amount that is recycled, divided by the amount of landfill plus the amount recycled. That is the data that we use. The data is always one year behind because we can only collect the data from the previous year about the amount of material that has been recycled, but it gives us a good indication. You can see there is a trend moving up over 2012-13. Currently, 43 per cent of materials are being diverted and we have a target of 45 per cent. The landfill levy as an instrument is obviously one of the major drivers of that, but not the only one. The cost of landfilling is still relatively cheaper than alternatives for waste, and part of the intent of the levy is to make it not as cheap.

Hon PETER KATSAMBANIS: You obviously have some figures there. How much of that is actually empirical data and how much of it is, effectively, self-reporting by people who are disposing of waste either in their ordinary course of business or as a subsidiary part of their business?

Mr Cowie: Because of the levy regime, the amount of waste that is landfilled has to be recorded as a statutory requirement, and we can determine how much has been landfilled. It is the amount

recycled where we engage a contractor to contact the recycling industries. There is no statutory requirement for them to measure that data, so we do rely on their figures and the information they provide to us. It is not 100 per cent accurate but it is a fairly good measure, and it is a similar measure that is used in other jurisdictions throughout Australia, so it gives us some comparisons.

Hon PETER KATSAMBANIS: Just going back to the budget for a moment in relation to this service area, there is around about a \$6 million or \$7 million increase in proposed expenditure this year. I notice in the note that it relates to another round of LEED funding that was not available in 2012-13. Does that increase simply account for the cost of administration of that LEED program?

Mr Banks: I will talk to it briefly and again may refer you to Mr Cowie if that is all right. The LEED program is basically a capital grant program for projects below emissions energy development projects. The administration costs are relatively fixed, so this is actually just to do with timings of project cash flows in terms of their constructions. Mr Cowie may wish to add anything, if that is all right.

Mr Cowie: Essentially, as Mr Banks mentioned, it is a grant program for generally infrastructure. Because, of that, sometimes the time frames are pushed out and the programs are long-term programs, and the cash flow is then moved into different periods. What was expected to be spent in 2012-13 has been moved into 2013-14 and out years.

[10.00 am]

Hon PETER KATSAMBANIS: Can you provide us either now or on notice of the actual amounts that relate to administration of the program because the note says for 2013-14 the cost of administration as a proportion of total expenditure is expected to increase from that achieved in 2012-13 primarily because the total LEED fund to be administered is falling as projects complete? That makes some sense but can you provide us the figures around that? How much of that will be grant money and how much is administration and, in relation to the grants, perhaps an outline of where this money is going, who it is going to and for what type of projects?

Mr Cowie: Certainly. It is probably best to take that on notice because it is a detailed answer.

Hon PETER KATSAMBANIS: Sure.

[*Supplementary Information No A3.*]

Hon PETER KATSAMBANIS: I appreciate that. That will give us an idea of where it is going.

The CHAIR: I want to understand. You are saying that the LEED funding was pushed out a year. Do we ever try to catch up that year, or have you now just pushed the funding out into the future? I would have thought you would normally have double the funding this year because you had last year's funding and this year's funding going forward. Am I correct or have you pushed it out and effectively lost a year's funding?

Mr Banks: Yes; basically the quantum for the program is fixed and the timing changes, so we are not expending any more on the program than we would otherwise have expended.

The CHAIR: By missing it last year we have effectively lost that money and we are now just spending —

Mr Banks: It is effectively the same money.

Hon PETER KATSAMBANIS: It is a limited pool.

The CHAIR: Is it not funded through the waste levy. You are getting money in every year from the waste levy and you would be making an allocation of money to that program, but there is now a year when that money has not been spent.

Mr Banks: The LEED funds were, I guess, initially, appropriation funding.

Mr Cowie: Yes.

Mr Banks: I guess this is part of the issue in terms of the separation of the agencies in terms of what revenue streams result for DER and its expenditure profile, versus when you looked at DEC as a whole. But the LEED program was initially an appropriation funded program.

Hon ALANNA CLOHESY: I notice—you might have been going to ask this—that there is nothing in the out years for 2015–16 and 2016–17. Why is that?

Mr Banks: The program is finite. Funding for the program comes to an end and the projects that have been funded over it should have been concluded and the funding granted in relation to them, so it was a fixed pool of funding.

The CHAIR: I want to try to understand, and you touched on it then. I understand that previously with the waste levy a policy decision was taken by government that 75 per cent would stay with the Waste Authority and would be spent on projects, (a) to run the authority, and, (b) on projects to encourage waste minimisation. Twenty-five per cent went to the old Department of Environment and Conservation for its ongoing operations. Am I correct that that was the previous policy?

Mr Banks: Very close but the 25 per cent is what stayed with the Waste Authority and the 75 per cent went to the agency.

The CHAIR: Okay.

Mr Cowie: The legislation states that no less than 25 per cent should be allocated to the Waste Authority. That is an annual decision made by the minister and the remainder goes into the funds that are kept in the department.

The CHAIR: With the split, how will that now operate? Will it go to you?

Mr Banks: It goes to us.

The CHAIR: Looking at your budget, it then appears that over the forward estimates you are starting to accumulate a massive surplus of funding. Is that correct?

Mr Banks: We are certainly accumulating surpluses of funding, yes.

The CHAIR: Under your “Statement of Financial Position” it has restricted cash but no allocation for cash. Do you not manage any of your own day-to-day operations or is that an error in the budget papers, on page 808, that it does not give you an allocation of cash?

Mr Banks: I am on page 808 now.

The CHAIR: Under “Current Assets” you have only restricted cash and receivables you do not have an allocation for cash.

Mr Banks: No; we basically do not have an allocation for cash and were not given an allocation for cash at establishment.

The CHAIR: Are your bills paid for by another agency?

Mr Banks: No. That is at a point-of-time balance in terms of when it was established. We obviously derive revenue from regulatory fees and charging of the landfill levy.

The CHAIR: I can understand on 30 June because you were a newly established agency and you might have started with zero, and all your bills were paid for by the old agency. But over the forward estimates surely you will need to have cash to be able to pay your bills on an ongoing operating basis?

Mr Banks: Yes, we do require that. I guess it is a cash flow issue rather than necessarily an asset balance issue. Ellie can you shed light on that?

Mrs Gougoulis: I might —

Mr Banks: If you cannot, that is okay.

Yes we need a cash flow; yes we have a cash flow. No we do not have a large cash reserve. Other than timing wise that is entirely manageable.

The CHAIR: When I go down to “Contributed equity” under “Equity”, again, it appears to be that your equity is increasing over your forward estimates to just short of \$50 million.

Mr Banks: Is this on page 808?

The CHAIR: Yes, under “Contributed equity” an accumulated surplus of \$59 million—almost \$60 million of accumulated surpluses.

Mr Banks: The accumulated equity is a negative, so that deducts from the accumulated surplus, giving us a total equity that is relatively stable—in fact, declining, so that indicates we are returning funds to government.

The CHAIR: Does that mean that the funds you are receiving now from the waste levy are getting returned to the consolidated revenue of government as a contributed equity?

Mr Banks: That is what is reflected in the budget statements.

The CHAIR: Does that mean that is what happening or are the budget statements wrong? You use interesting language. I am trying to understand; are you making a contribution to the government of some —

Mr Banks: Have we returned any funds to government to date; I do not believe so?

Mrs Gougoulis: To date? No.

Mr Banks: No.

Mrs Gougoulis: There is the intention.

The CHAIR: Clearly, this budget is predicated on you giving a contribution of almost \$50 million to the government as returned equity contribution.

Mrs Gougoulis: That is correct.

Hon PETER KATSAMBANIS: Is that as some sort of agreement in relation to the split of DEC into two departments?

Mr Banks: No; that is a function of the landfill levy —

That is a function of what revenues the department is forecast to earn versus the approved expenditures of the agency.

The CHAIR: You are now just a general cash cow for the government then. You are basically producing funds coming through your agency and then going into the consolidated revenue. I assume that contributed equity goes straight into the consolidated funds of government.

Mr Banks: That is correct.

The CHAIR: Is that in accordance with the legislation under the waste management act?

Mr Cowie: I do not think the legislation is specific on that under the waste management act? I cannot actually recall the section, sorry.

The CHAIR: How do we then work out that you are retaining your 25 per cent?

Mr Banks: For the Waste Authority?

The CHAIR: Yes.

Mr Banks: The Waste Authority publishes its own business plan and the 25 per cent it proposes to expend and the purposes for which it plans to expend them is within that business plan, which is publicly available.

The CHAIR: Also, is the difference between the total cost of service and your income for your environmental regulation side, completely funded by the waste levy now as well, effectively?

Mr Banks: Yes.

The CHAIR: Looking at your appropriation, you are virtually an off-budget agency now. Your appropriations, other than under other statutes, are virtually negligible.

Mr Banks: That is correct.

The CHAIR: What impact does that have on the agency in terms of your reliance on the waste levy, effectively, for waste to continue to grow rather than reduce. You are 100 per cent funded by the waste levy now.

Mr Banks: I do not think the impact is material, from my perspective. From an agency perspective, the revenue sources and the approved expenditure are quite different matters for me. Being a net appropriation agency, to the extent there are variances in the future regarding forecast landfill levies, they in my view should not impact on the approved agency expenditure. It is the approved agency expenditure that is highly relevant for the agency in terms of its ability to discharge its statutory and other functions.

Hon PETER KATSAMBANIS: I want to get an understanding of your revenue streams. There is a big item “Other receipts” of nearly \$44 million. I accept some or all of that is likely to be the waste levy but there is also \$20 million in regulatory fees and fines. Is that separate from the waste levy? You mentioned before that the waste levy was not a regulatory fee, so you are receiving around \$20 million a year in regulatory fees and fines as well.

Mr Banks: That is correct.

Hon PETER KATSAMBANIS: Do you have any breakdown, historically, over the budget period from 2011–12 onwards of how much of that is regulatory fees and how much is fines?

Mr Banks: I refer to the director of environment regulation, Mr Alan Sands.

Mr Sands: We do have that detail. We do not have it with us but we can provide that certainly.

Hon PETER KATSAMBANIS: I would appreciate it if you can you provide that on notice.

[*Supplementary Information No A4.*]

Mr Banks: We can say indicatively that 90 per cent relates to the actual charging of the fees for licences and not fines.

Hon PETER KATSAMBANIS: Sure. I have some questions around that licensing in a moment. It might be better if we pursue this area at the moment before we get on to that.

Based on this, there is around about \$70 million of incoming receipts over the year, so it is not right that you are solely funded by the waste levy; you have other income. I just want to clarify that you have income other than the waste levy.

Mr Banks: I believe I spoke to that in terms of our two primary sources of revenue from the waste levy and the regulatory fees from environmental regulation. Page 811 of the budget papers details a little bit more explicitly the source of our receipts.

The CHAIR: That also shows your interest as only \$750 million. Do you hold all the money from the waste levy on your accounts, or is it transferred out as quickly as it comes in so that you keep only the 25 per cent?

Mr Banks: To date we have not transferred out any receipts from the waste levy, so at the moment we are holding them and expending them, which I think relates to the question around the cash flow issue in terms of where is our source of cash. It is through that as well as the regulatory fee.

The CHAIR: But the interest received, I assume, most of that is on the balance in the waste levy that would be coming from money held in the waste levy account of \$750 000 a year.

Mr Banks: I cannot confirm that as I sit here today. It will be a forecast of the interest we are expected to earn over the period based on our fluctuations of the cash flow over the financial year.

Hon PETER KATSAMBANIS: It is around about one per cent of your total receipts over the year, and in the current low interest rate environment, assuming—I do not know—you hold a lot of your cash as cash. You do not secrete it off for large periods of time into bonds or fixed deposits. That is not an overly low figure given the current environment.

[10.15 am]

The CHAIR: Not if you are moving the funds out of the waste levy on a regular basis.

Hon PETER KATSAMBANIS: Even if you are just holding it, you do not get the waste levy until 1 July.

The CHAIR: That is true. What is your restricted cash, then? What is the \$22 million that you hold as restricted cash for this financial year, and \$25 million that you had for last year?

Mr Banks: I think that largely relates to our commitments around grants.

Mr Cowie: Essentially most of that is the waste avoidance resource recovery account—about \$18 million, which is the account used for waste purposes and then there is the contaminated sites account as well and various small specific accounts.

The CHAIR: So you have about \$18 million surplus in the waste account?

Mr Cowie: It is not necessarily surplus. It is the account used by the Waste Authority for its expenditure.

The CHAIR: How much of this \$18 million is unallocated at the moment?

Mr Cowie: I could not answer that specifically but I assume from the business plan the majority is there for a purpose. It does actually build up some savings in the account over the years for large projects as they move forward.

The CHAIR: It does not seem to diminish for at least the next four years until the final year of the forward estimates in any substantial way.

Mr Banks: Are you on page 808?

The CHAIR: I was, which is where your restricted assets are, and also on page 810 there is the waste avoidance levy, which again shows you are spending slightly more than you receive.

Mr Banks: Yes.

The CHAIR: I am trying to get a sense of it. When you follow that restricted cash until you get to the final year of the forward estimates, it does not do any dramatic drops. Then it still would be around what your current closing balance is, less a little bit of some other moneys held in that amount as well. I am trying to work out how much of your waste avoidance money is not currently allocated for a purpose—the levy money.

Mr Cowie: Because the Waste Authority is actually making its business plans, we would probably have to seek their advice on their future plans and what they are looking at spending. We also have a contaminated sites management account which determines when that money will be spent as well, which is moving down to \$13 million but I note there is a trend moving down that the Waste Authority is expending its funds.

The CHAIR: Can we have supplementary information or maybe a reconciliation of how much that money is waste and how much is under-restricted, and how much of it is unallocated and what are the plans to spend that money over forward estimates?

[*Supplementary Information No A5.*]

Mrs Gougoulis: We have the current one.

The CHAIR: You have a target of 45 per cent which you held for the last three years in terms of percentage of waste diverted, but you seem to be staying at that 45 per cent. Is there any intention to try to increase that over the forward estimates? If not, if we have now achieved 45 per cent, why would we not seek to try to increase that percentage?

Mr Cowie: Yes, we are looking at increasing that percentage. The Waste Authority has waste targets and a waste strategy it has developed, but those targets are specific to types of waste where the target in the department's budget papers and annual report is based on all metropolitan waste. Certainly we are looking at increasing that target.

The CHAIR: That decision has been made or it is still to be made?

Mr Cowie: It is to be made for the total waste, but the waste strategy is in place, which has very ambitious targets for particular waste streams which, as I said, is the whole of the state. We will look to increase the —

The CHAIR: As an agency your KPI is for the metropolitan area, is it not?

Mr Cowie: Yes, metropolitan and all waste not broken up into municipal waste or construction industry waste.

The CHAIR: What target as an agency do you intend to increase that 45 per cent to?

Mr Cowie: We have not determined that yet.

The CHAIR: When will the decision be made about that?

Mr Banks: I guess in the next budget cycle. I am keen to review both the service specifications and the KPIs for the agency, in terms of the newly formed agency.

The CHAIR: Is it only ever done on an annual basis? I would have thought with something like waste management you would need to be setting targets to get the sort of behavioural changes happening, and often part of that behavioural change is capital investment. You would need expenditure of your waste money and a long-term increase in targets. I understand there is that sort of interplay with yourself and the Waste Authority, but as an agency do you drive that yourself or do you have to wait for the Waste Authority to drive it?

Mr Banks: In my view, it is the Waste Authority that has primary carriage and statutory responsibility for delivery of that outcome. I will defer to Mr Cowie. Certainly I understand the waste plan has longer-term perspective.

Mr Cowie: The waste strategy has targets out to 2020 based on those particular types of waste.

The CHAIR: Is your internal agency target just a follower of what the Waste Authority does?

Mr Cowie: Essentially we are working with the Waste Authority. We have input, as a stakeholder, to their targets and their strategies so we will certainly take on board their targets for specific waste types to determine where we believe the metropolitan waste will be and taking advice from them as well.

Hon ALANNA CLOHESY: I want to go back to the clearances. There are 13 000 hectares to be cleared as part of the native vegetation clearing permits. Of those approvals were any at variance with the clearing principles? Of that 13 000 hectares, were any of those at variance to the clearing principles?

Mr Banks: Likely some were, but I cannot give you specific details on them. As I alluded to before, some of the approvals occur in the context of an offset regime. There are provisions within the statute for us to take account of the offset. Once people have mitigated the impact to the extent that is practical, then if they still wish to have approval, they may continue to seek approval, but the

requirement may result in an offset being imposed upon them. The clearing itself would be at variance, but we try to bring that back into alignment through the offset.

Hon ALANNA CLOHESY: You know the data sets we were talking about before? Would it be possible to look at what proportion of those were at variance with the clearing principles?

Mr Banks: I would have to check; I am not an expert on the comparing permit system database.

[*Supplementary Information No A6.*]

Hon ALANNA CLOHESY: Again, I am happy to take this question on notice, but is there a consolidated list of those applications that were at variance but still got a clearing permit?

Mr Banks: The data will be there within the clearing permit system.

Hon ALANNA CLOHESY: Does that say the geographical location, the applicant?

Mr Banks: Yes, it will have those details. It is not a list that we prepare as a matter of routine.

Hon ALANNA CLOHESY: Okay; so it is not something you would collect as a sort of data figure to report on the variations?

Mr Banks: No.

Hon ALANNA CLOHESY: So it is not generally publicly available?

Mr Banks: No.

Hon ALANNA CLOHESY: All right. That is all for native vegetation, but I do want to go on to feral animals, unless you want to go somewhere else with that?

The CHAIR: If you want to continue to have the call, go for it.

Hon ALANNA CLOHESY: Still on that page, what are the main feral animal control programs that the department uses?

Mr Banks: We do not; it is the Department of Parks and Wildlife.

Hon ALANNA CLOHESY: Okay, so that is a PaW one?

Mr Banks: Yes.

Hon ALANNA CLOHESY: Okay, so anything to do with controlling programs —

Mr Banks: Baiting and all that sort of thing.

Hon ALANNA CLOHESY: That was easy, was it not!

Mr Banks: Very!

Hon ALANNA CLOHESY: Thank you.

Hon PETER KATSAMBANIS: I want to focus on little on regulation industry licensing. I notice on, I think, page 122 of the annual report that the average cost per industry licences was, in the last financial year, just under \$29 000. That has gone up significantly over the last three or four years. Is that at full cost recovery or is there less than or more than cost recovery in relation to performing those licensing activities?

Mr Banks: I might direct that to Mr Sands, if I may.

Mr Sands: It is currently at full-cost recovery. The recent increase was to make sure that we more effectively captured the associated cost with the recovery, not just the environmental and licensing officers. So there were other components, and that is why there was an increase more recently. Yes, it is on a cost recovery basis.

Hon PETER KATSAMBANIS: Okay, so the fact that you are recovering the entire cost from industry makes it critically important that it is the most efficient and cost-effective licensing regime that we can have to ensure that costs are kept down. What sort of work have you done in the last

few years around measuring what you do and looking at ways of changing work practices, changing licensing practices, to ensure that you achieve the same regulatory outcomes at a lower cost and a lower, I guess, time or whatever is required to drive costs down? Have you done any such work?

Mr Sands: Yes, we have done substantial work in two areas. One is the legislative side, looking at the frameworks and the regulations to see whether we can minimise the need for licensing, and we have actually taken steps to remove the requirements for a number of premises to be licensed, so we are undertaking that form of improvement. We have undertaken a substantial reform program that is termed “Refire”, and what we have looked at is re-engineering for industry regulation and environment. That program is a whole-of-industry or whole-of-licensing approach, looking at the very framework under which we license and regulate in accordance with the act. We have gone right back to basics in that process, looking at world’s best practice, looking at what we can do within the act to improve the processes. We have improved the whole process, looking at the critical things. We have made sure that we are effective and efficient and ensured that any requirements are necessary and reasonable. Those are the fundamentals of what we have done in changing that. We have looked at restructuring our divisions to make sure the skill sets we have are aligned to the industry sectors. We have identified three primary industry sectors. That gives us an efficiency and learning process that drives efficiency in that area.

[10.30 am]

Hon PETER KATSAMBANIS: Who has done that work? Have you done that internally or engaged consultants?

Mr Sands: We have done that internally, although we have worked with the industry right from the very start. We started the process in early 2010, when we worked with the Kwinana Industries Council and key stakeholders to see the problems they perceived with their process procedures. We have done that in our team. We basically set aside a team of about three people to drive that initially, because we undertook that reform program while we were responding to and meeting the requirements of the resources increase. On that basis, in 2009 we had 85-odd works approvals, and now we are dealing with 150-odd per year. We had a dilemma in changing the structure. We were looking at the fundamental changes plus continuing the service. That is why we did not put a full team into that process, but we certainly put some really skilled people with great industry and process knowledge to make sure that the framework worked well. I think it was critical that we went right back to tors and built it from the bottom.

Hon PETER KATSAMBANIS: Back to what, sorry?

Mr Sands: Right back to bedrock—the start of the process. We had a number of reform programs over the past 10 years in which we changed small components of the overall system. That gave us some dividend, but not a major one. I think this reform will certainly give us efficiency well beyond what we have had in the past. In 2011, we started rolling out the structure of the REFIRE program, and in early 2013 we initiated the new licence conditions—the licences under the REFIRE format, and about 200 of those have been restructured now. That is about one-quarter of our total licences.

Hon PETER KATSAMBANIS: That sounds great. It sounds like you have done a fair amount of work, but the costs keep going up and up. They have not come down as an average per industry licence. I appreciate that your total workload has increased; you have to assess more applications and licences. That is all well and good. You have the capacity for resources; we know that the organisation per se is not underfunded. What will it take to actually reduce the costs, given that you have done all this work and you have not been able to reduce the costs?

Mr Sands: It is certainly a difficult question, “What is going to reduce the costs?” We believe the efficiencies we are gaining will help to maintain the costs. Some of our areas have increased in the input we have put into the overall regime. Our compliance and monitoring of industry performance has increased substantially, which has contributed to the overall cost. There is a balancing out in

that as we move to a more robust compliance regime that is part of the overall industry licensing cost.

Hon PETER KATSAMBANIS: Would a key performance indicator or efficiency indicator of achieving a percentage reduction in the average cost over time spur greater efforts than currently have been undertaken? Because this ends up costing industry, which passes its costs straight on to consumers and taxpayers in Western Australia. It is critically important that we continue to make sure that this area is as lean and mean as possible.

Mr Banks: We will continue to face cost pressures in service delivery regardless, even assuming no change in efficiency. That increase is seven per cent. We may argue, when talking about a salary increase on cost of service of around 4.25 per cent last financial year, as well as on other goods and services that go into the provision of these services, I would have thought that a percentage reduction would have been ambitious, but we are trying to maintain no real increase. My other commentary around this is that this metric does not capture the degrees of complexity. We have quite an aggressive renewal profile at the moment in terms of our licensing. We are renewing in the order of 250 licences a year. I would expect some annual variation in terms of the degrees of complexity associated with those licence renewals. I do not think we necessarily have a homogeneous product in terms of industry licences.

Hon PETER KATSAMBANIS: I understand that and I intend to drill down into the fact that it is a homogeneous product. I am interested in the language you used, “an aggressive relicensing program”. My understanding of licensing is that it expires at some point in time and there is a regular program to relicense at expiry, and you aim to be able to relicense at expiry so we do not have any gaps. I would assume that is just what happens ordinarily. What is an aggressive program? How can you relicense aggressively in that context that a licence expires and needs to be renewed at a particular point in time? Are you actively reviewing licences before they expire?

Mr Banks: Part of that is going on, and that is part of that reform program around the REFIRE program to try to convert the licences from an old licensing framework to a new framework, which are discussed in terms of the reforms that are being made.

Hon PETER KATSAMBANIS: In that way you are bringing forward costs to industry; are you not?

Mr Sands: No. A lot of the costs associated with the relicensing are for the department. Most of the conversions into generic templates are within the department. Certainly when we do a review with an industry, that is a shared cost and we are driving that. What we are trying to do, for industry particularly, is to make the whole system far more simple. I mentioned just briefly the generic licences. Where we have similar licences across the state, we have formed generic licences for the particular industry so that the companies can see what their requirements will be. They certainly know that a licence in one area will be virtually the same as in another area, where it should be the same. The efficiency within the industry is much improved, because the officers who are dealing with environmental licensing can transfer across different portfolios for that company. That certainly is a very effective process and it is well regarded by the industry.

Hon PETER KATSAMBANIS: Sure. Do you not have a program where someone’s licence is due to expire in 2015 and you go in there and renew it and start the process for renewal well before the expiry date?

Mr Sands: The renewal process is generally started well in advance of the expiry date.

Hon PETER KATSAMBANIS: I understand that, but you are aiming to renew the licence by the time of its expiry. You are not aiming to renew it before its expiry, are you?

Mr Sands: In some cases, yes. Where we have identified some sectors under the REFIRE program, we have gone through all licences in that sector and have converted all those licence to the REFIRE format as a statewide program.

Hon PETER KATSAMBANIS: At a fee for service?

Mr Sands: We have done that virtually in-house as part of the overall cost of licensing to improve that process, and those licences certainly will be far more effective for the proponents. It gives them an easier process when we come to formally review the licences under the normal program. Some of those have been done at the date of the program and some have been before, but that allows us to be more effective in the overall review.

Hon PETER KATSAMBANIS: Does monitoring of licences, complaints and issues around licences fall into this costing regime?

Mr Sands: Yes.

Hon PETER KATSAMBANIS: Do you effectively charge a fee for service or an additional fee where some licensees take up more of your time in relation to either monitoring or enforcement? I am thinking of some of the high-profile licensees that we often get complaints about, such as the Cockburn Cement operations at Munster or the Canning Vale regional resource recovery facility that is often in the news; we often get quotes from your officers in relation to the work they are doing around that. Where there is that more, let us say, aggressive or adversarial requirement for monitoring, is that reflected in the fees those businesses pay?

Mr Sands: There are two parts to that. The fees are based in two parts: the value of the works—so the works approval—and the emissions that the premises put out. That usually gives a higher amount of service to those bigger industries that are causing greater emissions and greater requirements for review and consideration and assessment. The overall value of service to each licence is not the same. Clearly, when we have a contentious issue, the overall cost of that is part of the business that we have, and some of those businesses certainly attract a lot of energy to help resolve. We do not charge over and above for the management of the contentious issue.

Hon PETER KATSAMBANIS: I understand that. You use the word “service”, and, really, in compliance, monitoring and management it is not really a service that the business is buying off you; it is an impost, a cost. From what you are telling me, it sounds like those people who do the right thing and comply with their licence conditions and actively manage their compliance of licensing conditions so they do not invoke complaints or too much monitoring on your part are effectively cross-subsidising the not-so-good guys who are not as active in monitoring of their own compliance and who are acquiring regular inspections and monitoring. Can I take that, from your answers, to be a fact?

Mr Sands: At a coarse level that could be alleged, yes.

Hon PETER KATSAMBANIS: Is there any work being done around somehow or other changing the cost structure, even if it is done in arrears, so that the activity level is reflected in the costs these people pay, so the costs are not borne by the people who actively comply and make sure they comply—sometimes at great expense to them—by employing consultants or more staff to make sure they do not cause any problems for your agency or for the public?

[10.45 am]

Mr Sands: At this stage that is not up for consideration. We have not put that as a process.

Hon PETER KATSAMBANIS: Are there any proposals at the moment that you have put forward in relation to regulatory or even legislative change that would streamline these licensing processes so that they could actively reduce the time taken to process licences or actively reduce the costs?

Mr Sands: Certainly the very process of the REFIRE reform is streamlining that considerably. The industry is very supportive of the efficiencies in that process. That will also flow on to a far better and more evident compliance process so that again will reduce the costs into the future. Once all the licence conditions are similar, appropriate and reasonable to an industry across each sector, the knowledge that is shared across that will also benefit the industry so there will be general

efficiencies there. We are also looking at different regulations and looking at opportunities to improve for mobile plants like crushers and screens. We are looking at different ways of managing that under the current legal framework. They require a works approval and a licence to operate. We are looking at a process of putting those into a regulatory framework that will give the crushing and screening of certain types regulation that they can operate to. That will take them out of the need for having a works approval and a licence for each time they move. That will certainly benefit that industry. We have done that for a number of processes. We aim to do that when we have a consistent approach to a particular industry type and we can put that into that regulation framework—into a particular regulation we do that. In Western Australia we have been able to maintain the number of licensed premises somewhere between 900 and 1 000 over the last 15 years. If you look at other states, we have a similar regulatory framework with a different approach. Some of those have gone up to 16 000 to 20 000 licensed premises. We put a lot of those smaller, confined businesses into a regulation; that works effectively and we continue to do that.

Hon PETER KATSAMBANIS: I think that is sensible and I commend you for that. The more you can do to ensure that you provide a framework by which industry complies, rather than a more prescriptive or owner's licensing regime, the better it is. Just to finish up on this, you have talked about the industry consultation you had. Through the process, the REFIRE process or the rest of the consultation you had, have you developed some more regular industry consultation framework or some body, be it informal or formal, by which you can continue to have these regular discussions about how you can do licensing and regulation better?

Mr Sands: Yes; we have recommenced and upgraded and industry regulation stakeholder reference group with key players and stakeholders. We have about 20-odd members on that. We have had two meetings of that new committee and the next meeting will be towards the end of this year. That is a particularly valuable process. We had one previously some three or four years ago, but it was not well attended and it lost its focus, so we stopped that and restarted it once we had the new framework in place. We have regular meetings with key industry bodies and we make contact with those whenever we are changing anything or when we are doing something that would actually influence that particular group. Through our regular communication, we maintain, not formal, but active interaction with industry groups such as the Kwinana Industry Council, CME and things like that.

Proceedings suspended from 10.50 to 11.03 am

Hon PETER KATSAMBANIS: The environmental enforcement unit is part of your purview. I noticed that there were 14 environmental prosecutions during 2013–14 that included a broad range of charges. It says in the annual report that as of 30 June, eight prosecutions still remained before the courts and there are an additional 18 pending cases that you were looking at the see whether could get the evidence to lead to prosecution or other sanction. How many of the prosecutions initiated were about unauthorised clearing of native vegetation?

Mr Banks: I cannot tell you off the top of my head.

Hon PETER KATSAMBANIS: All right. Could you take that on notice? I have a series of questions around that.

Mr Banks: I can give you the history of it across the whole time that the program has been running, if that is of any value to you.

Hon PETER KATSAMBANIS: You can do that.

The CHAIR: I will wait till you do that before we get to the question on notice.

Mr Banks: Since June 2004 there have been 28 charges of unlawful clearing prosecuted, of which 25 have resulted in a conviction and three have resulted in acquittal.

Hon PETER KATSAMBANIS: Of those, how many involved clearing on private land that was used primarily for agricultural activities?

Mr Banks: I cannot answer that off the top my head; I do not know.

Hon PETER KATSAMBANIS: I would appreciate it if you could take it on notice, in relation to both those broader figures and also the figures relating specifically 2012–13.

[Supplementary Information No A7.]

Hon ALANNA CLOHESY: Ord River irrigation? Not yours?

The Witnesses: No.

Hon ALANNA CLOHESY: So it is not regulation, the requirements around the development of the Ord River project.

The CHAIR: I have a quick question about the Bellevue site, and also out at Forrestdale there was a contaminated site. Have they now been remediated or is there still ongoing work in each of those; and, what is happening?

Mr Sands: There is still ongoing work at both of those. The permeable barrier was put in at Bellevue and the second stage of that work is now being reviewed. There are tender discussions taking place in partnership with LandCorp and some consultants to look at the next stage and the remedial work in that process. I think it is about \$2 million worth of work that we estimate, but that is in play at the moment to finish that work. That should be the last major capital work to remediate that site.

The CHAIR: That is at Bellevue.

Mr Sands: At Bellevue.

The CHAIR: Are we trying to recoup that from anyone or is the state picking up that cost?

Mr Sands: The state is picking up that through the contaminated sites management account.

The CHAIR: And that is because there is no option available to recoup it from anybody else.

Mr Sands: Yes, that is correct. The Forrestdale work is ongoing. There were supplementary reports and investigations required beyond what we had initially anticipated. That work has been completed. I do not know whether the final decisions on that have been made, but that work should be completed, and I am expecting that work to be completed, by the end of next year.

The CHAIR: By the end of next year?

Mr Sands: Yes, because we have to get the capital works going through this financial year, so that should be completed by the end of 2014.

The CHAIR: Are we doing those capital works as a state or is the owner of the land doing that work?

Mr Sands: The state is doing it.

The CHAIR: Why are we doing that work rather than the landowner doing that work at that site?

Mr Sands: I think the landowner might have been the state—the Water Corporation.

The CHAIR: Out at Forrestdale?

Mr Sands: Yes.

The CHAIR: They lease the site; so is the person that leased the site not required to make a contribution?

Mr Sands: I will have to find that out. I do not know the answer.

[Supplementary Information No A8.]

The CHAIR: In the case of both of them we say “remediated”; obviously you never get it back to perfect, but what will be the situation when you have completed that remediation? Will it be that the sites are back to, in terms of contamination, below world health levels, or what will be the status of that land? Will there still be an ongoing contamination at the sites but it will be just contained or will it be that we will have actually got it back to a certain level; and, if we have, what is that level that we will have got it back to?

Mr Sands: I cannot tell you the specific details of that. We had set some post-remediation land-use requirements so that the land would be remediated for an appropriate future land use on that site, and the levels of contamination would be suitable for that land use. I would need to get further detail on that.

The CHAIR: Okay. We can get that as A9.

Do you then contain the contamination on the site as well so that there is no risk to contamination from that site spreading into areas around it that are not contaminated at the moment? Is part of the remediation to make sure that the contamination is contained on the site?

Mr Sands: Yes, and there is ongoing monitoring work to make sure that that is actually effective.

The CHAIR: Right. Are we confident at both of the sites that there has been no contamination off the site to surrounding areas; that is, there has been no contamination of the surrounding areas?

Mr Sands: I believe the monitoring has shown that the contamination has been contained and that it has not extended further, yes.

The CHAIR: Can you confirm that as part of A9 then?

Mr Sands: Yes.

[Supplementary Information No A9.]

The CHAIR: With both of those sites, it has been some considerable time now. I think one goes back to the early 2000s. In fact, I think they both go back to around the turn of the century—for want of a better term! Why has it taken so long to get to the point that we are only now saying that the remediation would have occurred, that the contamination at the site has stabilised and the remediation can be completed?

Mr Sands: My understanding of the whole process is that the amount of pollution, particularly in the Bellevue one, was new to Western Australia, and then the complexities of the polluted environment required a greater understanding than we had. The monitoring and the surveys that were required to actually find out exactly where the pollution streams or plumes were moving was required before action could be taken. And the treatment that we came up with was innovative and was needed. That research and that development was needed in that instance to actually intercept and prevent the plume from growing and expanding. They are complex problems. There are a range of different issues, a range of chemicals, and basically both of them were difficult issues.

The CHAIR: And you are saying that for Bellevue you actually have the money in your budget to do the work there?

Mr Sands: Yes, we do for both of them.

The CHAIR: I thought with Forrestdale you were suggesting you still needed to get some funding for it.

Mr Sands: No; there is funding allocated for the Brookdale site.

The CHAIR: Yes, Brookdale. Is that money there for that?

Mr Sands: Yes.

The CHAIR: I thought you suggested that you still needed to get that money, because you made the comment to the effect that it required the funding for the work and that is why it would not be completed until 2014, at the end of next year.

Mr Sands: If I said that, it is an error. We do have the funding. We were looking at the findings of the reports to be completed for that work.

The CHAIR: Oh, the findings; all right. I might have misheard you say “funding” rather than “findings”. When did you get those findings? How long have you had those findings for?

Mr Sands: I cannot give you the specific date.

The CHAIR: Maybe you could make that A10. Are the findings public now or are they confidential still?

Mr Sands: I would have to let you know.

The CHAIR: If you could give us the date and, if they are public—or even if they are not—if you could provide us with the findings. If they are confidential, if you could indicate to the committee that you would like us to keep them confidential and just give a brief explanation as to why they are confidential.

[Supplementary Information No A10.]

[11.15 am]

Hon ALANNA CLOHESY: How many staff are currently authorised to investigate the clearing of native vegetation?

Mr Banks: I cannot give you the number off the top of my head.

Hon ALANNA CLOHESY: Can we take that on notice?

Mr Banks: Sure.

Hon ALANNA CLOHESY: And whether there is any variation in FTEs across the department across the last two financial years.

Mr Banks: Anywhere?

Hon ALANNA CLOHESY: Then I was going to go on to ask about regions and what proportion of those are in the regions and what proportion are metropolitan based.

Mr Banks: Okay. Within DER, we can certainly give you the regional and metropolitan. What was the other information that you require?

Hon ALANNA CLOHESY: Over the two years. Perhaps it is better focused by asking: has there been any change in the FTEs of people who can investigate native vegetation clearances since the great de-merger of 2013? Are there any staff changes in that?

Mr Banks: Sure.

Hon ALANNA CLOHESY: I wanted to go to DER staff numbers in Esperance. Are there any staff based in Esperance?

Mr Sands: We have one Esperance-based person, but they are serviced by the south coast region based out of Albany.

Hon ALANNA CLOHESY: Okay, so there are no environmental regulation staff based in Esperance?

Mr Sands: Yes, there is one, but they are coordinated out of Albany.

Hon ALANNA CLOHESY: All right, so they are actually physically there. What about Geraldton? I can take that on notice.

Mr Sands: I can give you an accurate number on notice. I believe it is seven staff.

Hon ALANNA CLOHESY: And they are —

Mr Sands: Based in Geraldton.

Hon ALANNA CLOHESY: Yes, and they can undertake investigations?

Mr Sands: They are all authorised officers under the Environmental Protection Act for the roles and responsibilities that DER manage.

The CHAIR: Are you finished?

Hon ALANNA CLOHESY: I asked specifically about those areas, but I do not think I asked overall in terms of regulation under the EPA—the number of FTEs and any changes since the de-merger.

Mr Banks: Just to clarify, is that in terms of people that are authorised officers for the purposes of the Environmental Protection Act?

Hon ALANNA CLOHESY: Yes.

Mr Banks: Okay, and then you want authorised officers. The authorisation, as I understand it, is across the act, so the data you get will be unlikely to distinguish between native vegetation and the other matters that we regulate under part V. If they are authorised, they have a broad authorisation for the purposes of the act, so there is not a delineation, as far as I am aware, between the two.

Hon ALANNA CLOHESY: All right, so we might have to go back to supplementary information A11 and just change that to FTEs authorised under the act.

The CHAIR: Just so I can be clear, what you are going to give us is the number of authorised officers who are authorised under the act and then, if you can, the number that is actually involved in the area of native vegetation land clearing. Is that what the member is seeking?

Hon ALANNA CLOHESY: I am looking for an overall picture and then if they can be identified by those —

The CHAIR: By activity, as well —

Hon ALANNA CLOHESY: Yes.

The CHAIR: — into that native vegetation clearing.

Hon ALANNA CLOHESY: Because they do not all do all of it under the act, do they?

Mr Banks: No.

Hon ALANNA CLOHESY: I am particularly interested in native vegetation. I am also particularly interested in overall.

Mr Banks: I think we can give you what you are looking for. I think you asked also for it from the separation. The issue there is, obviously, there was basically a cross-authorisation arrangement between us and the wildlife officers, and that is not generally continuing. So you will see a marked drop there, but it comes back to your other point, which is whether they were actually doing any of it. You are asking for that delineation on the native veg matters, but we will not be able to give you any delineation there in terms of what were they doing and are they not doing it anymore, even though the authorisations will not exist. So, you will see probably a substantial drop in the number of authorised people, but it will not necessarily tell you an activity-related outcome.

Hon ALANNA CLOHESY: Okay.

The CHAIR: If you can give us the best reconciliation, though, to explain that, it will be good. We will leave that all as supplementary information A11.

[*Supplementary Information No A11.*]

Hon PETER KATSAMBANIS: Just on FTEs, I noticed you are going up this financial year from 259 to 305. That is in the budget papers on page 805. What does that relate to? It is quite an increase of 46. That is in “Environmental Regulation”.

Mr Banks: As part of the separation, for services that would previously come under the former Department of Environment and Conservation—I think it consisted of five services. One included a conservation service. An element of the conservation service actually resides with our Department of Environment Regulation; that is, the activity in relation to the native veg conservation branch—that is, the clearing permit people. They were previously recorded against the service for conservation. Because the department did not really exist in 2012–13, these are effectively just a back-cast of numbers from within DEC, so they are really just a construct of an agency that did not exist, because it did not; it was part of DEC. My understanding is that is probably the reason for the variation there.

Hon PETER KATSAMBANIS: Look, I understand that part, but why would they not have been back-cast into 2012–13 and put in 2013–14? I do not know if you can answer the question.

Mr Banks: No, I cannot answer the question.

Hon PETER KATSAMBANIS: We will see how it pans out over time.

For “Environmental Sustainability and Climate Change”, you have 75 FTEs in that activity. How many of those are categorised as working on climate change?

Mr Banks: There are five FTE that are specifically directly involved in climate change policy.

Hon PETER KATSAMBANIS: What do they do?

Mr Banks: They develop policy around climate change adaptation. One of them is involved in the administration of the LEED fund, but I will ask Mr Cowie if he wants to expand on that. We also continue to have involvement in national policy developments around carbon pricing and also the new government’s direct action proposals. So, there is a role there to provide policy advice to government around both national measures in terms of mitigation and state measures in terms of adaptation.

Hon PETER KATSAMBANIS: And that is incorporated in those five FTE?

Mr Banks: Yes.

The CHAIR: I go back to that issue with the funds coming in and effectively your budget papers showing that they will be getting transferred out. I was just wondering if you know the mechanism by which they will be transferred out of your operating account—that effectively contributed equity that you are going to return to government. Do you know the mechanism? Have you been advised of the mechanism?

Mrs Gougoulis: I understand that it is a transfer back to Treasury. We have not actually transferred any as yet.

The CHAIR: Right. When do you expect the first transfers to occur?

Mrs Gougoulis: We have not been given any time lines from Treasury.

The CHAIR: So your budget is not predicated on them going out at a certain point in the year?

Mrs Gougoulis: Not that I am aware of—no.

The CHAIR: Because in my reading of the Financial Management Act, it will require a direction from the Treasurer; is that correct?

Mrs Gougoulis: Yes.

The CHAIR: So the Treasurer will have to formally direct that they believe you have got surplus funds in your accounts and it is time to be transferred out.

Mrs Gougoulis: Yes.

The CHAIR: I just wondered if you have actually sought advice on whether or not the section in your waste management act that requires the money to be paid into your operating account as a department is considered an express provision in another written law that would preclude the Treasurer from directing that that money be removed.

Mr Banks: We have never sought advice on that.

The CHAIR: So you are comfortable that it is not an express provision that would preclude the Treasurer from transferring that money out?

Mr Banks: We are yet to be requested to transfer the funds.

The CHAIR: Right, but your budget is predicated on it happening, so you are comfortable that the amended section 73—from the 2009 amendments—does not preclude you from being able to transfer that money out.

Mr Cowie: Certainly not that we are aware of.

The CHAIR: You have not been advised of the direction yet —

Mrs Gougoulis: No.

The CHAIR: — but you are expecting it to come.

Hon PETER KATSAMBANIS: On page 6 of your annual report under the heading “Sustainability”, you talk about the Indian Ocean Climate Initiative stage 3, which was finalised. It was a \$4 million investment by the state government and there were other partners—CSIRO and the Bureau of Meteorology. It says it was to provide basic climate research in WA. It says in your annual report —

The research enabled the development of better projections of regional weather in a policy-ready form to help individuals and businesses, as well as state government agencies, plan for and adapt to a changing climate.

That is all well and good; the better the research is, the better the planning can be. Are you aware as to whether this report arising from this initiative was utilised in any way in framing of the “State Coastal Planning Policy 2.6”?

Mr Cowie: For the timing of the policy and of the research work, I do believe it was; I cannot confirm that. I was not involved in development of the coastal one, but I can certainly confirm that.

Hon PETER KATSAMBANIS: You confirm?

Mr Cowie: I can confirm that, if you like; I am not certain.

Hon PETER KATSAMBANIS: Sure. If you could, I would be interested to know what input was requested of your agency in the formulation of the “State Coastal Planning Policy 2.6”. I would be interested to know if that input was requested before or after the IOCI report was available. If it was requested before, I would also be interested to see if any of the preliminary findings of that IOCI report were made available to the people who were looking at the “State Coastal Planning Policy”.

[*Supplementary Information No A12.*]

[11.30 am]

Hon PETER KATSAMBANIS: I have one other question and I do not want it to sound flippant. It is about a term that is used both in your annual report and in the budget papers. Under your key effectiveness indicators and outcomes, there is the term that the “Number of exceedances of approved environment criteria by regulated activities”. What does that mean?

Mr Sands: It is a good question.

The CHAIR: Someone has been a naughty person!

Mr Sands: That term relates to limits in a licence. A little bit of background: in the licence we have two components in terms of emissions that are a target. When an emissions target is met, it generates a management response from the premises, so it is an orange light, basically.

Hon PETER KATSAMBANIS: Okay.

Mr Sands: Then there is a limit. That is the red light, and that is a specific limit, and it is usually a performance criterion or an environmental standard that is set either through a NEPM or a particular health limit or a serious criterion, usually at the risk of people's health. That is when a company or a premises actually exceeds that limit in a licence, and that is the time. We find across the board that it is not a common thing, but that is what it refers to—when a company breaches the limit that is set in a condition within the licence for that premises.

Hon PETER KATSAMBANIS: So an exceedance is a bad thing. It is not that they are going over and above what they should do to make things good; it is when we get above the red light.

Mr Sands: Yes.

Hon PETER KATSAMBANIS: All right. Thank you. That clarifies it. Now I know what it means.

The CHAIR: My recollection—I have just been checking your site—is that it was, I think, in February 2011 that you released draft noise regulations to amend the 1997 regulations, and then in December 2011 you released the report on the consultations. The last thing I can see on your website is saying that Environmental Protection (Noise) Amendment Regulations 2012 are currently being drafted. Have they ever been drafted? I just do not recall ever having seen them, so have I missed them or are they still getting drafted?

Mr Sands: I can provide some information on that. A draft went to the minister for consideration and to cabinet for consideration, and that was then referred—there were two issues that would need to be addressed. One of those was through SSO and one through EPA. Those have been addressed. A final version was given to us yesterday. We believe that the final edits will be with parliamentary counsel for drafting. They will be reviewed in the next week, and we think that that final draft will be ready at the end of next week for consideration.

The CHAIR: So then it still has to go back to cabinet or —

Mr Sands: No.

The CHAIR: — at the end of next week do you expect to be gazetting those?

Mr Sands: No. It goes to Executive Council then.

The CHAIR: Right. So your expectation is that they will be formally gazetted, or given Executive Council approval and gazetted within the next week or two.

Mr Sands: I believe our final draft will go to that process. I could not tell you when it is going to get through Executive Council.

The CHAIR: Right. Are there significant changes since the 2011 consultation? It seems like a long time between a consultation and the final enactment of the regulations. Are there some technical issues that have held it up or what has been the reason for the lengthy delay?

Mr Sands: There were two or three issues that delayed the process—a couple of those through the regulatory gatekeeper—and we needed to work through that process in some detail. That took probably 18 months to get through. It was difficult to provide the actual —

The CHAIR: So the regulatory gatekeeper now has its own set of red tape!

Mr Sands: It was a difficult process, but the consultation actually did provide us with some really good feedback from industry groups that were going to be using the regulations, and the process of refining some of the details was protracted, because some of them were seen to be contentious. In the end, the negotiations came to a very good outcome.

The CHAIR: All right.

Mr Sands: But it was, unfortunately, a very protracted process.

The CHAIR: But that length of time—we are not going to see so dramatic variations from the original consultation process through to where we are now then, or —

Mr Sands: Not dramatic. It is more to do with the administrative processes that are aligned to those regulations, yes, and how they were to actually be dealt with in the field, so to speak.

The CHAIR: Thank you. I will close the hearing. The committee will forward any additional questions it has to you via the minister in writing in the next couple of days, together with a transcript of evidence that includes the questions you have taken on notice. 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 this hearing. On behalf of the committee, I thank you for your attendance today. We are finishing unusually early today.

Hearing concluded at 11.37 am
