

**MACHINERY OF GOVERNMENT (PLANNING AND INFRASTRUCTURE) AMENDMENT BILL
2001**

Second Reading

Resumed from 12 December 2001.

HON DERRICK TOMLINSON (East Metropolitan) [7.30 pm]: The Liberal Party supports the policy of the Bill and will vote in support of the second reading. It would be rather churlish of us not to do so because the principles therein were part and parcel of the Liberal Party platform for the 1993 state election. Following the 1993 election a ministerial task force, I understand under the chairmanship of the then Minister for Lands, Hon George Cash, was appointed to progress the implementation of the rationalisation of government, which this Bill now seeks to provide. I stand to be corrected because I was not privy to what the ministerial task force or Cabinet decided, but I understand the ministerial task force presented a report to the Premier. The reason it did not proceed beyond that is not available to me. In addition to the party platform and ministerial task force for the rationalisation of government, the McCarrey report recommended the measures embodied in the Bill. The Liberal Party therefore supports the principle of the Bill. However, we will pursue matters of detail, not necessarily in the second reading debate but more likely in the committee stage of the Bill.

When the Bill was discussed in the other place, the member for Kingsley, who I anticipate will of course be minister following February 2005, raised some issues that had been brought to the attention of the Liberal Party particularly, and the Opposition generally, by people who have a direct vested interest - I use the term advisedly - in the legislation. The member for Kingsley raised on their behalf the sorts of issues about which they were concerned, such as the reasons for dropping the Lord Mayor of the City of Perth from membership of the Western Australian Planning Commission, the question of the membership of the Western Australian Planning Commission of the former Western Australian Municipal Association, and the dual role of the Environmental Protection Authority. The now head of the EPA was the former head of the Water and Rivers Commission. Whereas previously the EPA and the Water and Rivers Commission had separate representation on the Planning Commission, under the new structure of government those two bodies have been amalgamated, and the consequence is that one person represents those two bodies on the Planning Commission because those two bodies are now one. Those sorts of matters seemed to have been resolved satisfactorily in the second reading debate and in the consideration in detail stage in another place.

It was those matters of detail, rather than matters of principle in this Bill, that the Liberal Party raised for consideration. However, I understand that the National Party will raise some concerns about the transfer of ministerial authority to directors general or other agents. This is something about which I have spoken in debate on another Bill in this place. My concern is that ministerial responsibility, particularly in the case of planning appeals, is equivalent - I use the word "equivalent" cautiously - to an appeal to the Crown; that is, when a citizen appeals to the Crown for redress of grievance. That appeal to the Crown is transferred to the authority of the minister in the case of planning appeals to the minister. I expressed that view in that other debate. Therefore, I do not need to traverse the ground again. However, I raise the point, and I look forward to what Hon Murray Criddle, on behalf of the National Party, will say about the transfer of ministerial authority.

Perhaps I should leave it to Hon Murray Criddle; he was the former Minister for Transport. However, I anticipate, for example, that where the Bill before us enables the director general to delegate the authority of the minister for such things as purchases, there will be a significant transfer of political authority from the minister to the Executive Government. We should always bear in mind that the allocation of resources in a democratic system is essentially a political decision. It is allocating resources according to the prevailing values.

In our adversarial system, the prevailing values are the values of the Government of the time. Because Governments tend to change every two or three terms, the prevailing values will change. Therefore, the priorities according to those prevailing values will change. That is a political decision; it is a question of values. To shift the political accountability of decisions relating to the allocation of resources or the allocation of the values of our community from the minister - who is primarily a political entity, although he has the dual role of also being the executive head of a government agency - means his or her decisions are primarily political according to prevailing values. To transfer the responsibility from the minister to the executive Government, which is disinterested and apolitical, denies an important part of the democratic process. For those philosophical reasons I am anxious to hear what the National Party has to say. We will reserve judgment on that.

We will support the Bill through the second reading stage and listen to what Hon Murray Criddle has to say on behalf of the National Party. We will make our decisions based on the information provided by the Government in response to matters raised. Depending on what is suggested, the Liberal Party as an opposition party - we are the Opposition - will make a decision about the next stage of the Bill. We commend the Government on this principle because it was our principle and the Government is of the same mind.

Having said that, when I first read the Bill I thought I was reading a version of the Abbott and Costello skit, “Who’s on first?” Anybody born after 1945 would not understand that Abbott and Costello skit.

Hon Sue Ellery: It is a classic.

Hon DERRICK TOMLINSON: It is a classic. It is a commentary on a baseball game. One of them says, “Who’s on first?” The second one says, “What?” followed by, “Who’s on first” and so it goes on. I would like to memorise the skit one day. My son has it on a CD. One of my colleagues tells me it is available on the Internet. I suggest members download it.

Hon Kim Chance: The skit was featured in the film *Rain Man*.

Hon DERRICK TOMLINSON: Was that made after 1945?

Hon Kim Chance: Well after.

Hon DERRICK TOMLINSON: I have not seen it.

Hon Graham Giffard: It starred Tom Cruise.

Hon DERRICK TOMLINSON: Tom who?

The DEPUTY PRESIDENT (Hon Simon O’Brien): Order! Some of the interjections are almost starting to detract from the member’s contribution to the debate on the Machinery of Government (Planning and Infrastructure) Amendment Bill.

Hon DERRICK TOMLINSON: Mr Deputy President, nothing detracts from this member; however, from time to time I am distracted by interjections!

I was reminded of that skit, which was featured in *Rain Man*, as it was performed by the actor who played a woman in another movie.

Hon Adele Farina: Dustin Hoffman.

Hon DERRICK TOMLINSON: Yes, he played an autistic man. It was a rather clever use of the classic humour of Abbott and Costello.

I was reminded of that because when I opened the Bill and read it for the first time, I saw in part 1, preliminary -

This Act may be cited as the *Machinery of Government (Planning and Infrastructure) Amendment Act 2001*.

I then saw in clause 2, commencement -

This Act comes into operation on a day fixed by proclamation.

I then saw in clause 4 -

“Director General” means the chief executive officer of the department of the Public Service principally assisting the minister in the administration of this Act;

I thought, “Hang on, which Act?” Are we talking about this Bill, which seeks to amend the Control of Vehicles (Off-road Areas) Act 1978, and the Motor Vehicle Drivers Instructors Act 1963, and so on? Approximately seven or eight Acts are sought to be amended by this Bill, but this Bill amends this Act, so this Act will amend this Act and this Act will amend this Act. Do we really mean that this Bill will amend that Act or that Act will amend that Act?

Hon Kim Chance: What?

Hon DERRICK TOMLINSON: No; who?

Hon Kim Chance: Could you run that past us again?

Hon DERRICK TOMLINSON: Or does it mean that when this Act becomes that Act, it will amend that Act, which is that Act after this Act becomes that Act, and so on? Clearly, once one focuses on what we are talking about in this Bill amending this Act, and when one refers to this Act being amended in this way so that the director general in this Act means the person who in this Act is the head of the department designated by this Act or by the ministerial decision, one starts to make sense about who is on first. My parliamentary colleague in the other place said that this is a parliamentary draftsman’s dream. I think it was a parliamentary draftsman’s joke. The parliamentary draftsman had fun, and is probably a fan of Abbott and Costello classic humour, when he said, “This Act, this Act and this Act”, and then we had to work out what this Act and that Act was.

As a model for the future restructuring of the Government, in terms of parliamentary drafting, it is admirable. It means, in effect - I hold up the Western Australian Planning Commission Act - that by not designating a minister

with a designated portfolio and a designated title, and by designating the minister who is responsible for that Act, it will enable future Governments to shift portfolios among ministerial appointees according to the organisational priorities of the Government of the day. In that respect the parliamentary draftsman is to be commended, and I concur with my parliamentary colleague in another place, the member for Kingsley, that this is a parliamentary draftsman's dream. The parliamentary draftsman has enabled, in this Act, future amendments to that Act without this Act ever having to go back to Parliament because that Act will satisfy all the requirements of this Act.

Hon Christine Sharp: It is scary, if you ask me.

Hon DERRICK TOMLINSON: Having said that, this is an intelligent piece of drafting. Even though I have tried to parody this legislation in that way, there is this caution: we have moved in the past 25 years from a system of public administration in which the Public Service was an apolitical body loyal to the Government of the day and accountable to the Government of the day. Regardless of the changes in the Government, and whatever the political priorities determined by the minister representing the values of the incumbent Government, the public service was loyal to those values. It was not necessarily committed to or interested in any of those values, but it was loyal to the Government of the day. Under that Westminster model of public administration, the tenure of the public service was enduring. In the mid 1970s, people like Peter Wilenski began espousing the corporate model of government, which is argued for eloquently by the current Premier, Dr Geoff Gallop. In the corporate model, the public sector is responsible not for the enduring administration, but to the Government of the day. This legislation provides the opportunity to change the public service and public servants in accordance with the political complexion of the Government of the day. The continuity of the public sector is much more important than the frivolity of our political values when we sit in this House. I can read the lips of members opposite, and I see the word "bunkum", but it is not bunkum. There is a value in enduring public servants.

Hon Christine Sharp: Who said "bunkum"?

Hon DERRICK TOMLINSON: I will not name names; I will simply read lips.

There is a value in the Westminster system. Even though I may be categorised as a conservative, I also recognise the value of the corporate structure of government, and the commitment to the values of the enduring public service. The danger is that, at every change of Government, there is the possibility of a wholesale change in the public sector, for political rather than administrative motives. This Bill enables a restructure of government at every change of Government, and at each restructure the abandonment of many years of public knowledge and public administration. Regardless of political values, the value of an enduring public knowledge needs to be protected.

Hon Graham Giffard: Can you explain how this enduring public knowledge and the public sector will be undermined?

Hon DERRICK TOMLINSON: It is quite simple. Imagine for a moment that I was appointed Minister for Education. This will not happen, and this case is highly hypothetical. Suppose I became Minister for Education and I did not like the educational, political or other personal values of the Director General of the Department of Education. Imagine that he had a five or seven-year contract, which endured over a change of Government, so I as minister was saddled with a director general and a second and third-level administration in my department with which I could not empathise. I would suggest to my cabinet colleagues that there was a need to restructure my department. I might suggest that technical and further education and the Department of Education be married. In that marriage, a new position would be created of director general of education and training. I could bring in my preferred candidate on a temporary basis and suggest to my incumbent director general that he should occupy an office with a round desk and no telephone. I could do that with the director general, the deputy director general, the four assistant director generals and the executive heads of departments; of course it is hypothetical, but it is highly possible under this Bill.

Hon Graham Giffard: We would not do that.

Hon DERRICK TOMLINSON: Of course no Government would do that. However, I am talking hypothetically about what might happen if an unscrupulous Government took over the Treasury bench and brought in a corporate body sympathetic to its political values. In the instance I used, the consequence would be to destabilise the whole of the educational structure. I sound that as a caution about this admirable element of the Bill. It would enable a restructuring of government from time to time without having to refer the Acts to Parliament for amendment. It would avoid the delay of parliamentary amendment that we have seen because Governments have other priorities in their legislative programs and hence there is a consequent delay in decision making. However, although it would avoid those things, it would open up another can of worms.

I will now foreshadow other matters I want to raise and that I will deal with in detail during the committee stage of the Bill. I refer to the proposed amendments to the Perth Parking Management Act whereby the transport co-ordination fund will be transferred to a trust account under the Financial Administration and Audit Act 1985. Due to the change in name and change of responsibility for the Perth parking licensing account and so on, I cannot discern from the Bill whether there will be a change of authority over the account. Who will control the fund? Who will manage the fund? Who will benefit from the fund? Does the Bill take the benefit, control and management of the fund from the City of Perth and give it to another nebulous agency? In giving control to another agency, will those designated purposes of the Perth parking fund managed by the Perth City Council shift the focus of the Perth parking licensing account? If the control is to be transferred to another agency, who is it? What is it? Where is it? How will it manage those funds?

Proposed section 6A of the Transport Co-ordination Act refers to the body corporate and states-

The Authority is established to provide a body corporate through which the Minister can perform any of the Minister's functions under this Act that can more conveniently be performed by a body corporate than an individual.

That is a bit of the Abbott and Costello, is it not? It is similar to the who and what skit. The authority is established to provide a body corporate that can perform any of the minister's functions more effectively than the minister. Does that mean that the Transport Co-ordination Authority will be able to let a contract for the extension of Tonkin Highway from Armadale Road to Mundijong Road without reference to Cabinet or the minister? The minister is the embodiment of Cabinet. To what extent does the body corporate, in performing the functions better than the minister, have the authority of the minister, and to what extent does it usurp the authority of Cabinet or, if members like, the political values of the Government of the day? I can understand that a body corporate might be more effective than the current minister, but the current minister is unique. Why is the assumption made that the body corporate will necessarily be more efficient than a single individual who has political as well as financial accountability under the laws of this State? I will pursue that matter at the committee stage.

Finally, I will revisit the question raised by the member for Kingsley in the other place about Western Australian Planning Commission membership. Why will the Lord Mayor of the City of Perth or someone from the Western Australian Municipal Association no longer be members of the Western Australian Planning Commission? As I have already said, the marriage or amalgamation of the Water and Rivers Commission and the Environmental Protection Authority means that those two bodies, which previously had individual representation on the WA Planning Commission, will now have only one, conjoint representative. Therefore, those two bodies, which represent the important environmental values of our society, have only a single voice on the WA Planning Commission. I am sure the Greens (WA) will pursue that matter. Regardless of our political persuasions, over the past decade we have come to accept that one of the most important priorities, if not the most important priority, of planning must be the environment. By that I do not simply mean the trees and chuditchs; I mean the context in which human beings live as part of and impact upon the natural environment to form a single entity called the environment. Why, for the convenience of public administration, are we combining the two bodies? I understand the administrative convenience of that merger, but why has the voice of the environment on the WA Planning Commission been reduced by 50 per cent?

I have indicated the matters that I will raise and vigorously pursue during the committee stage. I anticipate that the parliamentary secretary has taken note of those matters and will seek advice before we get to the committee stage. In general terms, the Liberal Party supports the principle of the Bill. It will support this Bill up to and including the second reading vote.

HON MURRAY CRIDDLE (Agricultural) [8.04 pm]: I had the privilege and honour to hold the transport portfolio under the previous Government. In my view, it was responsible for a lot of positive things that happened with infrastructure around Western Australia. It is a little sad that some of the funding arrangements that were put in place have been somewhat eroded. I will touch on those aspects a little later when I refer to Main Roads.

The responsibility of the minister is to some degree brought into question under this Bill. Accountability can come through the bureaucracy, but the responsibility of the minister should be maintained and enhanced. This Bill detracts from that responsibility. It represents a template for future legislation. I wonder why the legislation is necessary at this time, given the fact that nothing unlawful has happened. A major change has already occurred in transport with the creation of the planning and infrastructure portfolio. Having arrived at this point in time with that change in place, I wonder whether perhaps something has happened that should not have happened. The Premier recently said that ministers should take firm control of their portfolios and be directing action within portfolios. I see this legislation as an erosion of that control. Hon Derrick Tomlinson has outlined some of my concerns, but I will develop them further.

I want first to touch on the machinery of government, and the fact that this legislation has resulted from a task force which was headed by Mr Stuart Hicks, as chairman, Mr John Langoulant, who is the Under Treasurer, Miss Ruth Shean, and of course Mr Mal Wauchope, who is the Director General of the Department of the Premier and Cabinet. The committee forming the task force was very bureaucratic. I would like to have seen some outside influence on the way in which the legislation was prepared. Hon Derrick Tomlinson pointed out that the basis of the legislation is quite sound. I believe there are compelling reasons for some agencies to be brought together. As a result of the review, the planning and infrastructure portfolio that is being established will bring the planning and infrastructure development agencies under one minister. It specifically means drawing together Main Roads, Western Australian Government Railways, Transperth, the port authorities, LandCorp, redevelopment authorities, the Department of Land Administration and, of course, the Valuer General's Office. I understand that the Valuer General's Office has already been brought under the auspices of the planning and infrastructure portfolio.

That is being done with the idea of essentially incorporating four functions in the new portfolio. They include planning and policy, which is strategic planning for land use and infrastructure and policy advice for government; operations, which are for the provision of infrastructure, transport, land development, land and property services, and management of the portfolio's land and transport infrastructure assets. Some of the planning and infrastructure strategies that we had in place were very sound. They emerged from Main Roads and the development commissions around the State. Something like nine of those plans were put in place across the State, not only for the present and the 2020 programs but for the future vision. That is lacking at present. I will go into that aspect a little later when I talk about Main Roads. Another function is regulation and legislative and regulatory systems, which includes the implementation of strategic plans and policy and the provision of infrastructure in transport, land development and land administration services. The other function, of course, is education and promotion services for the portfolio's activities. There are benefits in isolating policy and regulatory powers in the consolidated policy department, leaving service agencies with a clear service delivery role. Of course, that is what Hon Derrick Tomlinson was talking about. I had regard to that when I held the portfolio before the previous election.

There is also talk of a Western Australian transit authority that will bring together the arrangements for bus services not only in Perth but in country areas. The Perth public rail system has only a 25 per cent cost recovery rate, whereas the country bus service recovery rate is something like 75 per cent. Therefore, I wonder what the future funding arrangements will be. This will also bring LandCorp under the same umbrella, and I have to wonder how big this portfolio will become. The minister has already indicated during debate in the other place that there might be a need for a minister assisting. Indeed, there is already a minister assisting - albeit for other reasons; we all know why a second minister was appointed. The workload of this portfolio will become absolutely enormous. In the area of land administration, the task force sees synergies between its operations and those of the Valuer General, which position, as I said earlier, has already been bought under the umbrella of the minister.

The structure that will be put in place immediately will consist of a ministry of planning under a chief executive. There will be a chief executive officer of the Department of Land Administration. This is what is being called an interim portfolio structure. Aside from that, there will be a chairperson of the Western Australian Planning Commission, a Commissioner of Main Roads Western Australia, a Commissioner of the Western Australian Government Railways, and chairpersons of the port authorities. The chairpersons of the port authorities is an important issue in this State. There will also be the chairpersons for LandCorp, and for the redevelopment authorities. Moreover, there will be the minister responsible for road safety, and the Director General of the Department of Transport. There has been talk that road safety should be removed from this portfolio. When road safety was in the transport portfolio, it brought together the education, local government, police and health portfolios. In that way, it was represented right across government by a ministerial group that was chaired by the Minister for Transport, and this group had input right across government. Shifting road safety from the transport portfolio - or what is now the Department for Planning and Infrastructure - will remove it from all the elements that are necessary to ensure road safety, including the funding of roads, and so on. Therefore, this issue needs further consideration.

The long-term portfolio structure will consist of a Director General of the Department for Planning and Infrastructure. This will lead to a revamped Western Australian Planning Commission forum. Also, there will be a chairperson for land administration, a Commissioner of Main Roads, a Western Australian Transit Authority, the port authorities, LandCorp, and the development authorities. As I stated earlier, the Road Safety Council and the Office of Road Safety will be separate. As stated by Hon Derrick Tomlinson, this Bill provides the opportunity to move any of these agencies into other portfolios, and allows the use of other ministers.

At present the Western Australia Planning Commission has a chairperson. The member nominated by what was the Western Australian Municipal Association would actually be representing the interests of local government

in the metropolitan area and also the member nominated by the association representing local governments outside the metropolitan area. This is according to information I have received in my briefings, so I take it to be accurate. I thank the minister for the briefings. The member nominated by the minister would have the relevant experience as defined by the Act. A member nominated by the minister having relevant experience will be appointed CEO of the department assisting in the administration of the Western Australian Planning Commission Act 1985. He or she will be the same person who is currently in charge of planning and infrastructure. Therefore, the same person would also be the CEO of the department principally assisting in the administration of the Transport Co-ordination Act 1966. The CEO of the department principally assisting the administration of the Water and Rivers Commission Act 1995 and the Environmental Protection Act 1986 will be a member nominated by the regional minister, and one who is from the public sector and experienced in urban and regional planning. That is the proposed structure of the Western Australian Planning Commission that I have been given. There is obviously an issue with the Mayor of the City of Perth and the Commissioner of Main Roads not being members of the commission. That concerns me.

As I said earlier, Main Roads Western Australia was putting in place quite a deal of planning. It had 10-year plans and a long-term vision for the future based on a funding arrangement that was put in place. I must touch on the funding arrangement, which has changed quite dramatically. According to budget figures and to ministerial answers in this place, there has been a reduction in this year's budget to \$490 million, and that will be reduced to \$420 million next year and to \$373 million the year after that. That is a dramatic reduction in Main Roads funding. Main Roads will not have quite as much work to do into the future because of that loss of funding. A billion-dollar program was put in place as a result of the money raised from the fuel franchise levy, which is about 8.3c and is consumer price indexed every year. That money should be spent on roads, but I have been told that it will be returned in the goods and services tax package. The registration fees will go back into the Main Roads trust fund and will be spent on roads; that will not change. However, a national and arterial road maintenance funding provision of about \$40 million, which was available prior to the GST package, was set aside to fund the maintenance of roads. That should come back into the funding arrangements as well. That is well in excess of \$500 million. Members can see from the figures I have just cited that the people of Western Australia will certainly be enormously impacted on with regard to road funding. Of course jobs will go with the loss of funding. Something like 1 000 jobs will be lost across the construction industry because of the loss of those moneys, which is a tragedy from my point of view.

What I would like to know about the funding arrangements is whether those extra funds outside of the registration fees that go into the Main Roads trust fund will be quarantined to be spent on roads. If the minister wants to build a railway in Perth, and can transfer the funds from her portfolio into the rail network or, for that matter, into any other project that the minister has in mind, that can well be done. However, that is not in the best interests of the people of Western Australia if the funds have been raised for road funding. I recognise and I have said publicly - the Leader of the House has been present when I have said it - that the Government has the right to spend the money wherever it likes if it is raised in various ways. However, we have a conscious and an ethical responsibility to spend funding that is raised for roads on roads. That is an issue I would like outlined in the parliamentary secretary's response on this Bill.

I have read the discussion on the strategies for planning into the future that took place in the other House. There also has been an indication that the planning people in Main Roads will go over to the planning section. It will be very difficult to get the result that is required if the expertise in Main Roads is quarantined from planning. If we want a result, we must have expert input into the mechanism that is used to give the result. Not allowing Main Roads to have any input into planning is a very dubious way of going about the planning of roads across this State. I can assure the minister that the officers in Main Roads know the issues backwards. They know where the money should be spent and they have a clear understanding of the requirements for roads. That must be taken into account.

I mentioned that the regional development commissions were having input into the 2020 planning strategies for the next 20 years. That plan impacts on ports, airports and rail, all of which need input for future planning. The other day I was told that one could not get an exact date as to when a road would be built in the future. That is a dangerous area to get into. I know that the State has funding in place for the agreement with the Local Government Association of Western Australia. Thank goodness - I have received an enormous amount of criticism for this - maintenance contracts have been put in place around the State, otherwise they would be slashed too. I know what my friends in Treasury think about some of these contracts. However, long-term, 10-year maintenance contracts will ensure that the main roads and state roads of Western Australia will be looked after well into the future. Those contracts bode well for their maintenance although I have concerns about Treasury's funding arrangements.

I shall now refer to the Bill, which amends 14 Acts. Some amendments are made to implement the Government's policy and enable flexibility in the management of the planning and infrastructure portfolio. I will

not refer to all of the Acts; they are in the Bill. The definition of director general is amended to remove the specific reference to the government department; for example, the Director General of Transport is deleted and replaced with a generic reference to - of all things - the chief executive officer of the department of the Public Service principally assisting in the administration of the Transport Co-ordination Act 1966. That is a mouthful but it is the generic reference.

I shall go through the Bill and outline some of the issues and relevant matters. The definition of “minister” will be repealed from the Control of Vehicles (Off-road Areas) Act 1978, the Road Traffic Act 1974, the Perth Parking Management Act 1999, the Rail Safety Act 1998 and the Taxi Act 1994. That definition in those Acts will not be replaced with an alternative definition. The definition in the Motor Vehicle (Third Party Insurance) Act 1943 will be amended to remove the specific reference to the Minister for Works. A Transport Co-ordination Authority will be established under the Transport Co-ordination Act 1966. The authority will be governed by the minister and will not employ staff; it will consist only of the minister. Currently, the Act refers to the minister as a body corporate. The Government’s reasoning in its explanatory memorandum is that an ambiguity exists as to whether the minister or the body corporate enters into agreements under that Act. That also needs some explanation.

Hon Derrick Tomlinson: Hear, hear!

Hon MURRAY CRIDDLE: I ask the minister to provide a clear explanation of the meaning of that provision. Hon Derrick Tomlinson also indicated that it is a matter of concern to him.

Amendments will be made to the financial accounts to remove the link with the Transport Co-ordination Act. The Perth parking licensing account will now be administered under the Financial Administration and Audit Act. The taxi industry development fund will be renamed the taxi industry development account and will also be administered under the FAA Act. All moneys received under the Taxi Act are currently paid to the transport co-ordination fund. Amendments to the Taxi Act will require moneys to be paid to operating accounts in the department, with the exception of funds from the sale of taxi plates, which will go to the taxi industry development account. The provisions of the Transport Co-ordination Act, which establish the transport co-ordination fund and the transport trust fund, will be repealed. The department assisting the minister in the administration of that Act will be deficit-funded. That issue also needs explanation. The sections to be repealed also contain provisions that allow the Treasurer upon recommendation of the minister to allocate funds to the Main Roads trust fund. That is the fund I was talking about earlier. If the money is placed in that trust fund, we must know that it will be spent on the roads.

Strategic planning for the road network will move from Main Roads to the Department of Planning and Infrastructure, as I indicated earlier. The Commissioner of Main Roads will be subsequently moved from the Western Australian Planning Commission. As I have indicated, I have some real concerns about that. The Western Australian Planning Commission membership will be changed by removing the Lord Mayor of the City of Perth and the Town Planning Commissioner. The chief executive officer of the Department for Planning and Infrastructure may not be a specialist planner; therefore, another member of the commission with urban and regional planning experience can be nominated by the minister. That is the basis of the Bill.

A couple of other provisions cause me some concern. They have been alluded to by Hon Derrick Tomlinson. I understand the responsibility of the minister will be reduced and other people will have the responsibility for final signing off. These issues could be examined by perhaps the Standing Committee on Public Administration and Finance. That will need to happen before I am finally convinced that these issues have been well and truly dealt with. I want to ensure that the minister will be finally responsible and no other provision will exist to indicate in any way that the minister will not be responsible for those decisions.

In clause 5, proposed section 4A “Delegation” reads -

- (1) The Director General may delegate to a person any power or duty to the Director General under another provision of this Act.
- (2) The delegation must be in writing. . .
- (3) A person exercising or performing a power or duty that has been delegated to the person under this section, is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (4) Nothing in this section limits the ability of the Director General to perform a function through an officer or agent.

The functions are described in the Interpretation Act and include the powers, duties, responsibility, authorities and jurisdiction. They are covered by all areas one would want covered under functions.

In proposed section 4B, “Agreements for performance of functions”, subsection (2) reads -

The agreement may be with the Commissioner of Police, a local government or any other person or body, whether or not the person or body has itself functions of a public nature.

That is the point to which I referred earlier. Proposed subsection (4) reads -

If the performance of a function is dependent upon the opinion, belief, or state of mind of the Director General it may be performed under the agreement upon the opinion, belief, or state of mind of the body or person with whom the agreement is made or another person provided for in the agreement.

I am concerned about the words “any person”.

I refer now to clause 39 and the proposed Transport Co-ordination Authority. As Hon Derrick Tomlinson indicated, proposed section 6A(1) reads -

The Authority is established to provide a body corporate through which the Minister can perform any of the Minister’s functions under this Act that can more conveniently be performed by a body corporate than an individual.

That has been clearly espoused by Hon Derrick Tomlinson as one of the issues with which I have grave concerns. Proposed subsection (2) reads -

Despite the employment under the *Public Sector Management Act 1994* of ministerial officers for the purpose of assisting the Minister to perform functions that the Minister performs through the Authority, the Authority and those officers are not an organisation for the purposes of that Act.

Hon Derrick Tomlinson: What does that mean?

Hon MURRAY CRIDDLE: That is what I was going to say. I need an explanation of exactly what that means.

Affixing the common seal of the authority also concerns me greatly. Under clause 39, proposed section 7(2) states -

A document is duly executed by the Authority if -

...

(c) it is signed on behalf of the Authority, as authorised under subsection (5), -

I will come to that in a moment -

by the Director General or another person.

Once again, we return to the point about “another person”. Proposed section 7(5) states -

The Authority may, by writing under its seal, authorise the Director General or another person to sign documents on behalf of the Authority, either generally or subject to any conditions or restrictions specified in the authorisation.

Once again, no direct responsibility goes back to the minister. They are the concerns that I have about provisions throughout this Bill.

I will touch on one other issue that was raised in debate on the Planning Appeals Amendment Bill. It concerns clause 69 on page 39. Subclause (3) states -

Regulations including a provision described in subsection (1) may be expressed to have effect before the day on which they are published in the *Gazette*.

I have real concerns about something that comes into effect before it is published in the *Government Gazette*. That issue was raised in debate on the Planning Appeals Amendment Bill. That provision appears once again in this Bill. People have every right to know what are the issues before they are published in the *Government Gazette* and implemented.

I have touched on the issues that are of real concern in this Bill. They concern ministerial responsibility in the first and last instance, I suppose. There would be great merit in sending this Bill to the Standing Committee on Public Administration and Finance for its consideration. It would not necessarily take a great deal of time. We are setting up a template for well into the future. There is merit in the way the Bill is structured. However, the detail will need to be well and truly examined before I will be happy with this legislation becoming an Act of Parliament. After the second reading vote, I will move that this Bill be referred to the Standing Committee on Public Administration and Finance for further perusal, particularly of the points I have raised about the detail of the Bill.

HON J.A. SCOTT (South Metropolitan) [8.33 pm]: I listened with great interest to the speeches of Hon Derrick Tomlinson and Hon Murray Criddle. They have certainly focused my mind on my need to investigate this Bill further.

Debate adjourned, on motion by Hon J.A. Scott.