

LAND AND PUBLIC WORKS LEGISLATION AMENDMENT BILL 2022

Consideration in Detail

Resumed from an earlier stage of the sitting.

Debate was interrupted after clause 89 had been agreed to.

Clause 90: Part 14 inserted —

Mr P.J. RUNDLE: Clause 90 obviously relates to returns by pastoral lessees and annual rent. How much of a bill shock will pastoral lessees receive when the CPI determination comes into effect?

Mr J.N. CAREY: I thank the member for the question. As we have already stated and the member has acknowledged, with the benchmark setting, the rent will be either the same or less. Obviously, it will be dictated by the CPI at the time, but the reality is that it will not likely be a 400 per cent increase. The member will acknowledge that if CPI is at 400 per cent, we are all in trouble. It is very clear that increases will be far less than the sort of jumps we saw in the last valuation.

Mr P.J. RUNDLE: We all agree that we do not want to see those increases again. At this stage, has the Department of Planning, Lands and Heritage done any modelling that would be able to give an indication of any sort?

Mr J.N. CAREY: I am advised that the agency has done modelling. That advice says that the rate increase will go up more evenly over that time.

Clause put and passed.

Clauses 91 to 94 put and passed.

Clause 95: Section 2A inserted —

Mr P.J. RUNDLE: I refer to proposed section 2A, “Governor may declare public work”. Will the Governor potentially be able to declare a public work separate from the government?

Mr J.N. CAREY: I thank the member for the question. It is a good question. The Governor can already declare a public work, but it is done on the advice of the government.

Mr P.J. RUNDLE: That being the case, can the minister think of any past examples when the Governor has declared a public work?

Mr J.N. CAREY: I cannot. The reason is that, ultimately, as part of the reforms, we have created a multi-list of public works but it will provide for potential flexibility if there were something necessary outside those particular definitions. It might be the case that the full list will cover all necessary considerations of a public work.

Dr D.J. HONEY: I have a further question, which also relates to clause 100. Earlier today, the minister announced changes that would allow Main Roads to enter into commercial activity on its land. He spoke about rest stops, truck stops and the like, where there would be commercial activity and the government could share into that. Would that fall within the purview of this legislation? I appreciate that is not in the list in clause 100 but could it also be included if Main Roads decides to engage in a commercial activity and then the changes in this legislation are used to allow it to procure land for that activity?

Mr J.N. CAREY: I thank the member for Cottesloe for seeking advice. I appreciate his line of inquiry. I am advised that this legislation would not come into play; it would be fully dealt with under the proposed changes to the Main Roads Act 1930. If the member wants me to follow that up, I am happy to do so.

Clause put and passed.

Clauses 96 to 99 put and passed.

Clause 100: Schedule 1 inserted —

Mr P.J. RUNDLE: There are some new additions to classes of public work, including references to wetlands and places of heritage, reclamation of land and water capture. Can the minister provide any examples of upcoming public works that would create wetlands and require public intervention?

Mr J.N. CAREY: Just to give context to these definitions, the list in the bill has been developed for a significant amount of time. There has been exhaustive consultation with agencies. In a sense, we have tried to modernise it and think of potential occurrences in the future.

I cannot say right now or think of a government plan for any of these particulars. It is about considering what the government may want to use in the future, but I cannot specify a particular project. We have not compiled this list with a particular project in mind; these definitions have been worked on for a significant amount of time.

Mr P.J. RUNDLE: I appreciate that. Places of heritage, natural, environmental, aesthetic or cultural interest or value are now included in the definition of a public work. Was advice received about this being potentially too broad; and, if yes, why is this broadened definition included?

Mr J.N. CAREY: I have two points to make in relation to this. The previous criticism was that the definitions were outdated and too broad. We have brought in a number of new definitions of public works. Again, we consulted significantly. Agencies contributed to this list. We are trying to cover a large number of different public works should a future government make a decision that it is of significance and that it should be acted on.

Clause put and passed.

Clauses 101 to 130 put and passed.

Clause 131: Section 8 amended —

Mr P.J. RUNDLE: Given the size and broadscale nature of a diversification lease, it is considered appropriate that access for mining activity is the same as for a pastoral lease. Can the minister outline from where this justification originated?

Mr J.N. CAREY: As we know, pastoral leases coexist. The government has the same intention for diversification leases. If we were to make it exclusive, for example, clearly, that would have significant consequences for one of the key industries in our state, which is the mining sector.

Clause put and passed.

Clause 132: Section 16 amended —

Mr P.J. RUNDLE: Proposed subsection (4) will insert a new category of approval to consider that diversification leases in mining need further approval from the Minister for Mines and Petroleum. However, the approval of the minister for mines is only required for a lease sketch. Will the minister for mines be notified whenever a lease sketch changes? Why will a formal business case not be required?

Mr J.N. CAREY: In a sense, this new subsection will provide the Minister for Mines and Petroleum with a second opportunity to review any substantial changes.

Mr P.J. RUNDLE: Is the minister comfortable that a lease sketch will be good enough compared with a business case?

Mr J.N. CAREY: Yes, I am advised that it would be sufficient that it is a survey to sketch.

Clause put and passed.

Clauses 133 to 138 put and passed.

Clause 139: Section 5 amended —

Mr P.J. RUNDLE: If petroleum or geothermal energy resources were found on a pastoral property under a diversification lease, would the resources company that made the finding then be able to expedite the end of that pastoral lease if it wished to start processing that resource?

Mr J.N. CAREY: As I indicated in my response to the member's questions, if there is a diversification lease—sorry; the member's question was slightly confusing—there is no longer a pastoral lease; there is only a diversification lease. As we have stated before, the intention of a diversification lease is not to be exclusive but to coexist with a number of other interests, which obviously includes mining and exploration.

Mr P.J. RUNDLE: Will fracking and similar subterranean activities, such as geothermal activities et cetera, be treated in exactly the same way as a mining arrangement?

Mr J.N. CAREY: I just want to be clear, sorry, member; I am trying to understand. There is no difference in the way that a diversification lease is treated compared with a pastoral lease. We have made that explicit. Was there something else?

Mr P.J. RUNDLE: I guess the question was: with a diversification lease, will geothermal or fracking activity—all those subterranean activities—be treated in the same way as, say, a goldmine or an iron ore mine, for argument's sake?

Mr J.N. CAREY: Yes, it will be treated like any other mining operation.

Clause put and passed.

Clauses 140 to 151 put and passed.

Title put and passed.

[Leave granted to proceed forthwith to third reading.]

Third Reading

MR J.N. CAREY (Perth — Minister for Lands) [3.15 pm]: I move —

That the bill be now read a third time.

MR P.J. RUNDLE (Roe — Deputy Leader of the Opposition) [3.15 pm]: I do not propose to speak for very long at all; I think we covered everything pretty well in the second reading debate and, of course, in the consideration in detail stage of the Land and Public Works Legislation Amendment Bill 2022. I want to thank the advisers for their work and I take note of the minister's comments on the fact that many hard yards have been covered over a long period. As I said in my contribution to the second reading debate, I know Hon Terry Redman was in some ways the initiator of this legislation, so it has been going for the better part of eight or nine years. I want to say thanks to everyone for their hard work over that time, including the other previous ministers involved—Hon Ben Wyatt, Hon Tony Buti and, I think, Hon Rita Saffioti. I say thanks to those ministers and the current minister.

As I said earlier, the focus for me as a regional member is about representing regional constituents in many ways. I think it is really important that we recognise the pastoral industry, which is the backbone of WA in a lot of ways, going back to the 1950s with the wool boom and all the rest of it. The pastoral industry does a great job; it is pretty challenging at times, out there in the elements. This legislation is a real opportunity for the pastoral industry to diversify into things that have developed well and truly since the 50s. Many government speakers talked about opportunities with carbon trading, climate change, solar power, wind power and biodiversity. Biodiversity is something that is very close to my heart, being from a farm and having planted over 50 000 trees over the years. I really understand how biodiversity works and it is great to have much more vegetation around the place.

Generally speaking, the pastoral industry is comfortable with this idea and concept. As I said earlier, the challenges will be in the implementation, and I have repeated that to the minister several times. I see challenges ahead for pastoralists because, up until now, they have operated under pastoral leases, which are fairly one or two-dimensional, whereas we could now potentially be looking at four or five different dimensions, including Indigenous land use agreements, traditional owners, solar companies, wind companies and large mining companies wanting to offset—all those things. I think the complexity of this issue has been underestimated and, certainly during this debate, I have urged the minister to have a think about that. I know it is not going to happen overnight, but I really think the FTE provision for and resourcing of the department should be thought about more clearly as we go down the track. Support for pastoralists is my number one concept because these things will not take 18 months or two years; they will take five, seven or 10 years, and many thousands or hundreds of thousands of dollars in legal fees and whatever. That is probably my main emphasis.

As I said, I think the Pastoral Lands Board is really important. I think the minister and I both agree that it is well run and well chaired. I am looking forward to the board working cooperatively under the guidance of the minister and the department. As I pointed out earlier, Tim Shackleton addressed the Pastoralists and Graziers Association about the reforms and the opportunities that this will provide to that category. That is a real key to it. We need to look at this as an opportunity, but we also need the government to make sure that it can help our pastoralists along the way.

No doubt Hon Neil Thomson will be keen to prosecute many arguments in the other place relating to the conservation estate and several other issues that, as the main spokesperson, he has highlighted to me. Consultation with local government is one of his real concerns. He will also question other matters such as the opportunity to extend pastoral lease terms by application to the minister, streamlining minor changes when a road is dedicated, enabling agistment on pastoral leases and those kinds of things.

As I said, we are not opposing the bill. This is an opportunity, but I think the government really needs to make sure that it does it in the right way and when it puts in the regulations, everyone is well aware of them. We have a pattern here whereby legislation is taken through and then it is like, "Oh, we will sort it out later in the regulations." I really encourage the government on this occasion to make sure that it is well publicised to every element of the industry and I look forward to it being a positive thing for our pastoral industry and everyone involved.

MR C.J. TALLENTIRE (Thornlie) [3.22 pm]: I rise to add my support to the Land and Public Works Legislation Amendment Bill 2022 as someone who has a longstanding interest in pastoral leases, recognising that, after all, they cover 36 per cent of the surface area of the state. My interest has long been in the viability of pastoral leases, especially under the strict terms that we currently have. After the passage of this bill, we will have diversification and that will be a very important step forward. Just the grazing of sheep and cattle is not a viable option for many pastoral leaseholders. I would like to focus on the southern rangelands; that is a line we can draw from Exmouth across to Eucla, going south west. The viability of many of the pastoral leases in that area—I think it is 200 or so—is highly questionable, definitely from a livestock grazing perspective, and I am not sure how much opportunity there will be for diversification on some of those leases either. That is a reality we need to face.

I know when I first started to involve myself in pastoral lease matters, there was a total of, I think, 500-plus leases in the state and now I believe that is down to about 416 or so. Clearly, a number have been purchased by the state for conservation purposes, have changed tenure in some way or perhaps even been relinquished. There is an issue with the viability of many pastoral leases. Members have raised the issue of the capability of government to do

examinations of the method and the damage from the practice of livestock grazing. One of government's greatest tools to correct someone who is perhaps mismanaging their pastoral lease is a soil conservation notice issued through the Commissioner of Soil Land and Conservation, which is through the Department of Primary Industries and Regional Development budget. That is my understanding. We need the capacity within the Commissioner of Soil and Land Conservation's office to access people who are rangelands experts. We desperately need that capability. I have referred in previous times to an expert report by Dr Paul Novelty and David Warburton, *A report on the viability of pastoral leases in the southern pastoral region based on biophysical assessment*. It looks at the capability of that land to generate enough feed for the stock required to be on the pastoral lease. They relate all this to the dry sheep equivalents, the carrying capacity per hectare and the capacity of the land to regenerate that feed. In many cases, that was found sadly wanting.

I also want to say how wonderful many aspects of this legislation are. I think of people like David and Frances Pollock at Wooleen station who have led the way with the idea of conservation ownership of a pastoral lease who maintain, I believe, some livestock on the property. The wish of many pastoral leaseholders is to have a herd or a flock for their own consumption, but beyond that the idea of having a commercial herd, the property may just not be able to withstand that pressure. That diversification and capacity for a whole host of other purposes is a great innovation and I really commend that.

There is another facet of this that I think is really important and that is the transparency around pastoral leases being bought and sold. We would think that like a lot of rural properties it would be a matter of just keeping our eye on the market and the Elders Real Estate agent's shop window to see what is going on. There has been a history of leases transferring from one party to another without transparency. I believe that is a great improvement in this legislation. I recall our former colleague the former member for Kimberley Josie Farrer who has an ongoing passion for Moola Bulla station. I think Josie would have loved to have known when that property was first purchased by a company called South Africa WA, but the deal was done without her having the chance to put her hand up as an interested party. We have to have that kind of transparency.

While I am touching on matters relating to the Kimberley, I note that Kimberley pastoral leases are, generally speaking, the most productive, the ones with the cattle capacities and they can really be big money earners. They can do very well, but I note the suffering of a number of leaseholders because of the flooding and my commiserations go to them for that. I can only applaud their resilience and offer them my best wishes to get through the challenges that there will be, because they will have lost stock, yet they are going to face a situation in the next six months or so in which they will have an abundance of feed and it will be difficult to get the stock in to take advantage of that feed. That is one of the harsh realities of this style of agriculture.

I want to quickly say something about land rental. I know there is discussion about not increasing the rental rate too much. It is important that we understand that, typically speaking, a pastoral lease is rented out; we the landlords, we the people of Western Australia, let that land at the rate of around 1¢ or 2¢ per hectare. It sounds a tiny amount but it is multiplied. I was provided the pastoral rent case study on Murchison station, which is 140 000 hectares, so the rent is \$2 500 a year.

When people in my electorate who are trying to rent a three-by-one house in Thornlie say, "Gosh, Mr Tallentire, we're really struggling to find the \$25 000 a year", and I tell them there are pastoral leases that cover huge areas and they would pay only \$2 500 or \$5 000 a year, it is like we are in parallel universes. I do get that a whole skill set is required to manage a pastoral lease and that a lot of the 140 000 hectares might not be particularly hospitable land, but there will be a homestead there and probably beautiful landforms and wetlands and all sorts of unique features, and the capacity to try to make an income out of it. Some might say that it is a false comparison, but when we weigh up this issue of how significant the rents are for pastoral leaseholders, it is probably true to say that if someone is really struggling to pay around \$10 000 rent for a typical pastoral lease of 250 000 hectares, there is probably a problem with their current business model. That is an important thing to keep in mind. I have made this comment in previous Parliaments, and I have not been challenged on it: to the best of my knowledge, the cheapest land one can legally access on this planet is pastoral lease country in Western Australia, keeping in mind that it is 2¢ a hectare, there is nowhere else in the world we can access land at that very cheap rate. That said, we need people who can manage the land, and this legislation will enable us to have diversification so that people do not have to manage livestock; they can do other things and perhaps make a viable business opportunity from holding those pastoral leases. They could have a small herd or small flock, but do other things as well.

This legislation is welcomed. I am relieved because I was here when on 30 June 2015 there was the automatic rollover of all the state's pastoral leases. People have been somewhat complimentary of Minister Redman and his role as minister when that rollover occurred. I thought that in many regards Minister Redman was a good, sensible minister, but that rollover in 2015 was a terrible missed opportunity to sort out this problem of non-viable pastoral leases. This legislation gets us on a journey forward and helps us to manage a huge area of the state. I commend the bill to the house.

Extract from *Hansard*

[ASSEMBLY — Thursday, 23 February 2023]

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Mr Peter Rundle; Mr John Carey; Dr David Honey; Mr Chris Tallentire

DR D.J. HONEY (Cottesloe) [3.32 pm]: I rise to make a much briefer contribution and to thank the Minister for Lands for the collegiate, thorough and diligent way he responded to members in this place, to not only our second reading contributions, but also consideration in detail. I thank also his staff. It is usually the case, but not exclusively, that ministers approach it in a helpful way and I thank the minister and his staff for doing that.

Question put and passed.

Bill read a third time and transmitted to the Council.