

MAIN ROADS AMENDMENT BILL 2023

Second Reading

Resumed from an earlier stage of the sitting.

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Emergency Services) [5.05 pm] — in reply: I was giving my second reading reply before we were interrupted, so I will continue that.

The bill contains powers that underscore this commercial capability and put the ability of Main Roads to negotiate such agreements beyond doubt. It is expected that the majority of commercial leasing arrangements entered into by Main Roads will be managed by the transport portfolio land and property services branch, which was established in 2022. It contains a dedicated commercial and leasing team servicing Main Roads, Department of Transport and the Public Transport Authority.

Main Roads' operational and network management areas—in other words, the regional offices—will not be burdened with additional duties in the commercial space. This portfolio branch will also undertake significant development of new policy frameworks, building on existing policies and practices to ensure that the new powers will be utilised in a considered, appropriate manner.

As to new regulations and the expanded regulation-making powers and infringement powers that go along with the increased penalties, this will be the subject of considerable work in Main Roads. It will take at least a year to properly develop and approve the key policies that must underpin the new regulations, then more time to draft the regulations. I am advised that this will not be rushed work; it will be considered and planned, and involve consultation with affected stakeholders, writing procedures, training staff and informing the community. Only the necessary regulation under section 18D(1)(a), to prescribe the relevant contract expenditure above which the minister's approval is required, will be put in place from the commencement date of the amended act.

Main Roads is very much a modern road authority. The use of technology to manage the road network, accepting innovative designs, especially around structures and grade separations, and the existing commercial acumen when dealing with the resources sector are examples of this, but the current Main Roads Act is simply too old to provide a sound and proper basis for using that commercial acumen in better ways, and maximising opportunities for the private sector to utilise Main Roads' assets for the public good.

This bill will provide clarity and certainty, and will enable Main Roads to manage its assets as effectively as possible for the benefit of the public.

I commend the bill to the house.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chair of Committees (Hon Dr Sally Talbot) in the chair; Hon Stephen Dawson (Minister for Emergency Services) in charge of the bill.

Clause 1: Short title —

Hon NEIL THOMSON: I thank the minister for his response to the second reading debate. There was some good information in that. Hopefully, we will finish this bill today. I am not anticipating that I will go too long. There may be other questions from other people. In particular, I would like to focus in clause 1 on some of the accountability mechanisms.

We are expanding the capacity of Main Roads Western Australia to undertake certain business activities. I think the minister's words were that it will clarify the head of power for the activities that it might be able to undertake. I suppose my first question is: are there any activities that are currently undertaken by Main Roads that might be firmed up by the passage of this legislation into law?

Hon STEPHEN DAWSON: Honourable member, I am sorry. I was handing some notes to Hansard. Does the honourable member mind asking that question again? Apologies.

Hon NEIL THOMSON: The question was about the activities. The minister used the word "clarifying" regarding the head of power for some commercial activities. We can also see that there is an expansion of those powers. Are there any activities that Main Roads has currently undertaken that will be clarified once this bill becomes law? What might those activities be?

Hon STEPHEN DAWSON: Yes, there are. Main Roads will bring a more commercial focus to arrangements with third parties, such as partnering with resource sector companies to optimise mining and haulage tasks, for

example, to have dedicated heavy haulage corridors. There are powers in the legislation before us that will give us better capacity to negotiate with those third parties.

Hon NEIL THOMSON: I have a follow-on question. What other activities might Main Roads contemplate that it does not currently contemplate under the existing laws?

Hon STEPHEN DAWSON: One that we spoke about previously, and I raised earlier, is commercial operations in rest areas. There is also putting pipelines in road reserves. At the moment, we cannot charge a fee for the work that we do to enable those pipelines to be placed, essentially, in road reserves. The changes before us would allow us to get a commercial return for the state.

Hon NEIL THOMSON: Is that all or are there other activities that it might extend to?

Hon STEPHEN DAWSON: They are the ones that I countenance at this stage.

Hon NEIL THOMSON: That gives me some comfort. The minister read some elements of the bill, and we will probably get more specific in due course, in the next half or quarter of an hour. My main concern, which I mentioned in my second reading debate speech, is that the expansion of Main Roads' activities means it might be able to engage in partnerships. Profit sharing is another thing I mentioned. If it is to do with pipelines and road reserves, I am not sure why there would be profit sharing. Maybe there would be profit sharing with those resource companies for work on corridors; I am just thinking out loud here.

I am making the point that ultimately when governments step into commercial activities, it is not always a bad thing, but it can become problematic. I am thinking about how there might be scope or an opportunity for a third party. My question relates to competition policy and trade practices. What discipline is going to be imposed on Main Roads as it expands its commercial activities to ensure that it operates in accordance with the competitive neutrality of completion policy? It obviously would not be breaching the Trade Practices Act, but we do sometimes see government agencies spreading into potential activities that are harder to enforce, like third line forcing. What protections would be in place for a third party, a private sector organisation, that might also want to engage in the delivery of civil works that Main Roads might otherwise be engaged in?

Hon STEPHEN DAWSON: There would be a competitive tender process, presumably on Tenders WA, so people could see what is being suggested. It would happen through procurement. Any agreement would need to be signed off by the State Solicitor's Office. It would give advice about whether we fall foul of competition policy or indeed any other federal policy. That would take place.

Hon NEIL THOMSON: I would expect that competitive tendering will occur when Main Roads seeks to engage a third party to deliver work on its behalf. For example, there could be a situation in which Main Roads is in a profit-sharing arrangement with a resource company to deliver civil works. As part of that profit-sharing arrangement, it would obviously go to a competitive process. That would be expected. I am referring to situations in which there might have been an opportunity for the delivery of civil works on behalf of a resource company for a slip-road or road of some sort that might be next to or within a road reserve. In that situation, there may be a competing civil construction company that wants to engage in that work with the resource company, but Main Roads, effectively, has a head start. How do we ensure that the activities that Main Roads promotes will still allow for, and will not overcut, competition from other parties engaging with resource companies? Maybe the minister could elaborate on that.

Hon STEPHEN DAWSON: I am told that currently there are circumstances in which we might help a company construct a road into its mine site, for example. It is not for my department, but I would suggest that some private sector providers probably pay less to their staff than the public sector pays. There are probably commercial opportunities out there to get better value for money. In saying that, in some cases around the state, Main Roads might be the only agency that has road crews. In some cases, a company may come to us and ask us to provide assistance.

High-risk ventures such as partnering, profit sharing, new commercial ventures, or creating a separate business entity or joint research venture would most likely constitute a business arrangement, which requires both the minister and the Treasurer to approve it. There is that safeguard in terms of high-risk ventures, but I am told that there are cases at the moment in which the private sector might come to us and ask for help with a road because no-one else in the locality can do it. That work already takes place.

Hon NEIL THOMSON: In that circumstance, is there any restriction on Main Roads or the state to effectively deliver something into the marketplace at a price that is not market competitive? I am talking about a private company. Let us say that an energy company wants a road, which is in line with the energy objectives of the state. Somehow Main Roads is effectively directed to deliver that road at a net cost to the state. Will there be circumstances in which these powers may be pushed? I expect that that happens now to a certain degree. Main Roads is more likely to be in that position as a result of this legislation. To what extent can we ensure a level of discipline around commerciality and full cost recovery of some of these activities?

Hon STEPHEN DAWSON: If we did work for somebody at the moment, the cost of that work would need to be recovered. It is not the government's intention to subsidise work. That remains the case. There would be a procurement process if we got the work. Obviously, the company would want value for money, and we would need to ensure that we recouped our costs. That is what happens now.

As the member would understand, with bigger projects such as Fitzroy River Bridge, for example, we tend to partner with organisations that have greater capacity than we do. In the case of the Fitzroy River Bridge, there is an alliance contract. There are builders who build things, naturally. We are working with them to make sure it is delivered. Moving forward, there is no intention to change how we do things. The state government will not subsidise the work that Main Roads might do for a private sector proponent to help us get the work. It does not happen now and it will not happen in the future.

Hon NEIL THOMSON: To clarify that, will these laws affect the alliance arrangement relating to the construction of the Fitzroy River Bridge?

Hon Stephen Dawson: No, they will not change it.

Hon NEIL THOMSON: So what the government did was fine under the current act.

Hon Stephen Dawson: Absolutely.

Hon NEIL THOMSON: I am thinking about oversight and complaints. I mean no disrespect to anyone; Main Roads did a great job with the Fitzroy River Bridge. Some tremendous work was done, and no doubt it will continue to do a great job. Hardly a month or even a week goes by when I do not get somebody grizzling to me or complaining—"complaining" is probably the most appropriate word to use because often these complaints are valid—about the exercise of anticompetitive behaviour, even though it might not pass the threshold test of a complaint to the Australian Competition and Consumer Commission. I am squeezing out those private sector companies. We are thinking ahead here. We are giving more power to Main Roads. As I said during my second reading contribution, I do not see a provision in the bill insisting on the exercise of competitive neutrality under clause 3 of the competition principles agreement. I do not see an intent statement—maybe that is already in the act—in relation to maintaining that high standard of assessment in some of those other aspects that I mentioned, such as third line forcing, which is a very difficult practice to get some sort of complaint up with the ACCC.

If a civil contractor, a consultant or someone out there thinks that the current powers are starting to impact—we are not saying that the current management might do it, but in five years' time somebody else will be at the helm and could expand the capacity of Main Roads to do certain things—and there is a concern, what oversight will the state government have for the commercial activities that this bill expands? What mechanism will a contractor have to raise a complaint other than just writing to the minister? What mechanism for complaints will be available for anyone who might feel aggrieved about the activities undertaken by Main Roads in the future?

Hon STEPHEN DAWSON: There are a couple of things I can say to that. First of all, currently under the act, the minister has to sign off on every spend over \$500 000. That has been in place for a long time. This bill will up that figure to \$1 million. That is a safeguard. Whether it is the frugal and very good Treasurer we have now, who happens to be the Minister for Transport, or another minister in the future, they will need to sign off on everything over \$1 million. That is a safeguard.

I turn to the federal legislation that the member referred to, the Australian Competition and Consumer Commission and whatever else. We will be compelled to abide by federal legislation by virtue of being a state government agency, so it does not need to be in every piece of legislation. We are captured by that stuff so we have to abide by it. Just because it is not written in the bill before us does not mean that we are not captured by that stuff.

I turn to procurement. I understand that we will establish a procurement grievance process. That is being worked on. If a third party felt aggrieved, they could complain as part of that process. I understand that there is a similar process of sorts in place at the moment for procurement, so there will certainly be one moving forward.

Hon NEIL THOMSON: This is more of a comment by way of clarification, and I will get to my next question. That is quite common in competition policy for many government agencies or government trading enterprises. Main Roads is not a government trading enterprise, but it is quite common for those working in the commercial sector to have some sort of provision in legislation to provide a level of certainty, discipline and conformity with the Competition Principles Agreement. Of course, the government will always be bound by the Trade Practices Act. Anyway, that is just a comment.

It is important that there is an expanded complaints mechanism that takes into account not just tendering. Again, I am making a comment, but it is important, and maybe that could have been included in some provision. I have made my general concerns about commercial arrangements moving forward in clause 1 clear. We have the terminology, for example "innovative business arrangements"; we have talked about that. There is the issue of crowding out the

private sector, which is a reasonable concern. I am happy to leave debate on clause 1 at that because we can go into the specifics of the other clauses.

Clause put and passed.

Clauses 2 to 4 put and passed.

Clause 5: Section 6 amended —

Hon NEIL THOMSON: We have touched on this. Clause 5 deletes the definition of “road construction”, which will be replaced by a broader term of “works”. It will also insert a new term “adjoining works” to provide the Commissioner of Main Roads with the power to undertake activities outside of the road reserve. We have mentioned that. My question is about “adjoining works”. I assume that adjoining works require a level of co-location. There is no proposal to expand into other works beyond those that are physically adjoining to the road reserve. Maybe we could have a bit of background about what that means.

Hon STEPHEN DAWSON: The proposed term “adjoining works” is required to provide the commissioner with power to undertake activities outside the road reserve of main roads and highways for the purposes of the commissioner fulfilling functions under the act. It includes reference to the proposed term “works”, which is defined to include a broad range of works and related activities. The proposed term is required to provide clarity about what constitutes adjoining works for the purposes of proposed section 22A of the bill. Under the current act, the commissioner’s functions are largely confined to the road reserves of main roads and highways. Proposed section 22A and the defining term “adjoining works” will enable the commissioner to undertake a number of activities outside the road reserve of main roads and highways, including installing noise abatement measures on private properties adjoining main roads or highways, obviously with the consent of owners, or undertaking drainage modifications on adjoining land, and establishing and using quarries on land outside the road reserve.

Hon NEIL THOMSON: Would that categorically not mean any other works that were not in some way adjoining to the road reserve?

Hon STEPHEN DAWSON: No, it needs to be adjoining.

Hon NEIL THOMSON: There is another proposed definition in clause 5, “business arrangement”. The explanatory memorandum states that —

... is required to support and provide clarity to the powers of the Commissioner under proposed sections 15B(1)(g) and 18E, which in certain circumstances requires the approval of the Minister and Treasurer —

That is the same person, which is interesting —

to participate in alternative forms of agreements and business arrangements ...

My first question is about that matter. Is it normal to have the Treasurer and the minister provide the same approval when they are the same person? I would have thought that the reason for having approval by the minister and the Treasurer would be to provide a bit of competitive tension between the two. It might just be an official title; I am not sure. I am just wondering. Is that normal in the current legislation?

Hon STEPHEN DAWSON: In my second reading response I cited the examples of the Public Transport Authority Act 2003, the Metropolitan Redevelopment Authority Act 2011 and the Western Australian Land Authority Act 1992, to name a few, that make provision for business concern or management in discussing the powers of such authorities or agencies, so it happens from time to time across government. Obviously, the advice the Treasurer receives comes from the Department of Treasury, and, obviously, the advice the Minister for Transport receives is from the Department of Transport, so they come from two different directions. But, yes, the member will have heard of cases, whether mentioned in this place or externally in the past few months, in which the minister has written to the Treasurer or, correspondingly, the Treasurer has written to the minister. That happens in government.

Hon NEIL THOMSON: I note that the term “alliance” is not included in the proposed definition of “business arrangement”. It seems to be a prominent arrangement used today. The definition refers to joint ventures. Is that the same thing?

Hon STEPHEN DAWSON: An alliance contract is simply a contract, and that will be covered by an agreement in this bill.

Hon NEIL THOMSON: Okay, so that is already covered. Could joint ventures include, for example, firstly, the acquisition of land and, secondly, the expansion of road reserves? Will this bill in any way alter the current arrangements in place?

Hon STEPHEN DAWSON: No, this current bill does not change what happens currently.

Clause put and passed.

Clause 6 put and passed.

Clause 7: Section 9 amended —

Hon NEIL THOMSON: The amendment is to replace “acts and powers” with the term “functions”. The term “function” is defined in the Interpretation Act. Is that a definition issue?

Hon STEPHEN DAWSON: It is an updated way of drafting. Rather than list powers, duties, responsibilities, authorities and jurisdictions, this is a drafting modernisation.

Clause put and passed.

Clause 8: Section 9AA inserted —

Hon NEIL THOMSON: This clause refers to the status of the commissioner as an agent of the state with immunities and privileges. Clause 8 will insert a provision. The explanatory memorandum states —

There is no express provision in the current Act that provides the Commissioner is an agent of the Crown, such consequence being implied. This new section will put beyond doubt the intention that the Commissioner is an instrumentality of the State and therefore enjoys the privileges and immunities ...

As in the point I made during the consideration of clause 1, what projects might have been put at risk? This question is more about how the commissioner is currently impacted by not being an agent of the Crown?

Hon STEPHEN DAWSON: It is implied under the current act, and this just formalises it. There is no material difference. This tidies up what is implied in the current legislation.

Hon NEIL THOMSON: Is there a history of any legal challenges to the commissioner’s role? Has it ever been an issue?

Hon STEPHEN DAWSON: I am told no.

Clause put and passed.

Clauses 9 to 16 put and passed.

Clause 17: Section 15B inserted —

Hon NEIL THOMSON: Proposed new section 15B(1)(e) provides —

... control or regulate traffic —

- (i) directly on highways and main roads; and
- (ii) on other roads in conjunction with local governments and other road authorities;

Why does the control to regulate traffic directly on main roads or on other roads in conjunction with local authorities not already exist? I am aware of Tanami Road, for example, which is a local road. Main Roads is coordinating the project. I think the Broome–Cape Leveque road might have been the same as that. Is part of the story that this helps with the regulation of traffic in relation to that? What is the purpose of this provision?

Hon STEPHEN DAWSON: I think it clarifies that we can work with local government on things like the erection of signs, road markings, traffic control signals and similar devices.

Clause put and passed.

Clause 18 put and passed.

Clause 19: Section 16A amended —

Hon NEIL THOMSON: This clause will put up the fine. We seem to do a lot of that. I know that this legislation has probably been around a while, but it was only a \$400 fine for powers as to the closure of highways or main roads. There is a new penalty in clause 19(4); it will amend section 16A(3) by increasing the penalty for interfering with signs that indicate a main road is closed from \$200 to \$10 000. What assessment was undertaken, given a broad range of problems arise from people interfering with signs? In some parts of Western Australia, there might be a case in which people travel on certain roads, maybe without too much impact, whereas they should never travel on a road when it says it is closed. However, we know the reality out in the bush, and I wonder where the \$10 000 figure was picked up from. On account of that, if a truck drove over a wet road that was still being built, it would make a big mess and could cause millions of dollars’ worth of damage. In one sense, the fine seems a bit low because if a road has recently been rolled and was being closed, then it rained and a triple road train drove down it, one might find it is going to cost hundreds of thousands of dollars to repair. I wonder about the choice of that penalty.

Hon STEPHEN DAWSON: The \$200 fine might have been a deterrent in 1975. It might have been a lot of money.

Hon Neil Thomson: Was it that long ago?

Hon STEPHEN DAWSON: Nineteen seventy-five? The penalty has not been increased since that time. The figure of \$10 000 was suggested by the Parliamentary Counsel's Office as an appropriate and comparable fine. That is a maximum fine, though. It would be up to a court to ascertain and decide what the fine would be. The minister has correctly pointed out that a significant amount of damage can be done, for example, by a truck driving on a wet road. This is supposed to be a deterrent. We know that going through a closed road can endanger lives but also cause significant and costly damage to main roads and highways. This is seen as an appropriate amount in a piece of modern legislation.

Clause put and passed.

Clauses 20 to 22 put and passed.

Clause 23: Section 18AA inserted —

Hon NEIL THOMSON: Clause 23 will insert proposed section 18AA with the heading "Agreements for contributions towards commissioner's expenditure." An explanation has usefully been provided about resource companies approaching Main Roads to seek changes to the network, and the commissioner entering into agreements. The explanatory memorandum states —

The commissioner has entered into agreements for work for the benefit of third parties, such as road realignments ...

We know that is probably not just resource companies; it occurs everywhere, does it not?

Hon Stephen Dawson: It is not just resource companies, but it is predominantly resource companies.

Hon NEIL THOMSON: Thank you for that, because it says "such as road realignments to assist mining companies." It further states —

... operations or for benefit of property developers for housing or other property ...

This is sometimes a controversial subject with property developers, for example, because there can be a bit of an argument about what all this costs—probably more so in relation to those development contributions, which is a different issue. It is not actually covered by the State Administrative Tribunal. That would be with local government when there is a developer contribution for a road modification into the future. However, it is an issue here. This is not effectively enabling a developer contribution scheme, is it? This is for putting in place a specific funding arrangement to enable specific works to take place. Is that correct?

Hon STEPHEN DAWSON: That is correct. It is not about developer contributions; it is as the member has suggested.

Hon NEIL THOMSON: What will be the process for the commissioner's calculation? Will the decision on costs be transparent and will it be challengeable? A resource company does not have a lot of options; it has to go to Main Roads. That is the situation here. Will the resource company be able to challenge that decision? How will that be transparently presented?

Hon STEPHEN DAWSON: We would essentially do an estimation of what we think the work would cost. It would be done entirely by negotiation. Obviously, it would be done on a case-by-case basis. It would be up to the company. We would give it a quote, essentially, if I am using the correct terminology. We would tell the company what we want to charge it and it would be open to the company to say that we are highway robbers or that it sounds reasonable and it would like us to do the work.

Hon NEIL THOMSON: To go back to the point that we touched on in debate on clause 1 but did not quite get to the end point on, if a resource company did not like the quote that was provided, as the minister described it, would it have the capacity to undertake the works itself, provided it conformed with the engineering design specifications required by Main Roads to meet the standards for the safe conveyance of transport and for egress, merging and everything that needs to occur?

Hon STEPHEN DAWSON: It is the company's road and it could decide to go with whomever, but it would need to be to our specifications. It could go to the private sector or it could bring in people from all sorts of places, but it would have to be to our specifications.

Hon NEIL THOMSON: Sorry to hammer on a little about this, but I imagine that there would be a point on the road reserve that is not the company's road, but a bit of work would still need to be done. Would there be scope for a mining company to undertake, quid pro quo, the design for the work on the piece that engaged with the merging lane on the Main Roads road reserve? How would that be worked out? Once works start, we do not want it to be split. The minister is nodding so I think he understands the point I am getting to, which is about getting the best deal for the company.

Hon STEPHEN DAWSON: We would be open to negotiation, essentially. There would be negotiation between the company and Main Roads on an appropriate price or what the quid pro quo might be.

Hon NEIL THOMSON: It might be conceivable and legally possible for a mining company to find a way outside of this arrangement to design a road to its plant on the adjoining part involving a turning lane or an intersection with the main road in accordance with the standards. Would it be possible for that to be undertaken?

Hon STEPHEN DAWSON: That would be possible. That would be part of the negotiations.

Clause put and passed.

Clause 24 put and passed.

Clause 25: Sections 18C to 18F inserted —

Hon NEIL THOMSON: This is a piece around the authorisation of works. It provides the power to authorise works. It states that business arrangements and agreements requiring the approval of the minister and the Treasurer include agreements by which the commissioner acquires, holds or disposes of shares, units or other interests in or relating to a business arrangement or research body. This is an interesting one. We are talking about shares, units and other interests. What does that mean? In what circumstances might there be the exchange of shares, units or other interests in a business?

Hon STEPHEN DAWSON: I am told that this provision will allow a company to upgrade a road to our standards and specifications with our agreement. It would maintain it. It would allow a company to use bigger vehicles, such as B-quads instead of B-doubles. Obviously, there would be an impact on the road as a result of the heavier loads and whatever. This will allow the maintenance to be done by the company itself, rather than by us, by agreement.

Hon NEIL THOMSON: Just to clarify that, part of that agreement might involve interests, shares and units in the other company. Main Roads is not going to get involved in buying shares in a company, is it?

Hon Stephen Dawson: In that case, there would not be shares involved. In terms of the question about shares and joint venture stuff, that is about futureproofing the legislation. What we have spoken about would not require us to have shares or, indeed, a joint venture.

Hon NEIL THOMSON: I am trying to envisage a situation in which there might be a need for shares. Does Main Roads currently have any shares, units or interests in a business?

Hon STEPHEN DAWSON: No; currently, there is not. We do not hold shares in anything. Again, this is not related to the bill, but I think there might be instances in which government trading enterprises have shares in a new project or whatever, but Main Roads does not currently. This will allow for it to happen in the future.

Hon NEIL THOMSON: That highlights a bit of an issue. GTEs are subject to certain reporting requirements that Main Roads is not. I will come back to that point.

Hon Stephen Dawson: Can I stand up again?

Hon NEIL THOMSON: Yes, please.

Hon STEPHEN DAWSON: I draw the honourable member's attention to the fact that a number of other government acts allow for joint ventures of shares, including the Public Transport Authority Act 2003, the Metropolitan Redevelopment Authority Act 2011, the Western Australian Land Authority Act 1992, the Biosecurity and Agriculture Management Act 2007, the Health Services Act 2016, the Planning and Development Act 2005 and the School Education Act 1999. They make provision for a business concern or business arrangement or for participating in such business concerns or arrangements. It is not a new thing. It is in other acts already. Essentially, the great majority of commercial arrangements that Main Roads will enter into will likely be nowhere near as complex as business arrangements. It might just be allowing coffee vans or food trucks to operate in 24-hour rest areas. At the moment, as I said, these activities are operating on a permit-based system, but Main Roads has no power to charge anything other than an administration fee to cover the cost of processing applications. In some of those cases, it might be that we seek further payment for the state for something.

Hon NEIL THOMSON: Are we thinking about potentially going out to tender for a coffee van that will pay the highest amount to park up and sell coffee at a busy Main Roads stop somewhere?

Hon STEPHEN DAWSON: Possibly, if there was a market for it. It is probably not about where we are looking for the most money, but it is simply trying to get a service provided on a piece of land adjacent to a highway where a service is probably needed. At the moment, people drive vast distances in this state and our road toll rate is significant. There are probably some road safety benefits from having such facility 200 kilometres down the road. It might not make sense to open a big petrol station or a big camp site or whatever. In those cases, what we have before us now would allow us to do something different.

Hon NEIL THOMSON: I know that the Road Safety Council does some great work during peak times and holidays. It gets out there and provides driver reviver stops. During the eclipse, I saw that quite a lot of work was put into making sure people were safe on the road, which is a very important issue given our horrendous road toll. Would

this provision mean that the government might have a share in the development of an actual service station centre, like the type we see on freeway south? I am recalling in the recesses of my mind the challenges of getting those up when we first extended the Forrest Highway. Would that be what we are talking about?

Hon STEPHEN DAWSON: It is almost always the case that we would facilitate a private sector running of a facility that might be able to be commenced as a result of the legislation before us. There might be an instance in which a project would get across the line only if we took a share in it. In that instance, we might consider taking a share, but we would rather that the private sector ran it. In fact, I am sure that we would not see ourselves running petrol stations—these days we call them road service centres. It would only be if we are trying to get a project across the line and the other potential shareholders said, “The only way we will do this is if you stump up cash and become a shareholder”. In that case we would look at it, otherwise it is not countenanced.

Hon NEIL THOMSON: That is important. I assume that this is my last question. Main Roads should not look to become shareholders of a string of road service centres across WA, notwithstanding that it would be good to have more, so maybe this is a capacity for that, because Main Roads’ business is about building great roads in Western Australia and maintaining them. My last question on this aspect is around the level of accountability through the annual report. Will this be something that we will see included in the KPIs on the annual report of Main Roads? That will be the important bit to make sure that we do not end up focusing on the wrong things going forward.

Hon STEPHEN DAWSON: Yes, absolutely.

Clause put and passed.

Clause 26: Section 19 amended —

Hon NEIL THOMSON: There is a proposed section talking about intellectual property at clause 27, and the explanatory memorandum states —

Subsection (1) introduces the term “intellectual property” which includes intellectual property —

- (a) created or acquired in the course of the performance of the Commissioner’s functions under the Act; or
- (b) otherwise created in the course of performance of functions by a person in the capacity as an officer or employee of the Commissioner.

What was the reason for including this?

Hon STEPHEN DAWSON: I am advised that the government recently introduced an intellectual property policy. The inclusion of this is a result of the fact that we now have an IP policy in the state.

Hon NEIL THOMSON: Will this in any way negatively impact on road safety data being provided to the research sector or the public?

Hon STEPHEN DAWSON: No, it will not, honourable member.

Clause put and passed.

Clauses 27 to 36 put and passed.

Clause 37: Section 29 amended —

Hon NEIL THOMSON: This is a fairly onerous provision. The explanatory memorandum states —

Section 29 provides the Commissioner the power to acquire land and grant a lease or licence to occupy any land acquired by the Commissioner to any person from whom the land was acquired.

That land has been acquired by the state, and often the Western Australian Planning Commission does a lot of the acquisition. From recollection, there is probably some direct acquisition from Main Roads. Help clarify it for me, because I am again going to the recesses of my knowledge. For example, the Great Eastern Highway was acquired by the Planning Commission. I think there were some other processes, maybe by the Department of Lands at the time that acquired the rest of the road reserve when it was expanded. I just wonder why the commissioner needs this acquisition capacity.

Hon STEPHEN DAWSON: This will just broaden the ability for Main Roads to purchase land that might not necessarily be the road itself. It could be if we need to construct infrastructure that relates to the road; we could buy a block of land in relation to that to help us construct a road. “Designated purpose” means Main Roads works or other works associated with the construction of the infrastructure or activities to provide services for vehicles or road users or in connection with road travel or transport or other purposes directly or indirectly connected with the commissioner’s functions or other public purposes.

Hon NEIL THOMSON: For the acquisition of land, does the commissioner have the capacity to acquire land for a road reserve?

Hon Stephen Dawson: Yes.

Hon NEIL THOMSON: And they do so compulsorily, but this bill will extend it to other things, like a service centre, as the minister mentioned in the explanatory memorandum. The question, I suppose, will be subject to the budgetary process. There will be a limit to Main Roads and we will not see Main Roads buying up shopping centres, for example, will we?

Hon STEPHEN DAWSON: No. If I can further clarify, we might want to realign the carriageway or a highway. This would allow for the commissioner to acquire the land to do that work or to enable the construction of road service centres on land adjoining highways and main roads, but it will not go out and start building shopping centres.

Clause put and passed.

Clauses 38 and 39 put and passed.

Clause 40: Part 10A inserted —

Hon NEIL THOMSON: We are talking about inserting proposed section 33, “Infrastructure and other works”. The commissioner has no general power in the act to impose charges and fees. It comes back to my question about the potential relative contribution. Again, this is just a quick question: will this in any way have an impact on any activity that might be just a plan for the future as opposed to something that is actually being done on the development? Does the minister understand my question? Sorry, it is not very well put. I want to make sure that we are not creating a development contribution scheme by stealth.

Hon STEPHEN DAWSON: No, this does not allow us to create a developer contribution scheme by stealth. At the moment, there might be areas in which there is no prescribed fee. This will provide the power for the commissioner to recover costs through commercial charges if there is no prescribed fee, but it is not about developer contributions.

Hon NEIL THOMSON: Can I make sure that I have got this one right? In a Metronet precinct, for example, if there has to be an expansion or realignment of a road to deliver services, is it possible under that circumstance that this could be used to charge back to the landowner under that structure plan? Will there be no capacity within the scope of this provision?

Hon STEPHEN DAWSON: No. That is not the intention.

Clause put and passed.

Clauses 41 to 44 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by **Hon Stephen Dawson (Minister for Emergency Services)**, and passed.