

MAIN ROADS AMENDMENT BILL 2023

Consideration in Detail

Resumed from an earlier stage of the sitting.

Clause 23: Section 18AA inserted —

Debate was interrupted after the clause had been partly considered.

Clause put and passed.

Clause 24: Section 18B replaced —

Mr R.S. LOVE: I have lots of scribbles on my page, so I will have a question. I refer to page 24 and proposed section 18B, “Power to undertake other work”, which states —

- (2) The Commissioner may enter into an agreement with any person to do works, whether or not connected with the functions of the Commissioner under this Act, for that person.

Given the expanded functions for the Commissioner of Main Roads outlined elsewhere in the legislation, can the minister explain why proposed subsection (2) is needed and the extent to which it is expected this provision will enable the commissioner to expand the level of agreements the agency might be able to enter into?

Ms R. SAFFIOTI: It replaces a very similar section and modernises it. The existing section 18B(1) states —

The Commissioner may enter into a contract with any person to do work, whether or not connected with the functions of the Commissioner under this Act, for that person.

Basically, it just modernises that. It is very much the same intent, but it modernises and clarifies it.

Clause put and passed.

Clause 25: Sections 18C to 18F inserted —

Mr R.S. LOVE: Clause 25 inserts sections 18C to 18F, so it is quite a lengthy clause, and I have a couple of questions. Proposed section 18D is “Agreements requiring Minister’s approval”. Currently, it is for any contract over \$500 000. They will move to a different regime. We are told that that level is no longer suitable. How will the new prescribed level be set and on whose recommendation?

Ms R. SAFFIOTI: It will be prescribed by regulation. There will be further discussion with the agency and comparisons made with other agencies. When the Public Transport Authority’s act was modernised a number of years ago, its level was quite high. In fact, I do not even think I need to approve some of the PTA’s contracts. The \$500 000 level sees a lot of contracts coming across my desk, so this will help to modernise and create a more streamlined process for contract awards.

Mr R.S. LOVE: The minister has just said that \$500 000 is too low because of the number of contracts that come across her desk. What would the minister consider to be the likely figure for the initial change of the prescribed amount?

Ms R. SAFFIOTI: I will have a further discussion with the director general. I think between \$1 million and \$5 million is being proposed, but that will be subject to further and final discussions.

Mr R.S. LOVE: Proposed new section 18D(2) outlines —

A regulation prescribing an amount for subsection (1) may allow the Minister to require that an agreement that will or may involve expenditure by the Commissioner below a prescribed amount, or payment to the Commissioner below a prescribed amount, must be submitted to the Minister for approval in prescribed circumstances.

Can the minister explain what some of those prescribed circumstances would be and offer an example or two? What circumstances are envisaged in this proposed subsection?

Ms R. SAFFIOTI: It may be areas in which there is some public interest. I am thinking of remote and regional WA and making sure, for example, that remote or local communities have buy-in and are given a good chance to participate. There might be some contentious areas. It may be for contract awards in parts of regional WA. Political oversight could ensure that local companies or businesses are participating or have a chance to participate.

Mr R.S. LOVE: Have there been any preliminary discussions about those regulations or about anything apart from what the minister has just outlined?

Ms R. SAFFIOTI: No.

Mr R.S. LOVE: Does the minister envisage that most commercial activities that are unrelated directly to the road nexus we discussed before would be in the prescribed category?

Ms R. SAFFIOTI: Yes, potentially. We find that agencies are very risk averse and do not normally do things that cause any concerns, but I could potentially ask for direct oversight of the issues that the member raised.

Mr R.S. LOVE: I refer to proposed section 18F, “Business arrangements and agreements requiring Minister’s and Treasurer’s approval”. Are any criteria envisaged to describe the arrangements and agreements that would require the Treasurer’s approval, and could the minister elaborate on those?

Ms R. SAFFIOTI: I am advised that we are yet to develop the policies or the frameworks in this space. That work will be undertaken once this legislation has passed or alongside this legislation progressing through the Parliament.

Mr R.S. LOVE: I refer to the explanatory memorandum, which states —

The provision will allow the use of innovative forms of contract and business arrangements to maximize commercial return ...

That sounds like code for complex business arrangements, agreements, joint ventures and the like. Can the minister give me some assurance that she has an idea of some of the arrangements that she is thinking about moving into? A very open-ended power will be granted if there is no guidance, even in this discussion, about what she might have in mind.

Ms R. SAFFIOTI: I do not have any proposed commercial transactions in front of me, but this is basically for looking at the use of assets that are connected solely with the construction or maintenance of roads and other types of activity. I cannot prescribe those yet, but we will be working to develop guidelines and will, of course, have the Treasurer’s involvement. That will include the Treasury, of course. That will provide crosschecking to ensure that the proposals are not risky and are valid.

Mr R.S. LOVE: This refers to business arrangements and agreements, not just simple transactions. “Arrangement” would suggest an ongoing arrangement perhaps. Further in the proposed subsection, it mentions the disposal of shares, units or other interests in business arrangements or research bodies, but I am not getting to that specific issue just yet. If there is an arrangement, perhaps some sort of a business venture with a research body or other corporate or commercial entity, what would be the position of any generated surpluses? Would that money reside with Main Roads and would taxation have to be paid on it? That is a complexity. I am struggling to understand how this will all work in practice?

Ms R. SAFFIOTI: The funds would come back to the trust account and would then have to be used on roads. That is how the funding would be arranged.

Mr R.S. LOVE: Would there be the ability to maintain a cash surplus within whatever entity Main Roads is dealing with and whatever vehicle it is using to make that arrangement? In doing so, could it not necessarily return those funds to the public?

Ms R. SAFFIOTI: No. The whole point of this is that we are using this legislation to try to ensure that the state taxpayer is protected by the generated revenue not being lost to other parties. The whole point is to ensure that if there are commercial opportunities, Western Australian taxpayers, who build the roads, will get an opportunity to receive a return on that.

Mr R.S. LOVE: I think the minister is proposing quite an intriguing situation. I refer to proposed section 18F(b). It states —

an agreement by which the Commissioner acquires, holds or disposes of shares, units or other interests in, or relating to, a business arrangement or research body.

Can the minister outline to me what she has in mind regarding what Main Roads might involve itself in? For instance, is it possible that the Minister for Transport, or in her position as Treasurer, would approve something that was simply a commercial venture? Albeit, it might be necessary to have this commercial venture—perhaps it is in an area where it would otherwise not be provided. Can the minister explain to me exactly why she would want to see vehicles of this type set up?

Ms R. SAFFIOTI: The examples given include the kiosks run by the Public Transport Authority. There are a lot of different commercial opportunities in train stations. One of the things that struck me as the Minister for Transport, is that the maritime area runs a lot of different types of activities. I think we own a couple of restaurants at Barrack Square and Hillarys Boat Harbour. There are a lot of examples of arrangements that have been entered into. Buying drinks from a kiosk is not directly related to running a train, but it is an auxiliary service and provides benefits to the passengers.

I always say that one of the issues that we have concerns rest stops on long distance roads on our major rural highway network. Truck drivers need good places to stop, toilets and showers. We are really trying to work on that because it has been underdelivered in the past. I think that there are opportunities in the future to work with trucking companies or local road service centres to provide dedicated services for truck drivers. To me, that makes a lot of sense. It is like selling a SmartRider at a train station. Having good truck stops and services for truck drivers could be done in partnership with a trucking company. I do not know. But those are the type of initiatives that we

currently are limited in delivering. We can only deliver on main roads in certain areas and cannot have commercial arrangements. As a result, there are different arrangements across the state. I think that proper rest stops and their management are something that this bill could potentially facilitate over the longer term.

Clause put and passed.

Clause 26 put and passed.

Clause 27: Section 22 replaced —

Mr R.S. LOVE: It is in moments like these that I realise my writing is not very good. It is very difficult to read after several months. Clause 27 will replace section 22. It firstly talks about intellectual property. Regarding the definition of intellectual property, proposed section 22 states —

(1) In this section —

intellectual property means intellectual property —

- (a) created or acquired in the course of the performance of the Commissioner's functions under this Act; or
- (b) otherwise created in the course of the performance ...

It goes on to explain how that intellectual property may be assigned to the commissioner. What is the position at the moment with any intellectual property that Main Roads may develop? Would that include the type of signal and traffic monitoring information that we just asked about in question time?

Ms R. SAFFIOTI: This gives us the ability to own the intellectual property that we develop. It is consistent with the *Western Australian government intellectual property policy 2015*. The member mentioned the use of intellectual property by people and it is an interesting question. For example, I suspect that some private landowners who establish billboards alongside our main roads could use information that has been collected through bluetooth sensors and traffic counters to generate revenue. There are a number of big advertising billboards along—is it Forrest Highway?—the freeway extension and the Kwinana Freeway. The advertising rate is according to vehicle use in that area. That vehicle count would have been done by Main Roads. Maybe there should have been some recognition that that information is held by Main Roads. The number of vehicles that use our roads is published through publicly available data. I do not know. That type of information could be used in the future, but most of that data is particularly used for business cases to get new infrastructure.

The issue of advertising is an interesting one. Currently, a lot of private people, mainly advertising groups, are making a lot of money out of our roads. They put billboards alongside our roads in private landholding and use all the traffic generated by state taxpayers. In the future, maybe state taxpayers can get a share of that revenue.

Mr R.S. LOVE: Proposed section 22A on page 30, line 24 of the bill, titled “Adjoining works”, states —

- (1) The Commissioner may carry out adjoining works in relation to highways and main roads.
- (2) The Commissioner may, by negotiation or agreement, enter on land adjoining the highway or main road to perform adjoining works.

I assume this applies in the case of drainage and other activities at that place. If Main Roads was to enter into such a negotiation, would there be an expectation of ongoing responsibility for any of the infrastructure or drainage installed on that adjoining land?

Ms R. SAFFIOTI: Main Roads would take responsibility. That said, sometimes there are discussions and agreements undertaken through which we may include as part of the works some improvement to a private driveway or access. Main Roads works very well locally on those types of issues. If something is added to our asset base, it will be part of our maintenance regime.

Mr R.S. LOVE: I thank the minister for that. I now move to proposed section 22B “Road service centres on highways and main roads”, and we touched on this a bit earlier when we talked about Forrest Highway and Indian Ocean Drive. Proposed section 22B(3)(b) states —

for the purposes of paragraph (a), exercise the Commissioner's power under section 29(2).

I understand that section 29(2) relates to compulsory acquisition powers. Are we saying that entering into an agreement with any person to operate a road service centre can trigger the right for the commissioner to compulsorily acquire a block of land on which to put a service station? That is a plain reading of that proposed section. If so, would it be subject to any oversight by the minister or anybody else, or appealable in any way? It seems quite an extraordinary power for someone to have the right to compulsorily acquire property to enter into an agreement for someone else to run a service station.

Ms R. SAFFIOTI: Road service centres will always be done by agreement. Acquisition powers are for the roads themselves, but road service centres will be done by agreement. Issues of land acquisition stretch across my portfolios of planning and transport. The intention is to use acquisition powers through negotiated outcomes. The planning will identify very early on the land that would potentially be required for centres. That is part of the early corridor planning. Whenever a corridor is planned, it is always initially planned to be wider than is needed, and then it is narrowed down through detailed planning. Doing this up-front will tie in with other works and make it a lot more seamless for landowners. The intention is that road service centres will be done by negotiation.

Mr R.S. LOVE: I will make a statement that I think it is quite an extraordinary power for the commissioner to compulsorily acquire someone's land on which to establish a commercial entity such as a service station. If that was to occur, would there be an acquisition commensurate with the intended use for the land or the use it currently has? If the land was a farm block, and five hectares were to be hived off to be turned into a major road service centre with a commercial operator, is the intention to pay the landowner an amount of money commensurate for facilitating that or just to pay for a sheep paddock?

Ms R. SAFFIOTI: I will not go through hypotheticals or try to talk about land valuations, but I will make a couple of points. On the Forrest Highway, can the person next door to an existing road centre set up a road centre now? No; that is the reality. Currently, whoever has the best lawyers and can negotiate the best approvals can get a road service centre. That is what happens. It is not as if there is a perfect system now and all land is valued equally and the best person wins. In a sense, it is basically first-mover advantage, and currently whoever has the ability or the understanding of how to negotiate these things gets those road service centres. Two have appeared along the drive down south, and good luck to them. People have made a lot of money, but how about the person next door? What happens to the person next door to a property with an advertising sign? There are issues of fairness with the current system. This bill tries to be quite explicit up-front. Provisions are included for these centres at key areas according to road safety principles. Retrofitting where a service centre will be on existing roads brings issues of visibility and the ability for safe entry and exit. Those things will be considered at the beginning of the process to make sure they are done properly. Like I said, I do not think the system is fair now. It irritates me that one person can get a very big billboard on the land and make a lot of money, but the person next door does not because they did not engage a lawyer early enough. One service centre could be making a lot of money, but when the developer bought the land from a farmer, they probably bought it at farmers' rates and then did the whole approval process. I am sure the landowner who initially sold land to the developers of a couple of those service stations did not get service station rates, I am sure they got farming land rates. The service station developers did all the work to get the station up and on sold it. I understand a couple of them sold at very good prices. This legislation will try to create a fairer system.

Another point is that if there are some benefits and economic returns, they go back to taxpayers to help maintain the road. I think that is smart. Looking at these assets, we have to maintain the roads, taxpayers have to maintain the roads, so let us use some of that revenue to maintain the roads. That is my view. The member is trying to say this could be really bad by saying that the system is currently perfect, but it is far from it.

Like I said, landowner X living next door to the service station cannot get a service station. They have been ruled out of getting a service station because there is one 100 metres up the road, and that is what happens. This legislation will try to bring some fairness. The government will own the underlying land and may own the asset. The underlying land gets a rental return that feeds into road safety. These issues are sorted out early on so we are not spending 10 years, like we did with the Forrest Highway, debating whether there should be a service centre and where it should be located.

Mr R.S. LOVE: I take the minister's point about the Forrest Highway and the person who may have or may not have made money, but the point is that the land was not compulsorily acquired. The point here is that the commissioner will have the power to take some land, whether or not the person who owns land wishes to be involved and develop a centre of their own, if they were offered the opportunity. Main Roads may simply take the land and give it to a large operator and the local person misses out. It is quite concerning. I am familiar with a situation in which that could happen. I know people locally who want to develop and maintain their business entities, but because of planned changes, there will have to be some changes to that business. Will that person be considered in all of this or will Main Roads simply determine it will take five hectares or what have you and find its own player to embark on the road of developing a service centre? I think it is potentially quite worrying and an almost overpowering provision to allow compulsory acquisition for these purposes. But I would like to get the minister's comment on whether, if someone was demonstrating an ability and they already owned the land, there would be a circumstance whereby Main Roads might decide to buy the land compulsorily and do it themselves?

Ms R. SAFFIOTI: I am advised that proposed section 29(2) does not explicitly refer to compulsory acquisition but relates to leasing powers. There is no intention to compulsorily acquire properties to go out and do mean things. I have to say that I try to keep my temper on this, but the member always points these things out. I do not know what Main Roads did to him in a former life.

Mr R.S. Love: It's my constituents who come to me with complaints, and I've brought complaints to you many times about this.

Ms R. SAFFIOTI: If the member wants a service station on Indian Ocean Drive, he should tell me where. As I understand it, local communities do not want it. It is an issue that I am quite interested in, but my understanding is that local communities do not want it because it will take a lot of business from them.

Mr R.S. Love: It's not Indian Ocean Drive I am thinking about in this circumstance.

Ms R. SAFFIOTI: These are always very tough situations. We are not going to compulsorily acquire anyone's land for road service centres. But I think road service centres should be better planned when a road is planned. It is part of a road. It is like having a bus stop for a bus. We have to know where people can stop and have those breaks for safety. Incorporating that in the planning of a road is a very smart thing to do. It is the same thing as truck stops. Currently, we are very limited in what we can do and how we can manage those. They are not maintained well. People complain about them; the poor truck drivers sometimes go there and they are not in a very good condition. All these are things that we want to try to help achieve. As I said, there is not some person sitting in Main Roads thinking, "We're going to take over the world." It is simply a better system to allow us to run road service centres to help return revenue to taxpayers and maintain roads. Also, as I was saying, I watched from afar the debate on road service centres on Forrest Highway, and then I think the member's government said, "Okay, we'll have a couple", so someone did very well out of it; I do not know who. They appeared, and good luck to them. But the member cannot tell me that that was a fair and equitable process and that everyone had the chance. I doubt that very much.

As I said, there is no intention to compulsorily acquire land for road service centres. This is about making a fairer system to allow us as a state, on behalf of the state's taxpayers, to better plan our road service centres and to potentially get some return to the state.

Clause put and passed.

Clause 28 put and passed.

Clause 29: Section 24 amended —

Mr R.S. LOVE: Clause 29 seeks to amend section 24. Clause 29(2) seeks to delete section 24(3) and insert —

- (3) In considering whether to make any recommendation to the Governor that any road should be declared to be a secondary road ...

We know, as we mentioned before, that is now a not-used category of road. Again, I ask why this quite extensive redrafting of this provision is here if, in fact, it is a category of road that is no longer considered to be useful.

Ms R. SAFFIOTI: This was advice from the Parliamentary Counsel's Office. Its recommendation or instruction was to modernise but not delete the term "secondary road" throughout this bill.

Clause put and passed.

Clauses 30 to 32 put and passed.

Clause 33: Part 9 Division 1 heading and section 28AA inserted —

Mr R.S. LOVE: This is clause 33, and I think that the minister has some amendments to move on clause 34. This clause seeks to insert the part 9 division 1 heading and proposed section 28AA. Proposed section 28AA states —

... **Terms used**

In this Division —

COA road section means a road section subject to control of access;

road section means a section or part of a road.

I am guessing that a "road section" is part of a control-of-access road. Can the minister give me some details on the extent of the network that is actually envisaged to be covered by these provisions for control of access under the act?

Ms R. SAFFIOTI: It will cover the freeways and the major highways—Tonkin, Roe, Reid and Forrest Highway.

Mr R.S. LOVE: I thank the minister for that. What about some of the country roads—for instance, the major Perth–Darwin National Highway and the like? Are they also control-of-access roads under this provision?

Ms R. SAFFIOTI: Sorry, I did say Tonkin, so that includes, in a sense —

Mr R.S. Love: A little of it, yes.

Ms R. SAFFIOTI: A bit of it, yes, but not the other highways in regional WA.

Clause put and passed.

Clause 34: Section 28A amended —

Ms R. SAFFIOTI — by leave: I move —

Page 38, after line 31 — To insert —

- (2AC) The right of access may be granted for the exclusive use of a person or class of persons as the Commissioner thinks fit having regard to the purposes of the COA road section.

Page 42, after line 23 — To insert —

- (ea) if a right of access for a COA road section has been granted under subsection (2AC) — uses the COA road section when the person is not a person, or does not belong to a class of persons, referred to in that subsection; or

These amendments will facilitate the exclusive use of part of a corridor to promote economic activity and development of some operations in the north west. Under this proposed amendment, Main Roads Western Australia will be empowered to enter into an agreement with mining companies to grant access to a road section for their exclusive use. Main Roads will be empowered to enter into agreements with mining companies to pay for access to the relevant road sections. These amendments also create a specific event when an unauthorised person uses a controlled access road granted under this proposed subsection. The amendments are primarily to achieve a key purpose. Throughout the north west we are seeing developments with autonomous vehicles and autonomous trucks. Some proposals have been put forward for access to a dedicated road, which would not be built by taxpayers but by the mining companies. Currently, legislatively, there is ambiguity whether exclusive access can be given, even for autonomous trucks in a particular area. These amendments will clear that ambiguity and facilitate rights to a particular road. Because the vehicles are very big and autonomous, we do not want them mixing with other vehicles for safety reasons. In a sense, this will create an avenue to facilitate shared corridors. Another key thing in the north west in particular is that the government owns a number of key corridors. In many instances, the corridors are very, very wide. The normal public access road could continue but there may be a controlled road for exclusive access for particular types of vehicles. These amendments seek to facilitate that and clear up any ambiguity that exists. I note that we sought different legal advice for this and the advice was that this would be the best way to clear up any ambiguity for these types of proposals.

Mr R.S. LOVE: I want to comment on these amendments because they make quite an extensive change and it has not really been explained. I would have thought there would have been an opportunity to have been given more information about this before this point—15 minutes before the end of the debate today. Before this legislation goes to the other place will the minister arrange a briefing for the spokesperson in the other place, Hon Neil Thomson, and me so that we can discuss this more fully? I am not going to oppose the amendments because I have not been able to fully consider the implications of what the minister is saying. I would like to ask a couple of questions. Is this the time to do it, chair?

The CHAIR: Yes.

Mr R.S. LOVE: I scribbled down a couple of things when the minister was talking. Are the roads in question existing public roads?

Ms R. SAFFIOTI: No. It would not be for existing public roads. That would be impossible because there would be existing public access. I am sorry. We were planning to give the opposition a briefing but the last two weeks have been pretty hectic and this bill came on very quickly. We were going to give the opposition a briefing on this matter. This relates to new roads. The idea is there may be corridors and there will be new roads paid for by the relevant company. Taxpayers will not pay for them. They will be maintained. There are legal issues about private roads versus public roads. It has to be declared a public road, which is why we are moving this amendment. The initial advice was that people can build private roads in government reserve corridors. Initial advice was that it could be done.

Achoo! Achoo! No, it is all good; I test daily.

Mr R.S. Love: Famous last words!

Ms R. SAFFIOTI: The advice was that private roads could not be built in these types of corridors so they had to be public roads. However, we wanted to a pathway to facilitate the objectives of having shared corridors but that did not make taxpayers worse off, did not undermine existing public roads and created a safe environment. This is the proposal to achieve all those objectives. It is a new initiative but I think it is one that will be used more often because, as we know, companies try to identify corridors to put in infrastructure, which is very hard. The government has a couple of corridors and there is the ability for us to get a return on those corridors and not impose any cost on taxpayers to build these roads. Especially for autonomous vehicles, we do not currently want to put autonomous vehicles on existing public roads to mix with other vehicles. I was looking at what is happening with Tesla in the United States but that is a very small example. Of course, autonomous vehicles are used heavily by the mining sector on mine sites. However, for trucks to have the ability move out of mine sites into a more public realm, we have to

create a situation where they can be 100 per cent safe, not interact with existing traffic and have new infrastructure that taxpayers are not paying for without mixing with existing roads.

Mr R.S. LOVE: Minister, is there some expectation regulations will be drawn up around the operation of these roads? What process will the department go through to draw them up? This will involve interaction with pastoral lessees if the roads are running across pastoral leases; the minister is shaking her head.

Ms R. Saffioti: No.

Mr R.S. LOVE: Perhaps she might explain some of the circumstances where it might be used. It sounds like it could be used only in an area that is under no other tenure and does not intersect with any road or rail. Could the minister explain a little bit about what these roads might look like?

Ms R. SAFFIOTI: It is where we have an existing road corridor, which is able to have a normal public road and another public road that might be used exclusively by certain companies running certain vehicles. This is not for new areas. It is where there are government corridors that are very wide and there is an existing road—a government public road. This would be working within that corridor.

Mr R.S. LOVE: If it is running alongside the other road, presumably there would be intersecting roads at some point. What will happen to intersecting roads? Will there need to be grade separation? Will they just be blocked? How will the control of access be achieved? I assume if the road runs from a mine somewhere in the Pilbara towards a port, it will be going through quite a collection of other roads and interactions. How will that be achieved, with autonomous vehicles being completely separated from other vehicles?

Ms R. SAFFIOTI: I am sorry; I should be aware whether we can make the current proposal public but I do not think that we can yet. As I describe it, the autonomous vehicles will be operating within a particular site. They will move out of the private site into the public realm. It will all be separated. The cost of running that private road access will be done by the company. Grade separation means they never mix with public vehicles and that will all be done by the company. They will then link into the government corridor. The aim is that these vehicles do not interact with any other public vehicles. The cost of all that will be done by the private company, not us.

Mr R.S. LOVE: I have one final question. I know of one particular circumstance in which a company is using a section of the road running alongside the state barrier fence as a mine road or access road that has caused some concern for other people in the area. Would that be another circumstance in which that barrier fence is government land? Would that be another circumstance in which one might see control of an access road?

Ms R. SAFFIOTI: I do not know. It would depend a lot on underlying ownership and management of the roads, what it is currently reserved for, and all those sort of things. I would not be able to speculate on that—sorry.

Amendments put and passed.

Mr R.S. LOVE: I am trying to see where the amendment to clause 34 will go. I am looking at the provision the minister has just amended, and clause 34(7) that will insert proposed section 28A(2AA), which says —

The Commissioner may grant a right of access in respect of a COA road section to an owner or occupier of land adjoining the road section.

I think it says that it puts beyond doubt the power to grant access. Is that the sole reason for this clause?

Ms R. SAFFIOTI: Yes. This proposed subsection will facilitate access agreements. Again, it will put beyond any doubt the ability to enter into arrangements for access. As I understand it, on the current system, we can have agreements for compensation. This is an agreement that specifically allows access.

Mr R.S. LOVE: Proposed section 28A(2AB) states —

The right of access may be granted subject to such conditions and undertakings as the Commissioner thinks fit having regard to the purposes of the COA road section.

What if the commissioner changes their mind about what they think is fit? Will a process be wrapped around this? Will it be conducted under some sort of regulation? What circumstances might occur if there was a change in view at some point down the track? Would there be compensation? Is it subject to legal challenge? Perhaps the minister could explain a little bit about that.

Ms R. SAFFIOTI: It is similar, in essence, to what happens now under a different sort of process, but a number of negotiations are had with the commissioner. Once we set agreements, there will not be unilateral changes just for the sake of it. I am very confident that it will all work well.

Clause, as amended, put and passed.

Clauses 35 and 36 put and passed.

Clause 37: Section 29 amended —

Mr R.S. LOVE: This is more of what we were talking about before, I suppose, with the acquiring and leasing of land et cetera. Clause 37 says —

(1) Before section 29(1) insert:

(1A) in this section —

designated purpose means —

- (a) main roads works or other works associated with the construction of infrastructure; or
- (b) activities to provide services for vehicles or road users or in connection with road travel or transport; or
- (c) other purposes directly or indirectly connected with the Commissioner's functions or other public purposes.

I am asking about (c). Are these other purposes directly or indirectly connected with the commissioner's functions or other public purposes or potentially the commercial activities that we have been talking about? Could it be used for those types of things? Could it also be used for perhaps gravel or other material supply and offset land?

Ms R. SAFFIOTI: I suspect that the example of gravel pits would fall under proposed paragraph (a), so (c) could be other commercial functions. As I was saying, we were talking about any other commercial functions that the commissioner may see fit. Roadside advertising might be one, but I think those three examples would fall under (a) and (b).

Mr R.S. LOVE: If we move to clause 37(3), I believe it talks about compulsory acquisition, but I will stand corrected. The provision to delete section 29(2) is basically saying that if the commissioner thinks it fit, the land that is being acquired can be leased to another person. This is a departure from what I understand to be the current situation: if you compulsorily acquire the land, you can only lease it to the person from whom it was acquired. This comes back to the situation I was asking about before. I do not know whether this was the minister's intention, but I can see circumstances in which Main Roads could compulsorily acquire land and develop and lease that land to other parties. That is a radical departure from my understanding of the current situation, in which it can be leased back only to the person from whom it was acquired. That is a natural protection, I would have thought, from the government acquiring citizens' land in an unfair manner. This is a very radical change. Could the minister explain whether that is a correct view?

Ms R. SAFFIOTI: The advice is that section 29(2) of the act states —

In addition to the other powers conferred on the Commissioner by this Act, the Commissioner may grant —

- (a) a lease or licence to occupy any land acquired by him under this section; and
- (b) any interest in that land,

to any person from whom the land was acquired upon such terms and conditions subject to subsection (3) as he thinks fit and of which the Minister approves.

That limitation is to be removed, but, again, we are not seeking to compulsorily acquire land for roadside services.

Mr R.S. LOVE: I do not think the minister can possibly envisage all purposes for which the Commissioner of Main Roads may in future wish to acquire land. I put it to the minister that that is a very sweeping change to the position in which a natural barrier is in place so that acquisition of land and the further leasing of that land can take place only to the person from whom it was compulsorily acquired. A situation is now being moved so that somebody's property can be compulsorily acquired and then used in a commercial venture by the commissioner, by Main Roads or by other persons in the sense of them leasing that land back. I suggest that that is a really significant change. Have any other government agencies been given that power to compulsorily acquire land and then lease it out to other persons? If so, perhaps the minister could explain some of those circumstances.

Ms R. SAFFIOTI: A number of agencies have that power. I think Development WA has that power, along with most land acquisition agencies. They are not obliged to lease back to the original purchaser.

Debate adjourned, pursuant to standing orders.