

PERTH PARKING MANAGEMENT BILL 2023

Committee

Resumed from an earlier stage of the sitting. The Deputy Chair of Committees (Hon Sandra Carr) in the chair; Hon Stephen Dawson (Minister for Emergency Services) in charge of the bill.

Clause 1: Short title —

Committee was interrupted after the clause had been partly considered.

Hon NEIL THOMSON: I wanted to continue my line of questioning on strata units. Would a group of units or a development in a solely residential strata be obligated to have licensed parking bays?

Hon STEPHEN DAWSON: I am told they do not need to be licensed if it is all residential.

Hon NEIL THOMSON: I suppose that leads to other questions because some of those strata units—it varies depending on the strata rules—from time to time would be used for short-stay accommodation. I understand there are various licensing restrictions in the City of Perth, for example, around the use of short-stay accommodation. Some of them may have more liberal rules or may have applied through the City of Perth to allow for some short-stay accommodation, such as through Airbnb. Under that arrangement, is it true that if a residential strata had some apartment owners operating an Airbnb, they would have an obligation to report? Is that the case? I would like clarification on the arrangements for residential strata.

Hon STEPHEN DAWSON: I am told that if the planning approval is for residential, we would not know about Airbnb use. I asked the advisers a further question in case the member is going down this track. I asked: if it came to our attention that the residential building was being used for Airbnb, what would the process be? If it came to our attention, we would alert the local government and we would suggest to them that it might want to change the residential planning approval that exists for that building.

Hon NEIL THOMSON: My understanding is that people have to apply to the City of Perth to have an Airbnb and some strata units do not allow Airbnb; that is part of the strata arrangements. My point is it relates to this issue of penalties being increased substantially in a number of cases and understanding some of the strata bodies are not the most well resourced; volunteers operate within the context of a residential strata. It would appear from what the minister is saying that the government is not actively policing residential strata where there might occasionally be an Airbnb. That would be a matter to really focus on. If it came to the government's attention that a residential strata had one or two Airbnbs operating in it, the first line of call would be with the local government and finding out what planning approval they had. Therefore, I take it that if they had planning approval to run the Airbnb, the department would follow up with the strata body to ensure that they licensed those bays? Would that be the approach?

Hon STEPHEN DAWSON: Yes, that is correct.

Hon NEIL THOMSON: Just by way of comment, this might be an opportunity for some further educative process within the department. It is not called consumer protection; I think it is now the Department of Jobs, Tourism, Science and Innovation that manages the strata.

Hon STEPHEN DAWSON: It is the Department of Energy, Mines, Industry Regulation and Safety.

Hon NEIL THOMSON: It is DMIRS. Obviously, a residential strata will still need to maintain a level of compliance. Given that those people are generally volunteers within the residential complex, effectively, they could become responsible for any breach and resulting penalties. That leads to the other question: if there were a penalty for noncompliance in a strata-type situation, who would be liable for that penalty—would it be the strata body, the body corporate or the apartment owner?

Hon STEPHEN DAWSON: It would be the body corporate.

Hon NEIL THOMSON: Again, I stress that it is important for DMIRS to provide that advice through its channels to those bodies corporate. They are not paid; they are there as a representative body and they are usually volunteers co-opted by their neighbours to do that job. I think that is important, given that the penalties are quite significant, with a fine of \$30 000 for five or fewer vehicles.

If we can stay on clause 1, we might potentially be able to knock this off. I want to ask about charging stations. Charging stations seem to be becoming available across company car parks, and potentially even in public car parks, although I have not seen any; I have not been in a public car park for a while, but I assume they are starting to become available. We have some here in our own parliamentary car park. Increasingly, free or metered charging stations seem to be becoming a thing, importantly, as we move to electric vehicles. Will those charging stations in a public, corporate or even residential car park to be used by people who have access to that car park be subject to the parking levy and licensing requirements?

Hon STEPHEN DAWSON: I am advised that if it is a fast charging bay and it is used by numerous cars to fast charge, it will be exempt. If it is a parking bay that has a charging station and the vehicle is charged while it is parked overnight or for a period, it will not be exempt.

Hon NEIL THOMSON: A fast charging bay would be defined as a time-limited bay whereby someone goes in for only a half-hour to charge. Is that the definition of what that would look like?

Hon STEPHEN DAWSON: This will be in the new regulations. I said “fast charging”. It would not necessarily have to be a half-hour; it might be an hour. Provided the purpose of the bay is to charge multiple vehicles, it will be a charging bay as opposed to a parking bay—so that will be worked out in the regs.

Hon NEIL THOMSON: That will be picked up in the new regs. I expect there will be some time limit on that; that will have to be defined. I assume that an upper limit will be put on that?

Hon STEPHEN DAWSON: Quite probably, but it is really about the purpose of the bay because, as the member knows, technology changes quite rapidly. Although it might take an hour to charge a car now, it might only take 10 or 15 minutes in the future. Consideration may be given to a time frame, but really it is about that purpose. If it is a fast-charging bay that multiple cars use—they are in and out and it is not being used to park a vehicle—that would be exempt. If the bay is used primarily to park a car and the charging is ancillary, that would be captured.

Hon NEIL THOMSON: I ask whether there is scope for loopholes. We would not want Wilson Parking—I am not picking on Wilson particularly but a public car park—to say that all its bays are fast-charging bays. I am sure that could not happen, but the government will have to define it somehow. Will there be a limit to the percentage of fast-charging bays in the regulations? Is it anticipated that there will be a limit as a percentage to the total number of bays that might be licensed?

Hon STEPHEN DAWSON: No, there will not be a percentage. I guess it is something that the department will monitor. There is the potential for people to game the system; it is something that we are mindful of. If there are 100 fast-charging bays in a 100-bay car park, questions will be asked.

Hon NEIL THOMSON: That covers off clause 9. If the minister is happy for me to truncate this process, I will ask questions on other clauses in clause 1.

Hon Stephen Dawson: Honourable member, if you’re telling me this is being truncated —

Hon NEIL THOMSON: It is! I promise you, minister!

Hon Stephen Dawson: — then I am very happy for you to ask me.

Hon NEIL THOMSON: I will truncate my questions to the greatest extent possible —

Hon Stephen Dawson: If that is what is happening, I am happy to participate.

Hon NEIL THOMSON: — noting that the officers here would like to go home to their families this evening before it gets too late. I do not wish to detain them on irrelevant questions.

I turn to the penalties. This truncated method will help with clause 11 even though we are talking about it in the general sense under clause 1. I note the unusual structuring of the penalties; this is more of an observation. There is a penalty of \$6 000 per bay for small offences involving five or fewer bays but a penalty of only \$1 000 a bay for offences involving 100 bays or more. What is the logic of the graded penalty system?

Hon STEPHEN DAWSON: I am told that the graduated regime will ensure that penalties remain effective but also reflect the scale of the offence.

Hon NEIL THOMSON: I do not want to promise that this is my last question. When I have done that before, minister, I have gone on to ask another 10 questions!

I turn to the parking policy in a general sense. When local government owns a car bay, there is different ownership. Parts of this bill talk about the different ownership of state and local governments. The treatment of federal, state and local governments is entirely equitable, is it not? I know federal government arrangements have been considered and there has been some clarification about federal and local governments. Will the provisions of the bill have any impact on the collection of revenue for arrangements under which those bays are owned by federal, state or local governments? Were there any issues under the previous arrangements?

Hon STEPHEN DAWSON: The expansion of the definition of “owner” in clause 5(2) is intended to pick up all owners so that everybody will be equally liable. That includes the three jurisdictions that the member mentioned.

Hon NEIL THOMSON: Is the minister saying that under the current law, some were escaping the net in relation to ownership and some were not able to be picked up?

Hon STEPHEN DAWSON: I think the point is that there was a lack of clarity in the existing act.

Hon NEIL THOMSON: Was that potentially impacting some owners—for example, the federal government? Were any federal government-owned bays being treated as exempt?

Hon STEPHEN DAWSON: I am told that they were not, but they could have been.

Hon NEIL THOMSON: I thought that might have been the case, but I was not sure because I was just reading it and it looked like some federal government agencies might not be paying. Effectively, the government is tying up a loophole that would stop that ever happening in the future; I accept that.

Just to get clarity from the deputy chair, I have one question on the Perth Parking Management Amendment Bill 2023. I am happy to terminate this part. I know it is a cognate debate, but could that question be picked up under clause 1 of this bill? I am just trying to get clarification of what I need to do and whether I let us finish at clause 1 of this bill and start again on the other bill.

The DEPUTY CHAIR (Hon Dr Brian Walker): The member is quite correct, when we do the second bill, it will be included with this bill, in clause 1.

Hon NEIL THOMSON: Can I ask a question on the other bill—I only have one question—under clause 1 of this bill?

The DEPUTY CHAIR: Yes, you can.

Hon Stephen Dawson: I guess we are doing it cognately.

Hon NEIL THOMSON: It is a very simple question, minister. The amendment bill is not very big, and clause 4, “Section 145 amended” will insert the following condition —

To the extent that a fee under this Act (including a fee determined under regulations made under this Act) is a tax, the fee is imposed.

Basically, is this an acknowledgement that this is a new tax that will be imposed by the state government?

Hon STEPHEN DAWSON: No, it is not a new tax. It will replace a previous instrument. The reason it is in different legislation and in this language is because Parliamentary Counsel drafted it this way. It is not a new tax; it will replace something that has been in place since 1999.

Hon NEIL THOMSON: I will not go into the Constitution to look at the definitions of taxes, but my understanding was that this was defined as a tax in the previous act. Is that because it was more of a direct cost-recovery arrangement? Has there been any widening of the definition of the purposes for which these revenues might be used, necessitating the inclusion of this provision in order to comply with the Constitution?

Hon STEPHEN DAWSON: No.

Clause put and passed.

Clauses 2 to 194 put and passed.

Title put and passed.

Bill reported, without amendment.