



TRANSPORT AND RESOURCES COMMITTEE

Members present:

Mr SR King MP—Chair
Mr JP Kelly MP
Mr JR Martin MP
Mr LL Millar MP
Mr TJ Watts MP
Mr PT Weir MP

Staff present:

Ms D Jeffrey—Committee Secretary
Mr Z Dadic—Assistant Committee Secretary

PUBLIC BRIEFING—INQUIRY INTO THE TRANSPORT LEGISLATION (ROAD SAFETY AND OTHER MATTERS) AMENDMENT BILL 2022

TRANSCRIPT OF PROCEEDINGS

MONDAY, 20 JUNE 2022

Brisbane

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The committee met at 9.04 am.

CHAIR: Good morning. I declare open this public briefing for the committee's inquiry into the Transport Legislation (Road Safety and Other Matters) Amendment Bill 2022. My name is Shane King, member for Kurwongbah and chair of the committee. I would like to respectfully acknowledge the traditional custodians of the land on which we meet today and pay our respects to elders past and present. We are very fortunate to live in a country with two of the oldest continuing cultures in Aboriginal and Torres Strait Islander people, whose lands, winds and waters we all share.

With me here today are: Lachlan Millar MP, member for Gregory and deputy chair; Joe Kelly MP, member for Greenslopes, who is replacing the member for Mundingburra for today's proceedings; James Martin MP, member for Stretton; Trevor Watts MP, member for Toowoomba North; and Pat Weir MP, member for Condamine.

On 26 May 2022 the Minister for Transport and Main Roads introduced the Transport Legislation (Road Safety and Other Matters) Amendment Bill 2022 into the Queensland parliament. The bill was referred to the Transport and Resources Committee. The purpose of today's hearing is to assist the committee with its consideration of the bill.

This briefing is a proceeding of the Queensland parliament and is subject to the parliament's standing rules and orders. Only the committee and invited witnesses may participate in the proceedings. Witnesses are not required to give evidence under oath or affirmation, but I remind witnesses that intentionally misleading the committee is a serious offence.

You have previously been provided with a copy of instructions to witnesses, so we will take those as having been read. I also remind members of the public that they may be excluded from the briefing at the discretion of the committee. I remind committee members that officers are here to provide factual or technical information. Any questions seeking an opinion about policy should be directed to the minister or left to debate on the floor of the House.

These proceedings are being recorded and broadcast live on the parliament's website. Media may be present and are subject to the committee's media rules and the chair's direction at all times. You may be filmed or photographed during the proceedings and images may also appear on the parliament's website or social media pages. I ask everyone present to please turn mobiles phones off or to silent mode. I also ask that responses to questions taken on notice today are provided to the committee by 4 pm on Tuesday, 28 June 2022.

MAHON, Mr Andrew, General Manager, Land and Transport Safety and Regulation, Department of Transport and Main Roads

ORR, Mr Tom, Director, Corridor Management and Protection, Department of Transport and Main Roads

ROBINSON, Ms Joanna, Executive Director, Policy, Safety and Regulation, Department of Transport and Main Roads

CHAIR: I welcome officials from the Department of Transport and Main Roads who have been invited to brief the committee on the bill. I invite you to make a short opening statement, after which we will have some questions for you.

Mr Mahon: Thank you for the opportunity to brief the committee on the bill today. The bill includes amendments to modernise and clarify how financial penalties collected for camera detected offences can be spent on road safety initiatives; provide legal protections to health professionals reporting medical fitness to drive for non-Queensland driver's licence holders; remove barriers for motorised mobility devices and simplify the existing legislative framework; introduce evidentiary provisions to improve efficiency in prosecution of vehicle standards related offences; ensure a digital image taken when a person is less than 15 years of age has a shelf life of five years instead of 10; and improve processes for rail projects, providing consistency for landowners.

A significant road safety element of this bill is the amendment to clarify how financial penalties from CDOP, Camera Detected Offence Program, can be spent on road safety initiatives. Road safety is an issue that affects all of us. Over the past two years we have seen an increase in the number of lives lost on Queensland roads. Sadly, this is a trend that is continuing this year, with devastating consequences for individuals, families and the communities impacted. There are also significant economic consequences. In 2020 alone, road trauma cost Queenslanders an estimated \$6 billion.

With the human and economic costs being so high, we need to be able to invest in targeted, innovative and effective road safety solutions. The recently released Queensland Road Safety Strategy 2022-31 sets the direction for Queensland to achieve ambitious interim targets of a 50 per cent reduction in fatalities and a 30 per cent reduction in serious injuries by 2031. These targets, and the ultimate vision of zero road deaths or serious injuries by 2050, are in alignment with national and international goals.

Improved investment in innovation and new approaches to tackle complex road safety issues is needed to achieve these targets. CDOP was introduced in Queensland to enable the use of camera technology to reduce road trauma by deterring unsafe and illegal driving behaviours. It uses approved fixed and mobile cameras to detect prescribed offences. These types of cameras currently in use in Queensland detect speeding, running a red light, unregistered and uninsured motor vehicles, transporting particular dangerous goods in tunnels and, most recently, mobile phone and seatbelt offences.

For the past 25 years Queensland has invested all revenue from camera detected offence penalties, in excess of administration costs, into key road safety priorities. To clarify, revenue from offences detected by roadside policing enforcement activities do not go into the CDOP fund. It is only revenue from offences detected by the cameras that goes into the CDOP allocation.

CDOP funds a range of road safety initiatives including funding for improvements to state controlled roads where crashes frequently happen through the Targeted Road Safety Program, the Community Road Safety Grants program, Flashing School Zone Signs, the StreetSmart road safety campaigns and blood products for road crash injuries. The proposed amendment to the CDOP provisions in the bill are designed to reduce the number of lives lost and the number of people who are seriously injured as a result of road crashes in Queensland by enabling the delivery of a broader range of road safety interventions.

This bill will also provide protection from civil liability and liability under administrative process for medical professionals who, in good faith, provide information to the department about a non-Queensland driver's licence holder's medical fitness to drive. This will be consistent with the protections available to medical professionals who provide evidence about a Queensland driver's licence holder's medical fitness to drive.

In relation to motorised mobility devices, currently the rules around the use of these motorised scooters and motorised wheelchairs apply mass and speed capability limits. The National Transport Commission undertook a review of the regulation of motorised mobility devices to see if the existing mass and speed capability limits were appropriate to suit individuals with varied mobility support needs. Amendments in the bill reflect the commission's recommendations and will make it easier for people who need to use an MMD to choose the device that best suits their needs.

The changes to the mass requirements in the bill will allow registration and use of motorised wheelchairs of any weight and mobility scooters up to 170 kilos, aligning to Australian Standards. These changes will assist people who require heavier devices such as when the user requires special equipment attached to the device. The speed capability for motorised mobility devices will also be increased to 15 kilometres an hour, aligning with European Standards. Importantly, while the speed capability of the devices is changing to allow devices manufactured in Europe, the speed limit of 10 kilometres an hour that applies to these devices on footpaths will continue to apply. In addition, transport legislation has been reviewed to consistently define the users of motorised mobility devices as 'pedestrians'.

The bill also includes amendments that will improve processes involved in court proceedings for vehicle standards related offences. Requiring witnesses to attend proceedings to provide technical elements that the defendant is not contesting can be inefficient for the court proceedings and more costly where witnesses are entitled to expenses and a defendant found guilty may be required to pay those costs. The proposed amendments will allow documents such as database records, stickers, labels, plates or markings on vehicles because of Commonwealth government approved processes to speak for themselves and so will reduce the need to call witnesses for uncontested facts in a case. Importantly, the amendments ensure a defendant can still advise of their intention to challenge the document related evidence so that witnesses can be called if needed.

I also want to explain the amendments to the definition of shelf life for the Transport Planning and Coordination Act 1994. The Department of Transport and Main Roads' role in issuing driver's licences and other transport authorities is to develop sophisticated card production capabilities. As a result, the department works with other agencies to issue cards for those agencies. For example, the department produces disability worker screening cards, or yellow cards, for the Department of Communities, Housing and Digital Economy.

Under the existing shelf life provisions, a digital photo may be re-used on other prescribed authorities for up to 10 years. This could mean that a photo taken when a person was 11, when they applied for their blue card, is used on identity products such as a Queensland driver's licence until that person is 21. The changing nature of a person's appearance and biometric features before the age of 15 could mean photos of persons that may not be a true likeness. If a digital photo is not a true likeness, it could compromise confidence in identity products. As such, this bill shortens the shelf life for a digital photo taken when a person is under 15 years of age to five years, in line with the validity of children's passports for example.

The amendments to the Transport Infrastructure Act will clarify that accommodation works can be undertaken on land that has been affected by a rail project. This will provide consistency and certainty to impacted land owners and occupiers and also provide a clear process of notification and consultation for owners and occupiers.

In addition to the matters listed above, the bill makes minor and technical amendments to transport and other legislation including, for example, updating the definition of GVM in the Transport Operations (Road Use Management) Act 1995, updating references to repeal the regulations, and correcting section and division number references for the Housing Legislation Amendment Act 2021. Thank you for your time and we welcome any questions.

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CHAIR: The speed limit for MMDs will now go up to potentially 15 kilometres per hour, yet they can still do only 10 kilometres on footpaths. Forgive my naivety: where can they use the 15 kilometres an hour—in shopping centres?

Mr Mahon: No. The speed limit of 15 kilometres per hour enables the importation of European type devices that may have been rated to 15 kilometres an hour. Technically at present you cannot do that because we have speed limitations. It will not change the speed limit on that infrastructure—10 kilometres—but it will enable a broader range of products for people to import and purchase. It gives them flexibility and enables them to buy a product that may be capable, but they are still limited to 10.

CHAIR: Like a car that can do 200 but you are only allowed to do 100?

Mr Mahon: It is the same concept, yes.

Mr WATTS: Is there a fine for someone who is doing 15 kilometres an hour on the sidewalk?

Mr Mahon: I will have to confirm that for you. Apologies, I do not have that information on hand.

Mr WATTS: If we are going to bring in devices that can go faster, I do not want to get hit by a 175-kilogram object doing 15 kilometres an hour as I walk out of a shop.

Mr Mahon: Correct. Different infrastructure will apply different conditions. A shopping centre is private property and it is not a road related area, so speed limits will be set by the shopping centre themselves. They could theoretically set a higher speed limit if they chose, but because it is on private property the rules that we have in place would not apply.

CHAIR: You see some decent ones around, with roofs on them and everything. They are fairly bulky already. I understand that the European market opens up a lot better pricing as well.

Mr Mahon: A lot are manufactured out of Europe and a lot of companies will apply the European standard.

CHAIR: The member for Hervey Bay will be very happy!

Mr WATTS: To clarify, will we be able to get an answer to whether there is an offence?

Mr Mahon: I will confirm the offence for you, absolutely.

Mr WEIR: What is the reason for the amendments to gross vehicle mass? What size of vehicle are you talking about? Does this go to NHVR?

Mr Mahon: No. For clarification, this is for light vehicle gross vehicle mass. It does not change the rules around gross vehicle mass. It is largely an administrative amendment. If you have the standard GVM of a vehicle—two tonnes, for example—and you have a GVM upgrade done legally

through a company that provides that service to 2.5 tonnes, you would then have a compliance plate attached to the vehicle, a blue plate, to say that it is been modified to allow GVM. The legislation is not very clear as to whether the original GVM or the new GVM applies. This amendment clarifies that to say that if a legal modification has been made then the new GVM is the GVM that applies. It is largely an administrative amendment.

Mr WEIR: That would have to be done by a certified—

Mr Mahon: Correct. That would go through the normal certified scheme, yes.

Mr MARTIN: I note that the legislation currently addresses gratuitous insurance for motorised wheelchairs. Could the department elaborate on the reasons for the need for the proposed change to the definition?

Mr Mahon: That product will not change. It currently applies. We confirm that it will continue to apply to these new devices. It just means that some more devices will be eligible for gratuitous insurance. This is why we register these vehicles. It is a product that we offer customers. It is free of charge and it gives them free compulsory third party insurance, should they have an incident.

CHAIR: I want to go further into the issue of rail accommodation beside rail projects. Could you flesh that out a little? Was there a particular incident that required it?

Mr Orr: The accommodation works provisions were originally brought in for busway, light rail and road some time ago. At the time it was considered that those provisions were not needed for rail. Subsequently, with a lot of rail projects coming online, projects were identifying that the need to undertake specific negotiations with landowners around accessing their properties—on top of notifying them that we might be coming on to do the infrastructure works themselves—was adding considerably to the time and cost of projects. The amendment will bring in accommodation provisions for rail, align that with the other modes and allow us to negotiate in a more streamlined and efficient way and to improve cost delivery. It also gives owners more certainty. At the moment, a landowner could get a notification from the department to say that we are coming on their land to build rail works but then we would potentially come back later and say, 'Can you give us authorisation to come onto your land to do these accommodation works?' That often causes a lot of confusion for landowners, because they think they have already agreed to that happening. They do not appreciate the distinction between the two categories.

CHAIR: It is bundling it all together into one package? Okay. Afterwards, obviously, when you demobilise, it is a case of leaving everything as it was?

Mr Orr: As best we can. Typically we are talking garden sheds, fences and maybe garden paths. For roads it is often driveways, letterboxes and things like that out the front. We have a legal obligation to make good as best we can, and if the landowner feels we have not made good as well as they would like they can seek compensation for any residual damage.

CHAIR: I remember the peninsula rail line. In the end it worked out very well. Everyone was pretty happy, from my perspective.

Mr MILLAR: In your opening statement you spoke about road safety and, of course, reducing the toll. Can you point to anywhere in this legislation that reduces the toll? How will this legislation reduce the horrific road toll?

Mr Mahon: The road toll has been horrific over the last couple of years. We have gone from the best year on record in, 2019 with—still too many—only 220 fatalities, to last year, when it jumped to 276. This year we are up by 14 on the same time last year, so it is devastating. There are a number of initiatives in the legislation that we will be able to deliver through our road safety action plan.

One of the key things this will enable us to do that we have not been able to do in the past is to test new technology. The new mobile phone and seatbelt detection technology is an example. The camera detected fund could not fund the trial or our testing of that technology but can fund it once it comes into effect. This will enable us to test technology, to test things that may have an impact in the future. Some of the technology we want to look at is around how we not only have penalties in place but also change behaviour through nudge theory, so to speak—giving people indicators that they are doing the wrong thing to correct the behaviour without a penalty. For example, you will see those signs the council sometimes installs called Slow for SAM, where it gives you an indication that you are speeding and people often will slow down. We want to look at technology that we can test on the network that may have an impact for some of those types of issues—not just speed but also mobile phone use, seatbelts and other things that are showing up significantly in the road toll.

Seatbelts is a perfect example of an issue that most people probably thought we had solved many years ago. We are still seeing over 30 people a year die on our roads from not wearing seatbelts. That is just astronomical. Through those new cameras, in seven months we have issued over 30,000 penalties for not wearing a seatbelt or not wearing it correctly. There are things that we want to be able to test and technology that we want to be able to test. Drug driving is another space where we want to test better technology for detection. Drink driving is a problem that we still need to solve. It has not been solved. This will enable us to spend money on R&D to make sure we can test new options and new technologies that may affect road safety in a positive way into the future.

CHAIR: Proactive rather than reactive.

Mr Mahon: Correct.

Mr WEIR: There is a significant rail project being proposed in the electorate of Condamine called Inland Rail. There are obviously resumptions happening there. These provisions would then provide for access for construction, or is it part of those negotiations? Could you run me through the impact on landowners in that situation?

Mr Orr: Inland Rail is probably a more complicated one in that the state government is still negotiating with the Commonwealth about agreements as to what state powers we will give to the proponent of that project. Depending on where those negotiations land, Inland Rail could be authorised for the purposes of those provisions, but that is not automatic at this point in time. That is something that will have to be resolved through those negotiations. If they were an authorised or accredited entity for the purposes of those provisions, if they were proposing to do accommodation works in addition to actual construction of the railway infrastructure itself they could then use those provisions to notify landowners that they are coming on to make good for the works rather than having to negotiate that access individually with each landowner.

Mr WEIR: What did you mean by that last bit?

Mr Orr: At the moment, the authorised accredited entity can give a person notice that they are coming on their land to build rail infrastructure works, but to come back to do the make-good works—rebuilding someone's garden or relocating their garden shed or a fence or something like that—we do not have a right to enter the land through notification. We actually have to negotiate with the property owner individually to say, 'When we talked about the project we agreed that we would do these works. We now want to come back.' We cannot just give them notice to say that we are coming back to do that work; we have to ask them for permission to do things that should have already been agreed. It is a little bit procedural in the sense that they will get a notice and they can object if they wish. We have to consider those objections, but at the end of that process the department can then go on and make good those accommodation works if they need to.

CHAIR: You would think they would be happy for you to come back and do that.

Mr WATTS: I want to ask a series of questions in relation to the State Penalties Enforcement Regulation. The explanatory notes state that it will be 'discussed below', but there is nothing there. On page 12 of the explanatory note, clause 5, it outlines 'The amendment to create a new offence is discussed below', but it does not appear to be below.

CHAIR: Page 12, under part 3?

Mr WATTS: Yes. I am just trying to follow that.

Mr Mahon: Can I take that question on notice and provide clarification for you, because my version is slightly different. I do not have the 'below' comment that you have there—sorry, I do.

Mr WATTS: I am happy to come back to it rather than spend time on it now. The principle of my question is: why do not all fines come to safety improvement and where do the rest of them go? There is a further part. It says that it was determined that a value of 'two-fifths of a penalty unit' would apply to this offence. I am trying to understand how and why we come up with two-fifths. Are there any other offences where we have fractions of a unit?

Mr Mahon: To answer your first question around the funds and where they go, the legislation outlines that the camera detected offence funds go into this fund. That just effectively precludes other offences that are not camera detected that would go into, effectively, the consolidated revenue fund. That would be things like roadside interceptions. If you were pulled over by the police on the side of the road—

Mr WATTS: That is not invested in any road safety; that just goes into the government's bucket?

Mr Mahon: That could go into road safety, but it is not legislatively required to. We do spend more than the actual fund allocated to road safety. The Camera Detected Offence Program, as I said, all goes into road safety. A big chunk of that goes into, for example, infrastructure but more money is put into other road safety initiatives above and beyond that which may come from the consolidated fund. It is just not a direct link in the same way that the Camera Detected Offence Program is.

In relation to your question about fractions of penalties, we do have a lot of penalties that are fractions of penalties. Often that is because the penalty may have started at a point in time prior to penalty units or the entire penalty unit may be perceived as too high for a particular penalty. Really, that is about just trying to get the balance right in the monetary value. It might look odd to see two-fifths of a penalty unit, but that is generally around trying to get the monetary penalty at the right level for the type of offence.

Mr WATTS: What sort of process do you go through to assess that?

Mr Mahon: We go through a number of different processes. It depends on whether or not we are evaluating a penalty, of course. In the case where we are looking at and evaluating a penalty, we are looking at other types of similar penalties and will do a comparison. We are also doing interstate comparisons to see where it sits in relation to other jurisdictions. We also do assessments with the Department of Justice and Attorney-General, who will provide advice around whether or not penalty units and penalties applied may be deemed to be effective, efficient, at the right levels and so forth. There are a number of different processes we go through to try and set the penalties at the right level. Sometimes, obviously, penalties are set at a higher level to achieve a different road safety outcome. For example, the mobile phone penalty is set at a very high level to try to achieve a much more immediate impact in the community and a response from the community to reduce that kind of behaviour. Sometimes that is used as a lever as well.

Mr WATTS: Ultimately, the parliament has set that high level. The minister has said, 'That is our intent.'

Mr Mahon: Correct. The minister, either through regulation and Governor in Council or through the parliament with a bill, will set those amounts.

Mr WEIR: I am curious about the amendments with regard to photo IDs for persons under 15 years of age. What does that cover, because it is 16 to get a learner driver permit?

Mr Mahon: Correct. At 15 you can get a proof-of-age card, which we provide as a product. It is basically a similar process and similar identification to a driver's licence. You can get blue cards at a younger age. As young as 11 or 12, you can actually apply for a blue card.

Mr WEIR: I recently had a case of a person who was part of a shooting club. She was a minor and was having problems getting identity documentation. She could do that through Transport and Main Roads?

Mr Mahon: We reduced the minimum age for what used to be the adult proof of age card, which was the old 18-plus card. We converted them a couple of years ago to proof-of-age cards, which have dropped the age to 15, for that very reason—so that younger people could apply for legitimate identification, to open bank accounts and those types of things. That product is available through Transport and Main Roads.

CHAIR: I have another question about the explanatory notes drafting. Under 'Part 5 Amendment of Transport Operations (Road Use Management) Act 1995' it states—

Clause 14 amends section 93 ...

The second sentence states—

Clause 7(1) amends paragraph (a) of the definition ...

There does not appear to be a clause 7(1). Can you confirm that that is proposed section 93(5) and not 7(1)?

Mr Mahon: We will confirm that, Chair.

CHAIR: If we come up with any other little ones, can we write to you about that?

Mr Mahon: Yes. We will confirm anything in that regard—absolutely, Chair.

Mr WATTS: I have a question about corridors. There is a corridor in my patch from Highfields to Westbrook that I have been trying to get gazetted. What is the process someone would go through if they were trying to say, 'We need to protect this corridor for future road development'? Is that solely in the remit of the department? Is that where we should be writing? How do we get someone to say, 'Don't approve a housing block on this'?

Mr Orr: The department undertakes a range of planning, looking at future needs. We have an approved planning policy which categorises the planning that we have done according to, if you like, a level of certainty. There is category A, which is unprotected planning, through to category D, which is protected and funded. Category C is protected but not funded. If planning has been done to identify a need, there is usually an analysis done about the risk to that corridor from, for example, future development. If there is a view that the ability to deliver that infrastructure in the future might be compromised by a range of factors such as future development, there are avenues in the legislation for the declaration of either a future corridor or an actual corridor for the infrastructure.

The protected planning is mapped. The department makes that available to our colleagues in the department of state development and planning. That mapping is publicly available through what they call the development assessment mapping system and the State Planning Policy mapping system. Councils are meant to factor that into their own planning when doing their planning schemes. Hopefully, where there is a committed corridor that will be identified in the relevant planning documents. If it is declared a future corridor, the department gets referrals in development assessment if development is proposed within that corridor. We then can assess that as part of the normal development assessment process and recommend conditions or potentially refusal to local government through the State Assessment Referral Agency.

Mr WATTS: Would it be council that would apply to the department to say, 'Let's protect that corridor'?

Mr Orr: The powers to protect the corridors rest with the minister or the director-general, depending on what sort of corridor it is. We have lots of people writing in—councils often do—saying that they think there is a need for a corridor or to protect a corridor if one has already been identified. That could go to either the minister or the director-general.

Mr WATTS: Thank you. I am a bit outside the bill.

CHAIR: I am going through that in my area at the moment. It is a lot of fun!

Mr WATTS: I just thought I would take the opportunity.

CHAIR: Thank you. Some questions were taken on notice.

Mr Mahon: Chair, I have a response to Mr Watts's question in relation to the offence that he asked about before. The offence for exceeding that 10-kilometre speed limit on public infrastructure is under section 288 of the Queensland Road Rules. The penalty infringement amount is \$82.70. As I mentioned, that would apply on public infrastructure but not private infrastructure. That would not apply inside a shopping centre, for example.

Mr WATTS: That would be police enforcing that? Can council officers enforce that?

Mr Mahon: No, it would be a police enforcement. That is under the Road Rules.

CHAIR: The other questions related to page 12 and page 14.

Mr Mahon: Yes, those two references.

CHAIR: If we find any others—not that we are looking for them; they just came up—

Mr WATTS: It is part of the job.

Mr Mahon: Yes, no problem at all.

CHAIR: Thank you very much. That concludes this briefing. I thank everyone who has participated today. A transcript of these proceedings will be available on the committee's webpage in due course. If we could get the answers to those questions by 4 pm on Tuesday, 28 June, that would be much appreciated. I declare this public briefing closed.

The committee adjourned at 9.38 am.