

# ROADS AMENDMENT (TRANSPARENT TOLLING) BILL 2016

*First Reading*

**Bill introduced on motion by Mr Ryan Park, read a first time and printed.**

*Second Reading*

**Mr RYAN PARK ( Keira ) ( 10:42 ):** I move:

That this bill be now read a second time.

I start by acknowledging my great friend and colleague the shadow Minister for Roads, Transport and Freight, the member for Strathfield, for the work she has done on drafting this bill. This is an important bill and the member for Strathfield has worked tirelessly to ensure that this policy development is a priority going forward. It gives me great pleasure on behalf of the Opposition to introduce the Roads Amendment (Transparent Tolling) Bill 2016.

It is not evident under this Government, but transparency is the hallmark of good government. It is a sign of a government that is mature and confident enough to bring issues and proposals to the light of public debate and have a genuine discussion with the electorate on the whys and wherefores of a particular policy, change or project. A good government has the courage of its convictions. It is neither secretive, illusive nor furtive in its dealings. It is open to discussion, debate and deliberation with the public and confident that as a result of this openness, better policy is formulated.

No-one on this side of the House is an expert in everything and no department is expert at everything. Members of the community do not always get things right, but they do expect transparency around government decisions so they can understand why a government agency or Minister takes a particular view. This Government is wracked by a culture of secrecy. Just last week under freedom of information laws this Government refused to release 97 documents that were part of the Government's consideration on privatising Sydney Trains, one of the largest privatisation proposals in this State. This Government is considering this proposal but refuses to release a single document about the process.

This Government's arrogance is no better demonstrated than in the manner in which it is undertaking the roads portfolio in this State, something that the shadow Minister has exposed. Time and again this Government is infected with an arrogance and blind faith in its own agenda—unwilling to debate or argue its case with the people of New South Wales. There is no more glaring an example of this behaviour than the Government's proposal concerning WestConnex. Projects like WestConnex are some of the costliest infrastructure projects undertaken by the State. There are significant implications for the financial modelling used to underpin this project.

The New South Wales Government has concluded negotiations and renegotiations for several toll road contracts that will see private motorists and commercial road users pay billions of dollars in tolls over future decades. These negotiations were conducted in private and with no independent scrutiny or accountability. If we get these negotiations wrong, we stand to short-change the people of New South Wales at an unacceptable cost, and lock them and future governments into deals that are not in the interests of the State.

When it comes to the public interest, this Government cannot be trusted. When it comes to tackling cost of living pressures, the Government goes away without leave [AWOL]. Time and again it has demonstrated it will side up with the interests of big money, the privileged few, over the broader public interest. It has shown its inability or unwillingness to stand up to the Federal Government's attacks on education and health. It seems that Liberal-Nationals governments simply do not understand cost of living concerns and they cannot be trusted to tackle these issues. New tolls—even reintroducing old ones abolished by Labor, like the one expected for the M4—will add thousands of dollars to the annual budget of families across Sydney, particularly those in Western Sydney. But this concern is lost on the Baird Government. This is why the Parliament needs to ensure some degree of transparency, some oversight of the way in which the Baird Government keeps going about raising the costs of living.

The Roads Amendment (Transparent Tolling) Bill 2016 attempts to shed more light and transparency on the ways in which tolling agreements and orders are made in the State. The bill is the result of consultation with the motoring groups and road transport industries, conducted largely by the shadow Minister. We convened a roundtable, surveyed the issues, identified problems and came up with acceptable solutions. Consultation, discussion and debate—all the hallmarks so sorely lacking in those opposite. This bill demonstrates Labor's commitment to ensuring the negotiation process is transparent, that road users receive demonstrable value for their toll payments, and that the public interest is not being diluted or diminished.

Broadly, the bill ensures that future tolling agreements will not be concluded until they have been approved by an independent regulator as being in the public interest. Information to

demonstrate that the public and consumer interest is protected is to be published. No future tolling agreements will allow above-CPI increases. All tolling agreements are to be reviewed by the Auditor-General, and a methodology is to be published justifying tolling differentials for heavy vehicles. I make it clear that while the bill does not impact existing contracts, it sets higher standards of transparency for future negotiations. I will now explore some of the details of the bill. The bill requires that the Minister cannot enter into agreements or orders unless such agreements or orders have been investigated by the Independent Pricing and Regulatory Tribunal [IPART] and found to be in the public interest.

The Auditor-General will conduct performance audits of the agreements and orders after they have been made or amended. Tolls and charges will not be permitted to increase by more than the consumer price index [CPI] and reports of the Independent Pricing and Regulatory Tribunal [IPART] and Auditor-General will be tabled in the Parliament and information on such matters published in the *Government Gazette* or other publicly available documents. This bill will ensure a higher level of scrutiny and better value for the public by making a number revisions to part 13 of the Roads Act, which deals with arrangements surrounding road construction and operation in the State. Division 2, part 13 concerning tolls and charges will be amended to state clearly that the division provides for the scrutiny and transparency of orders requiring them to be approved by the Minister and published in the *Gazette* and by requiring further information about tolling under them to be made publicly available.

A new part 13A is referred to, which will provide for the further scrutiny of those ministerial orders through the requirement that IPART concludes that such orders are in the public interest and subsequently requiring the Auditor-General to conduct performance audits of the orders after they are made. Section 213 applies to tolls and charges for tollways. New part 1A will ensure that any order made under this section, and after the commencement of this subsection, that increased the toll beyond the increase in the consumer price index over the same period is void. Section 214 concerns tolls and charges for bridges, tunnels and road ferries. It will be amended in the exact fashion as the preceding section 213, namely, requiring orders to be approved by the Minister, published in the *Gazette* and increases above CPI again declared void.

Section 215 applies specifically to the Sydney Harbour Bridge and will be amended to declare that any order with charges exceeding CPI is void. Section 215A will be amended by this bill to ensure that Roads and Maritime Services [RMS] publishes information that demonstrates the manner in which the public interest is protected by any order made by the preceding sections I have discussed. In particular, the new section requires the explanation of methodology used to give effect to a different tolling procedure published on or before the date on which the order commences and importantly ensuring that the Government Information (Public Access) Act applies to this section. Such information is to be made available at no cost. That requirement has been missing in relation to the WestConnex project, which is critical, given the Government's appetite for removing as much as it can from the purview of the Government Information (Public Access) Act.

Section 216 will be amended to cover instances of road ferries operated privately under contract with Roads and Maritime Services and inserts identical provisions to those in other sections in division 2. The bill will insert a new section 13A into the Act specifically to provide for the role of IPART and the Auditor-General in improving the transparency of tolling and ensuring greater public oversight of the decision-making process within government. The new part commences with a clear statement of intent that aims to improve scrutiny and transparency of future tolling agreements by, first, limiting any increase to CPI movements; secondly, requiring the public dissemination of such decisions; thirdly, requiring that IPART investigate any process relating to the public interest test; and, fourthly, requiring the Auditor-General to conduct performance audits of tolling agreements and orders and any subsequent amendments to them.

Division 1 new section 227A will provide definitions of IPART, performance audits, private sector entities, tolling agreements and tolling orders. Section 227B will ensure that the application of part 13A only applies to tolling agreements entered into, or proposed to be entered into, after the commencement of part 13A, and tolling orders published in the *Gazette* after the commencement of this part—an important provision. Whilst many in the community would like to review some of the decisions entered into by this Government—reflecting the amount of mistrust in the Baird Government when it comes to the public interest—we must ensure that the legislation does not present sovereign risk to current commercial agreements. The shadow Minister for Roads and Transport and I will not expose taxpayers to potential sovereign risk. That is not the way in which a sensible and alternative government should operate.

Division 2 new section 227C will require that any future tolling agreement must not be entered into, published, amended or replaced until IPART agrees that it is in the public interest to do so.

Section 227D states specifically that the Minister must ensure that the Crown or a public sector agency does not enter into a tolling agreement that provides for tolls and charges to increase over any period in excess of comparable movements in the CPI. A new division 3 is added, with section 227F providing for the referral of any tolling agreement, order or amendment to IPART for its investigation. Section 227G deals with subsequent IPART investigations, providing that IPART is to carry out an investigation of a proposal, with the investigation having utmost regard to whether or not it is in the public interest, and any other matter specified by the Minister.

Clause 3 will ensure that any investigation is limited to the provisions of a proposed arrangement or amendment that relate specifically to the calculation and charging of tolls and charges for the duration of the agreement. Following the investigation, section 227H will concern itself with the subsequent report by IPART and how it is made public. It requires such a report to be produced within four weeks of the initial referral by the Minister. Clause 2 requires the identification within the report of the matters considered. Clause 3 will ensure that the Minister tables the report in both Houses of Parliament within one month of receiving the report. That does not always occur with this Government. Clause 4 provides that the Minister is to make the report publicly available free of charge by publishing it on the department's website which provides transparency.

A new division 4 will provide for the Auditor-General to undertake performance audits which is also critical for transparency. Section 227K provides that the Auditor-General is to report to the Minister and both Houses of Parliament on the results of the audit as soon as practicable after it is completed. Section 227L will enable the Minister to refer to the Auditor-General for a second or subsequent audit, with the Minister able to identify particular aspects of any tolling agreement for investigation. It concludes by requiring audits under that section to be reported back to the Minister and both Houses of Parliament as soon as practicable. Section 227M will ensure that material and information held by a private sector entity must be produced to an authorised person. Any failure to do so, without lawful excuse, will result in a maximum penalty of 50 penalty units.

Section 227N will ensure that the costs associated with a performance audit may be allocated to a private sector entity in such amounts as the Minister decides, and it provides for instances where such costs are expressly included within a specific tolling agreement. Section 227P provides that no compensation is payable by or on behalf of the State on account of the enactment or operation of these amendments, as well as clearly defining terms pertaining to this section. The Opposition supports the development of a modern road network for New South Wales. Tolls are an important part of the funding mix. We do not shy away from those difficult discussions that will help to provide for an efficient and high quality road network. The shadow Minister for Roads and Transport and I understand that more than most members in this place.

This bill is the product of lengthy consultation and discussions with industry and other interest groups. Labor believes that talking to the public and discussing proposals with various interested parties achieves better outcomes, better legislation and better policy, and the community is provided with a better outcome. This Government, which does not understand basic good governance, is running this State as though it were some two-bit operation, from the back of a van. The Opposition wants to force this Government to the table and insert some legislative provisions that will ensure that a future government—whether Labor or Liberal, whether directly or through an independent third party—looks to the impacts and costs of tolling, and ensures that any proposal or amendment is subject to the public interest test.

There are no contracts at risk. There is no risk to current road projects being developed. Those who wish to spend a significant amount of time in this House, regardless of which side of the House they are sitting, will have to go through more detailed and transparent processes when engaging contracts regarding tolling in the future. When it comes to tolling and its impact on motorists and the road transport economy, the Minister for Roads and Maritime Services and his Premier are the epitome of *Dodgy Brothers Incorporated*, or at least a peculiar version of *Felix and Randall* from the *Odd Couple*. Without any consultation, without engaging motorists, Baird Government Incorporated has plans to slug motorists thousands of dollars each year to get to work, drop the kids at school or sport, or simply get from one place to another.

For businesses, particularly small to medium enterprises, the costs are higher. I note that the member for Londonderry is in the Chamber. She is a strong advocate for her region and she knows that the M4 is a vital part of the business plans of many of these enterprises. The engine rooms of the New South Wales economy use that lifeline. We now have a plan that could seriously disrupt those plans and increase the cost of doing business. One thing that is certain is that if businesses pay more then the community pays more. The costs are not only rising but also outstripping cost of living rises by almost 4 per cent a year. That is almost double the consumer price index rise. This is great business and something for which the Premier is no doubt being patted on the back in boardrooms

across the State. However, once again, what the Premier likes is not necessarily what the people of Western Sydney like. We will have to live for generations with these agreements. Whether it is members on this side of the Chamber or on the other side, we will be dealing with this for decades.

The M4 deal was scrapped by the Labor Government in 2010, but the Coalition Government wants to reimpose it until 2060. That is 43 more years. I may be looking to retire from this place by then, and I am sure, Mr Deputy Speaker, you will be long retired. Our children and their children probably will still be paying a toll set decades before they were born. Once again, I commend the work of my colleague and friend the shadow Minister for Roads, Maritime and Freight for her advocacy in this area. I look forward to continuing to present legislation, proposals and policies that ensure government transparency, particularly in an area that affects so many people. I look forward to the Government's support for this legislation. If it does not support it, it will demonstrate that it does not support transparency and fairness. The Opposition will ensure that every community knows that the Government is not sticking up for them, that it is in the pockets of major road providers, and that it is not acting in the interests of the community that all of them should represent.

**Debate adjourned.**