

Bill, by leave, introduced, and read a first time and ordered to be printed on motion by the Hon. Duncan Gay.

Question—That the bill be considered an urgent bill—put and resolved in the affirmative.

Declaration of urgency agreed to.

Second Reading

The Hon. DUNCAN GAY (Minister for Roads and Ports) [2.50 p.m.]: I move:

That this bill be now read a second time.

The Government is pleased to introduce the Transport Legislation Amendment Bill 2011. This bill represents an opportunity to improve the administration of transport in New South Wales. This was a commitment made by the New South Wales Liberal Party and The Nationals in February 2008. We knew then, as we know now, that in order to improve public transport services, to decongest our roads and to build vital transport projects we need to break down the silos that exist in the administration of the entire transport sector. This bill implements the announcement made on 15 July 2011 by me and the Minister for Transport in respect of the most significant restructure of transport in the history of this great State.

The bill explicitly sets out common objectives for the public transport agencies. These objectives are putting the customer first and ensuring that the transport system is designed around the needs and expectations of the customer, and enabling the transport system to support the economic development of the State, with a particular focus on improving the coordination of freight, from paddock to port and from ship to shop. The Government will undertake planning and investment to ensure that good planning informs investment strategies.

Mr David Shoebridge: Point of order: The bill was declared on the voices to be an urgent bill, but on my reading of the standing orders it was not in order to declare it an urgent bill because copies of it had not been circulated to members. The bill was read a first time and ordered to be printed, but copies had not been circulated to members. Therefore, it was out of order to have it declared an urgent bill. Accordingly, the second reading speech of what is purported to be an urgent bill is also out of order.

The Hon. DUNCAN GAY: To the point of order: The bill has been tabled. It is my understanding that there was a misunderstanding about the procedure. There will certainly be bills available in the Chamber within the next few minutes. The tabled copies of the bill were here, but there appears to have been a misunderstanding about the procedure.

Mr David Shoebridge: To the point of order: The standing orders are absolutely clear: the Minister cannot move for urgency unless the bill has been circulated. Tabling copies is not circulation. I ask that you rule accordingly.

The PRESIDENT: Order! Yes, I am considering my ruling.

The Hon. DUNCAN GAY: Further to the point of order: Members are guided by the advice they are given, and the advice I received was to have a copy of the bill to hand over at the time that I introduced it. With the best intentions, and in accordance with the advice given,

we fulfilled what we were asked to do. As is their wont, The Greens are seeking to take over the running of the House on a minor point. Sufficient copies of the bill will arrive in just a few minutes, during my speech. I seek the indulgence of the House in this regard. If that indulgence is not granted, Mr President, I suggest that you leave the chair until sufficient copies of the bill are available in the House.

The Hon. Trevor Khan: To the point of order: It appears to me that this matter arises under Standing Order 138 (2), which provides that the question that the bill be considered an urgent bill will be put immediately without amendment. That was done, and it passed on the voices. I put it to you, Mr President, that the point of order is cavilling with a decision of the House, and therefore is functus.

Mr David Shoebridge: Further to the point of order: It is a remarkable proposition from both the Minister and the Hon. Trevor Khan regarding compliance with the basic requirement that the Government circulate copies of the legislation to members of this House before it moves to declare urgency. That is all that is required in order to comply with the standing orders. Copies of the legislation should be circulated to members of this House whom the people of New South Wales have entrusted with the task of reviewing it. The standing orders are as clear as day: that should occur before the bill is declared urgent. Mr President, I ask that you rule on my point of order.

The Hon. John Ajaka: To the point of order: Mr President, it is imperative that one examines Standing Order 138 in its entirety. We cannot simply consider Standing Order 138 (1). For the record, Standing Order 138 states:

(1) A Minister may declare a bill to be an urgent bill, provided that copies have been circulated to members.

That is the issue Mr David Shoebridge raised in his point of order. Standing Order 138 goes on to say:

(2) The question—That the bill be considered an urgent bill—will be put immediately, without amendment.

That is what you did, Mr President. Subsection (3) states:

(3) When a bill has been declared urgent—

it was carried on the voices, as indicated by the Hon. Trevor Khan—

... the second reading debate and subsequent stages may proceed immediately or at any time during any sitting.

It is my respectful submission that Mr David Shoebridge is too late. Before the question was put he should have raised his objections and the matter could have been determined then. It is out of order for him to raise the issue now.

The Hon. Greg Pearce: To the point of order—

The PRESIDENT: Order! There is far too much interjection. I cannot hear the Minister.

The Hon. Greg Pearce: For as long I have been a member of this House it has been the practice of Ministers or their staff to provide copies of bills to the Clerk or to Chamber staff. The proposition that Mr David Shoebridge seems to be putting—that Ministers are meant to walk around the Chamber distributing copies of the bill to individual members—is completely contrary to the practice and forms that we have followed for my entire time in this place. The House made a decision on the question that was put to it and, with respect, I do not think it can be reversed now. The bill has been read a first time and the Minister is giving his

second reading speech. I do not think it is appropriate for the member to take a point of order now to try to reverse a decision of the House.

The Hon. Adam Searle: To the point of order: In response to the Minister's point, the procedure of this House is regulated by the standing orders until such time as they are suspended. Standing Order 138 sets out a clear procedure, the first step of which is that a Minister may declare a bill to be urgent but only if copies of it have been circulated to members. That is not to suggest that the Minister seeking to declare a bill urgent must hand copies around personally, but they must have been circulated to members before the Minister can make the declaration. The other two points flow from that. If the first point has not been satisfied, the decision is a nullity and we ask you to rule that way.

The Hon. Michael Gallacher: To the point of order: I have listened to the contributions of members opposite. I draw to their attention the contribution of the Deputy Leader of the Government, who indicated that the advice he was given regarding this matter has been complied with. I also remind members opposite— particularly some of the newer members— of past practice in relation to amendments to legislation that are framed and circulated. I have seen handwritten amendments circulated at a moment's notice in this House, and we have accepted that. It is a practice, and it is understood that it happens. Members opposite had an opportunity to act earlier. We followed the advice, and we did so in good faith. Members opposite were told earlier that the Minister would deliver his second reading speech and then debate on the bill would be adjourned. They knew that, they understood it and everybody agreed. Members are now being pedantic, playing with a decision that has been made by the House.

The Hon. DUNCAN GAY: Further to the point of order: As many members have said, Standing Order 138 is about circulating copies of bills to members. Whilst members do not have copies of this bill, they were there to be circulated. As required, we attempted to do everything possible to address the issues involved. We briefed people and we followed the process. The tabling copies were available, and there are now copies for members.

The Hon. Amanda Fazio: To the point of order: My submission is that copies of the bill were not available in the House when the Minister started his second reading speech. It should be noted that the copies were made available in the House about two minutes ago, but when the Minister began his second reading speech there were no copies in the House for members to read. Therefore, I believe the provisions of Standing Order 138 were not complied with.

Reverend the Hon. Fred Nile: To the point of order: The standing orders do not state how many copies of the bill must be made available. Four copies were available. I do not believe members have ever been handed a copy of a bill. They have an obligation to get copies of bills, which are usually found on the table.

The Hon. Penny Sharpe: To the point of order: Members on this side of the House believed the Minister was going to introduce this bill today, and he sought leave to do so. Leave was granted on the basis that following the second reading speech debate on the bill would be adjourned for five calendar days. I understand there is some debate about that. Members on this side of the House are concerned that we do not have a copy of the legislation because we believe the arrangements for dealing with the bill have changed. Nevertheless, in relation to Standing Order 138 (1), it is clear we do not have a copy of the bill. Members need to review the bill in accordance with our responsibilities to our electorate. We need to see a copy of the bill before debate takes place.

The PRESIDENT: Order! The House gave the Minister leave to move a motion forthwith relating to the introduction of the Transport Legislation Amendment Bill 2011. The Minister has commenced doing that. Although the standing orders are not clear as to how many copies of the bill are required to be in the Chamber at the time of a request to have the bill considered an urgent bill, tabling copies were certainly available. Nevertheless, I uphold the point of order and rule that the matter cannot proceed unless sufficient copies are available in the House. Having been advised that sufficient copies of the bill have been brought to the Chamber, I ask the Minister to put again his request that the bill be considered an urgent bill.

The Hon. DUNCAN GAY: I declare the bill to be an urgent bill.

Question—That the bill be considered an urgent bill—put and resolved in the affirmative.

Declaration of urgency agreed to.

Second Reading

The Hon. DUNCAN GAY (Minister for Roads and Ports) [3.16 p.m.]: I move:

That this bill be now read a second time.

The Government is pleased to introduce the Transport Legislation Amendment Bill 2011. This bill represents an opportunity to improve the administration of transport in New South Wales. This was a commitment made by the New South Wales Liberal Party and The Nationals in February 2008. We knew then, as we know now, that in order to improve public transport services, to decongest our roads and to build vital transport projects we need to break down the silos that exist in the administration of the entire transport sector. This bill implements the announcement made on 15 July 2011 by me and the Minister for Transport in respect of the most significant restructure of transport in the history of this great State.

The bill explicitly sets out common objectives for the public transport agencies. These objectives are putting the customer first and ensuring that the transport system is designed around the needs and expectations of the customer, and enabling the transport system to support the economic development of the State, with a particular focus on improving the coordination of freight, from paddock to port and from ship to shop. The Government will undertake planning and investment to ensure that good planning informs investment strategies. The taxpayers' hard-earned money can never again be wasted on infrastructure projects like Labor's proposed Rozelle metro—a project that cost a staggering half a billion dollars yet never delivered one single metre of new rail line.

These reforms will also promote coherence and integration across all transport modes and all stages of decision-making; provide a focus on performance and service delivery, with clear accountabilities for outcomes; achieve greater efficiency in the delivery of transport infrastructure projects through improved coordination of freight, maritime and ports operations and their integration into the transport system; promote the delivery of transport services in an environmentally sustainable manner; contribute to the delivery of social benefits for customers, including greater inclusiveness, accessibility and quality of life; and provide safe transport services in accordance with the contemporary safety regulatory framework.

To achieve the gains we are seeking in public transport performance in New South Wales, it is critical that all public transport agencies are working to the same objectives. Having these objectives enshrined in legislation is vital to achieving this outcome. The bill requires that each public transport agency exercise its functions in a manner that promotes these common objectives. These will ensure consistency and clarity of approach across all modes and aspects of transport delivery in New South Wales. The bill establishes a new integrated transport authority, Transport for NSW, which will be responsible for the coordinated delivery of services across all modes of transport and a renewed focus on the customer. Policy and planning experts will be brought together from all transport agencies to improve public transport services and ensure a world-class transport system that people want to use. Whether you catch a train, drive a car or a truck, ride a bike or hop on a bus or a ferry, Transport for NSW will be responsible for making your trip as easy and as comfortable as possible.

The bill makes customers the focus. With the creation of Transport for NSW, transport agencies will be free to concentrate on delivering a quality service to customers. Under the bill, Transport for NSW will bring together the coordination, procurement, policy and non-service delivery planning functions currently performed by the Department of Transport, RailCorp, the Roads and Traffic Authority, the State Transit Authority, Sydney Ferries, the Maritime Authority of New South Wales, the Transport Construction Authority and the Country Rail Infrastructure Authority. The bill also provides for the strategic policy, planning and port oversight functions of NSW Maritime to be transferred to Transport for NSW, with the remainder of NSW Maritime functions transferred to Roads and Maritime Services. The Government has already generated widespread support from all sections of the community, including businesses. For example, John Lee, Chief Executive of Tourism and Transport Forum—a peak industry group for tourism, transport and aviation, and investment sectors—described the move as a "strong and welcome step". Mr Lee also said:

The establishment of a new integrated transport authority will streamline the delivery of transport services across NSW. For too long, transport services have been planned independently and without due regard for coordination and the needs of passengers.

Transport for NSW will allow the government to move resources from administration to the front-line, providing a more customer-centric approach to service delivery.

Similarly, Mr Brendan Lyon, the Chief Executive of Infrastructure Partnerships Australia, welcomed the reform, saying:

A single agency to oversee transport planning and procurement and drive accountability from line agencies makes sense. This new structure will better equip NSW to make the right decisions about its transport infrastructure and services.

This model reflects the world's best practice and drives a much clearer delineation of responsibilities and outcomes.

On the vital subject of improving freight transport, Mr Lyon explained:

This structure will equip NSW with a transport division solely focused on the freight network for the first time. Freight is the lifeblood of the State's economy and bringing together freight planning, maritime regulation and port authorities will mean we can begin to resolve the kinks and bottlenecks in the State's supply chain.

These comments reflect the Government's determination to get the right load on the right mode of transport by integrating the whole supply chain. The Urban Taskforce has also congratulated the Government, saying:

... the creation of a single agency to carry out the government's long-term planning and major procurement is clearly a commonsense move.

Summing up many of the past frustrations of commuters, motorists, transport operators and industry groups, Aaron Gadiel, Chief Executive of Urban Taskforce Australia, made the following observation:

It is amazing that it has taken so many years to get to this point.

Mr Gadiel—not someone in the Government—said that. Like so many things in public transport, reform of planning and policymaking was something that Labor often promised but never delivered. Indeed, 16 years ago Labor promised to do exactly what the Coalition Government is now committed to delivering. On 18 April 1995 the *Daily Telegraph Mirror* reported:

Rail, bus and ferry services will be managed by a single authority under a plan to encourage commuters to use more public transport, the State Government said today.

On the same day the *Sydney Morning Herald* reported:

The creation of the authority—the largest restructuring of the New South Wales public transport systems for five years—fulfils an election promise to provide a more integrated and aggressively marketed transport system.

What those opposite said they would do, this Government is doing. By creating Transport for NSW the Liberal-Nationals Government will fulfil a key election promise—achieving in 16 weeks what Labor failed to do in 16 years. The bill clearly states that the objectives of Transport for NSW are to plan for a transport system that meets the needs and expectations of the public; to promote economic development and investment; to provide integration at the decision-making level across all public transport modes; to promote greater efficiency in the delivery of transport infrastructure projects; and to promote the safe and reliable delivery of public transport and freight services.

The bill states that the functions of Transport for NSW will be transport planning and policy, including for the integrated rail network, the road network and maritime transport and land use strategies for metropolitan and regional areas; administration of the allocation of public funding for public transport agencies, including the determination of budgets and programs across the transport sector; planning oversight and delivery of transport infrastructure in accordance with integrated transport and land use strategies and available financial resources, including prioritising of expenditure and projects across the transport system; coordination of capital works programs and budgets across the transport sector; contracting, on behalf of the State, with public transport agencies or the private sector for the delivery of transport services, including the setting of performance targets and service standards; the coordination of transport services, including timetabling for transport services and providing for effective transport interchanges; the management of incidents affecting the efficiency of road and public transport networks, including the coordination of communications with and responses by relevant agencies; the provision of information about transport services and transport infrastructure to assist people to use those services or infrastructure; the provision of

corporate and shared services to public transport agencies and the deployment of staff ; the provision of integrated ticketing arrangements for transport services, and regulating the types of tickets and other ticketing arrangements for the setting of fares; assisting the Minister for Planning and Infrastructure and other relevant agencies with the preparation of precinct plans for the development of land for, or in the vicinity of, public transport stations or wharves and transport interchanges; and coordinating and carrying out the procurement of transport infrastructure and transport vehicles, rolling stock and vessels.

The transport policy and planning function of Transport for NSW will include advising, assisting and making recommendations to the Minister in connection with the development of policy, including regulatory policy, for or in connection with the implementation or enforcement of the transport legislation; the initiation, development and implementation of proposals for the amendment of the transport legislation; and policy and planning for or in connection with ports and maritime matters. The bill provides that Transport for NSW may, for the purpose of exercising its functions, give directions to the portfolio agencies in relation to the exercise of their functions. Under the bill, Transport for NSW may develop, establish, hold, manage and maintain transport infrastructure on behalf of the State. Transport infrastructure includes railways and railway infrastructure, roads and road infrastructure, maritime infrastructure and ports, transport, safety infrastructure and systems, work structures, buildings, and plant, machinery and equipment associated with transport infrastructure. Under the bill, Transport for NSW may also hold, manage, maintain and establish assets associated with transport infrastructure developed or proposed to be developed by Transport for NSW, make or enter into leases, licences or other arrangements for developing transport infrastructure, and provide goods and services to the bus, rail, ferry or other transport industries.

The bill provides for the strategic policy and planning functions of the Roads and Traffic Authority and NSW Maritime to be transferred to Transport for NSW. The Centre for Road Safety and the Roads and Traffic Authority will be transferred to Transport for NSW, and will be responsible for road safety research, policy, standards and guidelines, recommendations on safety issues for national road policy and safety recommendations for New South Wales roads. The Transport for NSW Centre for Road Safety will also be responsible for the preparation of legislative and regulatory proposals for road safety laws. The bill outlines the functions of Transport for NSW relating to promoting or improving road safety, road travel efficiency and traffic management, which includes conducting testing, research or investigations, developing and implementing programs, projects, strategies and campaigns, and providing advice and assistance to the public and local authorities.

The Transport Construction Authority and the infrastructure division of the Department of Transport will be incorporated into Transport for NSW as the new transport projects division. The functions of the Country Rail Infrastructure Authority move into the transport services division of the new integrated authority. Transport for NSW will be managed and controlled by a director general, under the direction of the Minister for Transport and the Minister for Roads and Ports. The bill abolishes the Roads and Traffic Authority and Maritime NSW and creates a new statutory corporation, Roads and Maritime Services. The new Roads and Maritime Services will be the premier roads authority in New South Wales and will conduct road construction and maintenance, driver and maritime licensing, vehicle and vessel registration and property management functions. It will be responsible for implementing road safety programs, laws and operational decisions about roads.

The new combined agency will align marine and road safety and customer service registration and licensing. It will take advantage of the close working relationship and

similarity of functions between NSW Maritime and the Roads and Traffic Authority. The bill provides that each of the publicly owned service delivery entities—RailCorp, the State Transit Authority and the newly created Roads and Maritime Services—will continue to operate under their current statutory functions and powers in respect of service delivery, with their other functions adjusted for the role of the new integrated transport administration. Their service delivery activities will be subject to service agreements with Transport for NSW, as will the service delivery activities of private transport operators, such as bus operators and, in the future, ferry operators.

The ports corporations will continue to operate as statutory State-owned corporations that are guided by the policy directions of the Minister for Roads and Ports in accordance with their statements of corporate intent approved by their shareholding Ministers. The bill will ensure greater efficiency and effectiveness in the administration of public transport in New South Wales. Transport for NSW will be responsible for managing the single transport budget for purchasing transport services and for providing budget allocation funding to transport agencies. Major capital works will be delivered by Roads and Maritime Services or the transport projects division of Transport for NSW. Asset maintenance and minor capital upgrades will be managed and delivered directly by transport service providers. The existing publicly owned transport service providers will continue to own and maintain the assets, liabilities, rights and obligations to their transport services.

The bill also creates the Transport Service of New South Wales, a distinct employment entity to employ staff under New South Wales industrial laws in accordance with terms and conditions set by the director general. In addition, the bill establishes a transport advisory board comprising an independent chair, the Director General of Transport and up to seven independent external transport industry experts appointed by the Minister for Transport and the Minister for Roads and Ports. The transport advisory board will provide expert advice to the Ministers on planning, delivering and managing the transport system. The bill also provides for the establishment of a maritime advisory council under the Ports and Maritime Administration Act 1995. The maritime advisory council's members will be appointed by the Minister in accordance with regulations to be made under that Act.

The council's functions will be to advise the Minister for Roads and Ports on any matter referred to it by the Minister or any other matter the council considers relevant to recreational vessel safety, commercial vessel safety, expenditure priorities, research priorities and boating infrastructure. An Office of Boating Safety will also be established within Transport for NSW with responsibility for maritime and boating safety. The bill also includes a power under the Ports and Maritime Administration Act 1995 to transfer the regional ports of Eden and Yamba to a ports corporation at a later date. These ports have previously been managed by NSW Maritime. However, under the bill, the role of NSW Maritime is being focussed on its core businesses of boating safety, service delivery and infrastructure, and it will no longer have a role in port management.

Management by a ports corporation will ensure that these regional ports continue to support their local economies and retain access to management with port expertise. Safety remains a priority under the bill. Customers deserve safe, as well as comfortable and reliable, journeys. The Independent Transport Safety Regulator and the Office of the Transport Safety Investigator will continue to exist and perform their current functions, which are not changed by this bill. The abolition and transfer of the functions of the Transport Construction Authority and the Country Rail Infrastructure Authority have already been announced. However, although their functions are being transferred, the abolition of these entities will be deferred until the completion of a rail safety change management project being undertaken

under the Rail Safety Act 2008.

The rail safety change management project is a deliberate process to ensure that we continue to enhance safety on the network. Centralising the standard working timetable from RailCorp and incorporating the Country Rail Infrastructure Authority into Transport Services will require safety change plans. A safety working group is working on developing a safety management system for Transport for NSW and preparing the safety change plans. All the proposed functions for the new organisation are being examined to ensure that the changes are managed safely, effectively and in compliance with obligations under the Rail Safety Act 2008. A steering committee has been established to oversee this work. The Director General of the Department of Transport chairs the committee, which will include the chief executives of RailCorp, the Independent Transport Safety Regulator and other current rail agencies.

Consultation with Unions New South Wales and the transport unions on the changes has taken place and is ongoing today. Already, the integration has commenced, and employees from a range of agencies have been assigned and are working side-by-side in the Department of Transport as a temporary arrangement. Without the changes proposed by this bill, the current legislative and award arrangements would mean that when employees are transferred it would result in them continuing to work side-by-side doing the same or similar work while being paid different rates of pay and working under different conditions of employment. This arrangement is untenable and has to be addressed to avoid the significant administrative problems that would arise out of the ongoing management of such disparate employment arrangements and the likely industrial disharmony that would ensue.

The bill addresses these problems. For the staff of the newly created Transport Services, the bill empowers the director general to fix the rates of pay and conditions of employment where they are not fixed by any other legislation or industrial awards. The bill will enable the director general to enter into industrial agreements regarding conditions of employment. Under the bill, staff transferred between the transport agencies will not suffer any net financial detriment because of the transfer; they will receive any increase in rates of pay to which they were entitled as at the date of transfer, including incremental progression within their appointed grade. Following the passage of the bill the director general will lodge an application for a new award on these terms. As part of this process Transport for NSW will enter into negotiations with Unions New South Wales and the transport unions. Until the Industrial Commission of New South Wales has handed down the award no employees will be transferred to Transport for NSW.

In conclusion, the Transport Legislation Amendment Bill 2011 means real reform in the transport sector. As New South Wales and its transport services grow consolidation of functions in Transport for NSW will mean fewer people in the back office and more on the front line. The bill will abolish a dysfunctional structure which includes duplication and poor communications and replace it with a streamlined agency which plans and delivers for all transport modes. Staff in transport service agencies will be able to concentrate on the delivery of services on the ground to the people of New South Wales. Rather than operating in isolation the bill will introduce an integrated system that ensures planning for our future transport systems will be strategic and multimodal. The bill will ensure that the focus of transport agencies is on giving the customer as seamless a journey as possible, irrespective of the mode they choose. This includes making sure vital transport projects are delivered on time and on budget. It is with pride that I commend the bill to the House.

Debate adjourned on motion by the Hon. Dr Peter Phelps and set down as an order of the day for a future day.