

No. , 1972.

A BILL

To relieve councils of the obligation to make certain contributions under the Main Roads Act, 1924; to extend the powers of The Commissioner for Main Roads to deal with land; for these and other purposes to amend the Main Roads Act, 1924, and the Transport (Division of Functions) Act, 1932; to repeal the King's Cross Tunnel Act, 1941; and for purposes connected therewith.

[MR CUTLER—14 *November*, 1972.]

BE

Main Roads (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as the "Main Roads Short title. (Amendment) Act, 1972".

2. The Main Roads Act, 1924, is amended—

Amendment of Act No. 24, 1924.

(a) (i) by inserting in section 2 next after the matter relating to Part I the following new matter :— (Division into Parts.)

PART IA.—THE COMMISSIONER FOR MAIN ROADS—ss. 4A–4C.

(ii) by inserting in section 2 next after the matter relating to Part VIC the following new matter :—

PART VID.—LEASING OF LAND AND ERECTION AND LEASING OF BUILDINGS AND OTHER STRUCTURES—ss. 31G–31I.

(b) by inserting next after Part I the following new Part :—

New Part IA.

PART IA.

THE COMMISSIONER FOR MAIN ROADS.

4A. (1) The Commissioner for Main Roads appointed under the Transport (Division of Functions) Act, 1932, is a corporation sole with the corporate name "The Commissioner for Main Roads" and is, notwithstanding the repeal of subsection (1) of section 6 of that Act, a continuation

Commissioner to continue as corporation.

of,

Main Roads (Amendment).

of, and the same legal entity as, the corporation constituted by that subsection immediately before its repeal.

5 (2) The corporation continued by subsection (1)—

- (a) has perpetual succession;
- (b) shall have an official seal;
- (c) may take proceedings and be proceeded against in its corporate name;
- 10 (d) may, subject to this Act, purchase, exchange, take on lease, hold, dispose of by way of lease or sale and otherwise deal with property;
- 15 (e) may do and suffer all other things that corporations generally may, by law, do and suffer and that are necessary for or incidental to the purposes for which it is constituted; and
- 20 (f) is, for the purpose of any Act, a statutory body representing the Crown.

25 (3) In the exercise or performance of any power, authority, duty or function conferred or imposed on him by or under this or any other Act, the Commissioner is subject to the direction and control of the Minister.

 (4) All courts and persons acting judicially—

- 30 (a) shall take judicial notice of the official seal of the Commissioner that has been affixed to an instrument or document; and
- (b) shall, until the contrary is proved, presume that the seal was properly affixed.

Main Roads (Amendment).

4B. Without prejudice to the generality of section 4A, the powers conferred on the Commissioner by that section may be exercised—

Specific powers of the Commissioner with respect to land.

5 (a) in relation to land or any stratum of land, whether divided horizontally, vertically or otherwise; and

10 (b) whether by reservation or assurance, with respect to any estate, interest, easement, right, power or privilege in, or relating to land or any stratum of land.

15 4C. If the Commissioner exercises or performs a power, authority, duty or function otherwise than in accordance with any directions given pursuant to subsection (3) of section 4A, the exercise or performance of the power, authority, duty or function is not, on that account, invalidated.

Protection of third parties.

(c) by inserting next after section 10 (1) (d) the following new paragraph :—

Sec. 10.
(County of Cumberland Main Roads Fund.)

20 (d1) the proceeds of any lease or other dealing with land that is prescribed land within the meaning of Part VI^D and is within an area or part of an area to which this Part applies;

25 (d) by omitting section 11 and by inserting instead the following section :—

Subst. sec. 11.

30 11. To the extent to which, immediately before the commencement of the Main Roads (Amendment) Act, 1972, a council was liable to pay a contribution to the County of Cumberland Main Roads Fund pursuant to a requisition made under this section as enacted before that commencement, being a requisition made in respect of any period that preceded 1st January, 1972, the council is liable to pay the contribution as if that Act had not been enacted but is not liable to pay any such contribution pursuant to any other requisition.

Councils remain liable for certain contributions.

35

(e)

Main Roads (Amendment)

- (e) by inserting next after section 12 (1E) the following new subsection :— Sec. 12.
(Use of fund.)
- 5 (1F) The County of Cumberland Main Roads Fund may be used by the Commissioner for the costs and expenses incurred in exercising his powers under Part VID in respect of land that is within an area or part of an area to which this Part applies.
- (f) by inserting next after section 20 (1) (c) the following new paragraph :— Sec. 20.
(Country Main Roads Fund.)
- 10 (c1) the proceeds of any lease or other dealing with land that is prescribed land within the meaning of Part VID and is within an area or part of an area to which this Part applies ;
- (g) by inserting next after section 21 (1D) the following new subsection :— Sec. 21.
(Expenditure.)
- 15 (1E) The Country Main Roads Fund may be used by the Commissioner for the costs and expenses incurred in exercising his powers under Part VID in respect of land that is within an area or
- 20 part of an area to which this Part applies.
- (h) (i) by inserting in section 24 (1) after the word “subsection” the words “or subsection (1A)” ; Sec. 24.
(Contribution by councils.)
- (ii) by inserting next after section 24 (1) the following new subsection :—
- 25 (1A) Notwithstanding subsection (1), the Commissioner shall not require a council of a city, municipality or shire, or a group of councils of a city, municipality or shire, to contribute to the cost of any work of construction
- 30 or maintenance in respect of which assistance

is

Main Roads (Amendment).

5 is or has been granted by the Commissioner where the work was, or is, carried out after 31st December, 1971, on a main road (including a trunk road) within an area or part of an area to which this Part applies.

- (i) by inserting next after Part VIc the following new Part :— New Part VIId.

PART VIId.

10 LEASING OF LAND AND ERECTION AND LEASING OF BUILDINGS AND OTHER STRUCTURES.

31G. (1) In this Part "prescribed land" means Land to which Part VIId applies. land declared, pursuant to subsection (2), to be prescribed land for the purposes of this Part.

15 (2) On the recommendation of the Commissioner, the Governor may, by proclamation published in the Gazette, declare that any specified land or stratum of land vested in the Commissioner is prescribed land for the purposes of this Part.

20 (3) Sections 232 and 233 of the Local Government Act, 1919, do not apply to or in respect of any part of prescribed land.

31H. The Commissioner may—

25 (a) lease or otherwise deal with prescribed land or any part thereof for the purpose of enabling a building, structure, fixture or improvement in respect of which Parts XI and XIIA of the Local Government Act, 1919, have been complied with to be placed or erected thereon; Commissioner may exercise certain powers in relation to prescribed land.

30 (b) place or erect or cause to be placed or erected on prescribed land any such building, structure, fixture or improvement;

(c)

Main Roads (Amendment).

(c) lease or otherwise deal with any building, structure, fixture or improvement on prescribed land; or

5 (d) exercise in relation to prescribed land not leased or otherwise dealt with by him under paragraph (a), (b) or (c) any other power conferred on him by or under this or any other Act with respect to land acquired by him.

10 31I. (1) Subject to this section, the Commissioner or a person authorised by him may enter upon or above or below the surface of a public road that is not within prescribed land and there place, erect, keep, maintain and repair a structure, fixture or improvement that, in the opinion of the Commissioner, is reasonably necessary for, or incidental to, the placing or erection on prescribed land of a building, structure, fixture or improvement referred to in section 31H.

Certain works may be located in public road.

20 (2) Subject to this section, the Commissioner or authorised person referred to in subsection (1) may, for the purpose of exercising the powers conferred by that subsection, excavate and remove spoil from a public road and may do any other thing upon, above or below the surface of the public road that, in the opinion of the Commissioner, is reasonably necessary for or incidental to, the exercise of those powers.

30 (3) The powers conferred by subsection (1) or (2) shall not be exercised in relation to a public road except—

(a) with the approval of, and in accordance with such conditions as are imposed by, the council of the area in which the public road is situated; and

(b)

Main Roads (Amendment).

5 (b) where the powers are exercised by a person other than a person acting on behalf of the Commissioner, in accordance with such conditions as are imposed by the Commissioner.

10 (4) A council referred to in subsection (3) shall not withhold its approval to the exercise of the powers conferred by subsection (1) or (2) on the ground that they are exercisable in respect of a public road.

15 (5) The powers conferred on the Governor by section 49 may be exercised in relation to any land that, in the opinion of the Commissioner, should be let on lease or otherwise dealt with to enable a person to do in or upon the land anything that the Commissioner or a person authorised by him would be entitled to do in or on the land pursuant to subsection (1) or (2).

(j) by omitting section 63 (3).

Sec. 63.
(Debts.)

20 3. The Transport (Division of Functions) Act, 1932, is amended by omitting sections 6 (1), 6 (2) and 6 (5).

Amendment
of Act No.
31, 1932.

Sec. 6.
(Commissioner for
Main
Roads.)

4. The King's Cross Tunnel Act, 1941, is repealed.

Repeal of
Act No. 30,
1941.

BY AUTHORITY

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1972

[10c]

MAIN ROADS (AMENDMENT) BILL, 1972

EXPLANATORY NOTE

THE objects of this Bill are—

- (a) to incorporate in the Main Roads Act, 1924, certain provisions relating to The Commissioner for Main Roads in the Transport (Division of Functions) Act, 1932;
- (b) to relieve councils of certain obligations to contribute to the cost of works on main roads;
- (c) to enable the Commissioner to lease or develop air space above, and land below, the surface of certain roads;
- (d) to authorise certain encroachments on public roads where they are reasonably necessary or incidental to the erection of buildings by the Commissioner or by lessees from him;
- (e) to provide for the disposal of the proceeds of leases granted by the Commissioner;
- (f) to make provisions consequential upon or ancillary to the foregoing.

MAIN ROADS (AMENDMENT) BILL, 1932

EXPLANATORY NOTE

The objects of this Bill are—

- (a) to amend the Main Roads Act, 1922, in so far as it relates to the powers of the Commission for Main Roads in the Province of Ontario;
- (b) to amend the Main Roads Act, 1922, in so far as it relates to the powers of the Commission for Main Roads in the Province of Ontario;
- (c) to amend the Main Roads Act, 1922, in so far as it relates to the powers of the Commission for Main Roads in the Province of Ontario;
- (d) to amend the Main Roads Act, 1922, in so far as it relates to the powers of the Commission for Main Roads in the Province of Ontario;
- (e) to provide for the disposal of the proceeds of the sale of the land of the Commission;
- (f) to make provision for the disposal of the proceeds of the sale of the land of the Commission.

PROOF

No. , 1972.

A BILL

To relieve councils of the obligation to make certain contributions under the Main Roads Act, 1924; to extend the powers of The Commissioner for Main Roads to deal with land; for these and other purposes to amend the Main Roads Act, 1924, and the Transport (Division of Functions) Act, 1932; to repeal the King's Cross Tunnel Act, 1941; and for purposes connected therewith.

[MR CUTLER—14 November, 1972.]

BE

Main Roads (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as the "Main Roads (Amendment) Act, 1972". Short title.

2. The Main Roads Act, 1924, is amended—

Amendment
of Act No.
24, 1924.

(a) (i) by inserting in section 2 next after the matter relating to Part I the following new matter :— Sec. 2.
(Division
into Parts.)

PART IA.—THE COMMISSIONER FOR MAIN
ROADS—SS. 4A–4C.

(ii) by inserting in section 2 next after the matter relating to Part VIc the following new matter :—

PART VID.—LEASING OF LAND AND
ERECTION AND LEASING OF BUILDINGS
AND OTHER STRUCTURES—SS. 31G–
31I.

(b) by inserting next after Part I the following new Part :— New Part
IA.

PART IA.

THE COMMISSIONER FOR MAIN ROADS.

4A. (1) The Commissioner for Main Roads appointed under the Transport (Division of Functions) Act, 1932, is a corporation sole with the corporate name "The Commissioner for Main Roads" and is, notwithstanding the repeal of subsection (1) of section 6 of that Act, a continuation of, Commis-
sioner to
continue as
corporation.

Main Roads (Amendment).

of, and the same legal entity as, the corporation constituted by that subsection immediately before its repeal.

5 (2) The corporation continued by subsection (1)—

- (a) has perpetual succession;
- (b) shall have an official seal;
- (c) may take proceedings and be proceeded against in its corporate name;
- 10 (d) may, subject to this Act, purchase, exchange, take on lease, hold, dispose of by way of lease or sale and otherwise deal with property;
- 15 (e) may do and suffer all other things that corporations generally may, by law, do and suffer and that are necessary for or incidental to the purposes for which it is constituted; and
- 20 (f) is, for the purpose of any Act, a statutory body representing the Crown.

25 (3) In the exercise or performance of any power, authority, duty or function conferred or imposed on him by or under this or any other Act, the Commissioner is subject to the direction and control of the Minister.

(4) All courts and persons acting judicially—

- 30 (a) shall take judicial notice of the official seal of the Commissioner that has been affixed to an instrument or document; and
- (b) shall, until the contrary is proved, presume that the seal was properly affixed.

Main Roads (Amendment).

4B. Without prejudice to the generality of section 4A, the powers conferred on the Commissioner by that section may be exercised—

Specific powers of the Commissioner with respect to land.

5 (a) in relation to land or any stratum of land, whether divided horizontally, vertically or otherwise; and

10 (b) whether by reservation or assurance, with respect to any estate, interest, easement, right, power or privilege in, or relating to land or any stratum of land.

15 4C. If the Commissioner exercises or performs a power, authority, duty or function otherwise than in accordance with any directions given pursuant to subsection (3) of section 4A, the exercise or performance of the power, authority, duty or function is not, on that account, invalidated.

Protection of third parties.

20 (c) by inserting next after section 10 (1) (d) the following new paragraph :—

Sec. 10. (County of Cumberland Main Roads Fund.)

(d1) the proceeds of any lease or other dealing with land that is prescribed land within the meaning of Part VI D and is within an area or part of an area to which this Part applies;

25 (d) by omitting section 11 and by inserting instead the following section :—

Subst. sec. 11.

30 11. To the extent to which, immediately before the commencement of the Main Roads (Amendment) Act, 1972, a council was liable to pay a contribution to the County of Cumberland Main Roads Fund pursuant to a requisition made under this section as enacted before that commencement, being a requisition made in respect of any period that preceded 1st January, 1972, the council is liable to pay the contribution as if that Act had not been enacted but is not liable to pay any such contribution pursuant to any other requisition.

Councils remain liable for certain contributions.

(e)

Main Roads (Amendment)

- (e) by inserting next after section 12 (1E) the following new subsection :— Sec. 12.
(Use of fund.)

5 (1F) The County of Cumberland Main Roads Fund may be used by the Commissioner for the costs and expenses incurred in exercising his powers under Part VID in respect of land that is within an area or part of an area to which this Part applies.

- (f) by inserting next after section 20 (1) (c) the following new paragraph :— Sec. 20.
(Country Main Roads Fund.)

10 (c1) the proceeds of any lease or other dealing with land that is prescribed land within the meaning of Part VID and is within an area or part of an area to which this Part applies ;

- 15 (g) by inserting next after section 21 (1D) the following new subsection :— Sec. 21.
(Expenditure.)

20 (1E) The Country Main Roads Fund may be used by the Commissioner for the costs and expenses incurred in exercising his powers under Part VID in respect of land that is within an area or part of an area to which this Part applies.

- (h) (i) by inserting in section 24 (1) after the word "subsection" the words "or subsection (1A)"; Sec. 24.
(Contribution by councils.)
(ii) by inserting next after section 24 (1) the following new subsection :—

25 (1A) Notwithstanding subsection (1), the Commissioner shall not require a council of a city, municipality or shire, or a group of councils of a city, municipality or shire, to contribute to the cost of any work of construction or maintenance in respect of which assistance
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is

Main Roads (Amendment).

5 is or has been granted by the Commissioner where the work was, or is, carried out after 31st December, 1971, on a main road (including a trunk road) within an area or part of an area to which this Part applies.

- (i) by inserting next after Part VIc the following new Part :— New Part
VIb.

PART VIb.

10 **LEASING OF LAND AND ERECTION AND LEASING OF BUILDINGS AND OTHER STRUCTURES.**

31G. (1) In this Part "prescribed land" means land declared, pursuant to subsection (2), to be prescribed land for the purposes of this Part. Land to
which Part
VIb applies.

15 (2) On the recommendation of the Commissioner, the Governor may, by proclamation published in the Gazette, declare that any specified land or stratum of land vested in the Commissioner is prescribed land for the purposes of this Part.

20 (3) Sections 232 and 233 of the Local Government Act, 1919, do not apply to or in respect of any part of prescribed land.

31H. The Commissioner may—

- 25 (a) lease or otherwise deal with prescribed land or any part thereof for the purpose of enabling a building, structure, fixture or improvement in respect of which Parts XI and XIIA of the Local Government Act, 1919, have been complied with to be placed or erected thereon; Commis-
sioner
may
exercise
certain
powers in
relation to
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land.
- 30 (b) place or erect or cause to be placed or erected on prescribed land any such building, structure, fixture or improvement;

(c)

Main Roads (Amendment).

(c) lease or otherwise deal with any building, structure, fixture or improvement on prescribed land; or

5 (d) exercise in relation to prescribed land not leased or otherwise dealt with by him under paragraph (a), (b) or (c) any other power conferred on him by or under this or any other Act with respect to land acquired by him.

10 31I. (1) Subject to this section, the Commissioner or a person authorised by him may enter upon or above or below the surface of a public road that is not within prescribed land and there place, erect, keep, maintain and repair a structure, fixture
15 or improvement that, in the opinion of the Commissioner, is reasonably necessary for, or incidental to, the placing or erection on prescribed land of a building, structure, fixture or improvement referred to in section 31H.

Certain works may be located in public road.

20 (2) Subject to this section, the Commissioner or authorised person referred to in subsection (1) may, for the purpose of exercising the powers conferred by that subsection, excavate and remove spoil from a public road and may do any
25 other thing upon, above or below the surface of the public road that, in the opinion of the Commissioner, is reasonably necessary for or incidental to, the exercise of those powers.

30 (3) The powers conferred by subsection (1) or (2) shall not be exercised in relation to a public road except—

(a) with the approval of, and in accordance with such conditions as are imposed by, the council of the area in which the public road is situated; and

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(b)

Main Roads (Amendment).

5 (b) where the powers are exercised by a person other than a person acting on behalf of the Commissioner, in accordance with such conditions as are imposed by the Commissioner.

10 (4) A council referred to in subsection (3) shall not withhold its approval to the exercise of the powers conferred by subsection (1) or (2) on the ground that they are exercisable in respect of a public road.

15 (5) The powers conferred on the Governor by section 49 may be exercised in relation to any land that, in the opinion of the Commissioner, should be let on lease or otherwise dealt with to enable a person to do in or upon the land anything that the Commissioner or a person authorised by him would be entitled to do in or on the land pursuant to subsection (1) or (2).

(j) by omitting section 63 (3).

Sec. 63.
(Debts.)

20 3. The Transport (Division of Functions) Act, 1932, is amended by omitting sections 6 (1), 6 (2) and 6 (5).

Amendment
of Act No.
31, 1932.
Sec. 6.
(Commis-
sioner for
Main
Roads.)

4. The King's Cross Tunnel Act, 1941, is repealed.

Repeal of
Act No. 30,
1941.

BY AUTHORITY

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1972