

**RAILWAY (TILLEY TO KARARA) BILL 2010**

*Committee*

The Deputy Chairman of Committees (Hon Jon Ford) in the chair; Hon Simon O'Brien (Minister for Transport) in charge of the bill.

**Clause 1: Short title —**

**Hon KEN TRAVERS:** I have a question to the minister that follows on from his response to the comments by Hon Philip Gardiner in the second reading debate yesterday. Hon Philip Gardiner's comments were similar to the comments I made, although they were expressed in a different way. Hon Philip Gardiner indicated that the minister had given him a commitment that he would bring in enabling legislation if it was necessary. I want to be clear about whether the minister has given that commitment and exactly what that commitment is. Is it to bring in enabling legislation to allow for a railway line to be built between Narngulu and the Wokatherra Gap on the proposed northern line coming out of the Oakajee port and will that rail line be able to carry iron ore?

**Hon SIMON O'BRIEN:** Hon Philip Gardiner indicated in his contribution to the second reading debate that he had some undertakings from me and in my response I clarified that it is the government's intention to bring in enabling bills to the Parliament.

Hon Philip Gardiner will speak for himself and, indeed, I will speak for myself. It is simply a matter of fact that it is the government's intention that there be further new railway works in this part of the world. Those works are likely to include the Oakajee port and rail line; the northern line that Hon Ken Travers referred to. There is an anticipation, and it will be a requirement in due course, that this line be connected from the existing Mullewa–Narngulu line, which is how the member referred to it, to the future Oakajee Port and Rail Pty Ltd line, which is not covered by this bill. Furthermore, a line from Narngulu to Oakajee is anticipated. That would probably join not directly at Oakajee but to the northern line at some point. I confirm that that is the plan, and I think that is everyone's understanding.

Secondly and finally, yes, under the Public Works Act for any railway, be it an extension or a totally new construction, an enabling act, like this legislation, would be required. The responsible minister would be required to bring before the Parliament an enabling bill for each of those future railways, or for railways anywhere in Western Australia. We are currently dealing with the bill before the chamber, for which I am seeking the approval of this chamber.

**Hon KEN TRAVERS:** I do not want to delay the chamber, and I appreciate the minister's comment that there is the potential at a later stage to bring in an enabling bill for a rail line between Narngulu and Oakajee. I expect that the line will join somewhere around Wokatherra Gap, as is currently proposed for the new northern line. The other part of my question was very specific: will that not be able to carry iron ore, or will it be precluded from carrying iron ore under the agreement between the state government and Oakajee Port and Rail? It comes back to the issue I raised yesterday in my contribution to the second reading debate. If that line does not have the capacity to carry iron ore, there is the potential that the section of the line that will be upgraded as a result of the passage of this bill—between Mullewa and Narngulu—will become a stranded asset as soon as Oakajee opens, because iron ore trains will instead be forced to travel the pass between the current system and the new lines to the east, closer to Mullewa. A 100-kilometre section of track will become a stranded asset. The issue is about whether the line between the Wokatherra Gap and Narngulu will be able to carry iron ore, or whether it will be precluded from doing so as a result of the agreement between the state government and Oakajee Port and Rail.

**Hon SIMON O'BRIEN:** I want to assist the Committee of the Whole in this matter with my answer, but to take care not to give an answer that is unnecessarily speculative, because we have to deal with matters of fact in this chamber. It is the case that Oakajee Port and Rail will have the right to transport iron ore north of what we are referring to in this debate as the Mullewa–Narngulu line; I think that is known. It is, to some extent, a matter for Oakajee Port and Rail in the future to determine the location of the link that would in future take Karara iron ore from that line north to the Oakajee Port and Rail line. I believe the intention is that that connecting spur will be the line that has already been referred to by Hon Ken Travers earlier in the bill's progress as a line from just west of Mullewa. I can say that there is no concrete proposal for a railway between Narngulu and Oakajee at this stage. I am not simply observing that there is no proposal in this bill—clearly, there is not—but a possible railway between Narngulu and Oakajee is speculative at this stage. It is a possibility; who knows what might happen in due course? I remind the house of what I have just said—that is, Oakajee Port and Rail will have the rights to transport ore by rail north of the Mullewa–Narngulu line.

**Hon Ken Travers:** Exclusive rights?

**Hon SIMON O'BRIEN:** My reticence in addressing the question is only because elements of the agreement are still being negotiated. As the agreement itself is not the matter of substance before the house, I think I am

entitled—indeed, it is incumbent on me—to display that sort of prudence. However, it is the case that the Oakajee Port and Rail consortium will have the right to transport iron ore north of the Mullewa–Narngulu line.

The other substantive matter that was raised by the member just now is the question: does that mean that the Mullewa–Narngulu line west of that probable future connection point will become a stranded asset? I think not for a number of reasons. Firstly, I anticipate that iron ore will still go to and through Geraldton port in the future in some very considerable quantity—possibly very substantially more than at present. That may come from a number of points of origin that are serviced by that line or others that lead in to it. Therefore, the line would still be a valid concern as an iron ore line. In addition to that, there are other commodities for which that line will be highly useful and will be used. I said last night in my second reading debate response that it is already used as a grain line. Indeed, I welcomed the prospect of Karara's involvement in the essential upgrade of the line, which will in effect be of bonus benefit to those who rely on the use of that grain rail line. That is my response to the question of whether it would be a stranded asset. I understand the point that the member makes, but in my view it is not in and of itself an argument against the Railway (Tilley to Karara) Bill 2010.

**Hon KEN TRAVERS:** I appreciate the minister's comments. To conclude, from my point of view, I hope the minister is right in his comments about the long-term impacts. I suspect that one of the risks is that the section of the Karara line we are talking about as a stranded asset will never be upgraded if, as a result of the negotiations that the minister mentioned, some form of exclusivity is given to the transportation of iron ore north of that line when the minister finalises his negotiations with Oakajee Port and Rail. I wanted to put that on the record. The real danger is that development in Geraldton will be stunted, waiting for Oakajee to go ahead, because no one will make the investment to upgrade the Mullewa to Narngulu line if they believe they have only the next three years, or however long people believe it will take, from making their own assessments, for the Oakajee port to open. I hope that when the government negotiates the final OPR deal it takes those points into consideration.

**Hon Simon O'Brien:** I acknowledge, by interjection, the sincerity of the point that Hon Ken Travers is making. Of course, these are commercial considerations for the proponents.

**Hon KEN TRAVERS:** I understand the difficulty the minister has in responding to questions today. The bottom line is that, even if we pass the bill today, if those things are not resolved there is a danger that the line will not be built for some considerable time and there will be no opportunities for Geraldton to grow in the next three years, because the companies that are to build and upgrade the line will not be able to recoup their investment.

**Hon ROBIN CHAPPLE:** Can the minister clarify whether the Tilley to Karara railway line that we are dealing with through this bill will be available to other users? I can see nothing in this legislation that states that.

**Hon SIMON O'BRIEN:** The enabling bill—as with others of its genre—is not the place where such matters of policy are recorded, and that is the reason for its absence from the bill before us. I can reassure Hon Robin Chapple that it is the government's policy that this shall be an open access railway. The guarantee that the member seeks is preserved and will be reflected in the heads of agreement that has been signed between the government and the proponent, and it will also be incorporated in the implementation agreement and, indeed, the port services agreement. These are the instruments through which the member will find that policy is given substance.

**Hon ROBIN CHAPPLE:** During the second reading debate I raised the status of some of the land that the line will pass through. There seems to be some discrepancy between the data on Tengraph and what the government has stated is freehold land. Can the minister advise categorically that this line will not go through any freehold land?

**Hon SIMON O'BRIEN:** Before I proceed to this question I will clarify a remark I made just now about access arrangements. Open access is written into the heads of agreement. It will also be in the implementation agreement that is being finalised, although I do not know that it will necessarily be reflected in the port services agreement. There may well be a different arrangement by the time it gets to the port. In relation to the railway there will certainly be third-party access in those other instruments that I have just confirmed.

**Hon Ken Travers:** Is that Geraldton or Oakajee?

**Hon SIMON O'BRIEN:** The port I was referring to is Geraldton. At that point when it gets to Geraldton, the Karara's port facilities will be at the head of an open access rail line.

On the second point Hon Robin Chapple just made, there are most definitely about five freehold properties. As I indicated in my closing remarks last night, negotiations with the respective landholders, through the proponents, have been going on since the very early stage. I understand the necessary agreements have been arrived at.

**Hon ROBIN CHAPPLE:** Has the agreement been finalised with those freehold landowners completely? If not, because this matter comes under the Public Transport Authority Act 2003, can the Premier or the government

compulsorily acquire the land should one of those freehold landowners not support the use of the land for these purposes?

**Hon SIMON O'BRIEN:** That is a useful question for the education of all members on the process that has taken place here. I can confirm that an agreement is in place across all the properties to enter the land and do the necessary feasibility study work, and that is happening. I think Hon Robin Chapple is aware of that. That is part of the process. The second part of the process comes when government must negotiate the taking of land for the building of the railway. As ever, we remain optimistic that that can be done with a negotiated outcome that is satisfactory to all parties. It has not happened yet because the actual quantum and location of land is to be determined through the course of the first part of the exercise that I just mentioned; that is, the final identification of it. As Hon Robin Chapple indicated in his remarks during the second reading debate, a corridor has been authorised that may be the potential site of the rail easement that extends notionally an imperial mile either side of the line that is shown on our schedule 1 here. But somewhere within that area will be the final location of the rail line, which is far narrower than the two miles. Once that has been identified, then we will move to negotiate the taking of the land. The operating corridor will probably be in the vicinity of 50 to 100 metres wide, not two miles or 3.5 kilometres. Yes; there is legislative power under the Public Works Act to resume this land compulsorily if that should be required.

*Sitting suspended from 1.00 to 2.00 pm*

**Clause put and passed.**

**Clause 2 put and passed.**

**Clause 3: Authority to construct Tilley to Karara railway —**

**Hon KEN TRAVERS:** I move —

Page 3, after line 5 — To insert —

- (2) The transport of goods and materials on a railway authorised under this section must not include the transport of uranium oxide concentrate.

I put on the record that the second document that I tabled last night highlights the uranium deposits and the companies that hold tenements and exploration licences for them.

**Hon Simon O'Brien:** Who is the author of that document?

**Hon KEN TRAVERS:** As I said, it came from within the conservation movement in Western Australia. I do not know the precise name of the person who authored it.

**Hon Simon O'Brien:** Who gave it to you?

**Hon KEN TRAVERS:** I am trying to move the debate along. I want to make a couple of points. If the minister wants to pursue that issue, he can make those comments later on. I will refrain from taking interjections to try to move the debate along.

We covered this matter during the second reading debate. I do not believe that the government has in place the necessary regulatory framework to ensure the protection of the people along this rail line. It is clear from the maps that I tabled yesterday that there is the potential for uranium oxide concentrate to be carried along this rail line into the Oakajee port, if a port is developed. I suspect that if the government is successful in its campaign to have a major uranium mining industry in Western Australia, carting uranium oxide concentrate to either Darwin or Adelaide will become intolerable. There is no doubt in my mind that, without this provision, there is a danger that the government will eventually get the necessary approvals for Oakajee to be a uranium-exporting port. This amendment will provide a simple mechanism to ensure that, until those protections are in place, this rail line cannot be used for the carriage of uranium oxide concentrate. That explains why I have moved the amendment.

**Hon ROBIN CHAPPLE:** The Greens (WA) would be remiss if we did not support such an eloquent proposal. It is beholden on the responsibility of members of this house, the Shire of Chapman Valley and the people who live in that area to endorse the amendment moved by Hon Ken Travers.

**Hon SIMON O'BRIEN:** I thank Hon Ken Travers, who noted that the debate on this matter was substantially had during the second reading stage. Members who felt that certain matters needed to be expressed took the opportunity to comment at that stage. I remind members that the purpose of an enabling bill of this type is to give power under the Public Works Act to construct a railway line; no more, no less. Regulating the movement of freight on railways and the carriage of commodities or goods from one place to another place and the manner in which it is carried and the routes over which it is carried are matters that are the subject of other legislative provisions. Other legislation exists to manage the carriage of dangerous goods and, indeed, all forms of goods. For that reason, this amendment at this time is inappropriate for the bill that is now before us. Whatever its merits, as part of the public debate, the abovementioned matters should not be entertained on the debate on this

bill. Therefore, the government does not support the amendment. It may offer some comfort to those who are observing this debate, both within the chamber and perhaps others to whom the information and the report of this debate may be relayed, that the government is on the public record on numerous occasions saying that there is no intention for uranium in any of its forms to be exported from Oakajee, Geraldton or any other port in Western Australia. A range of state and commonwealth legislation regulates the transport of goods, including uranium oxide concentrate. They are the instruments that are relied upon to exercise the control of the transport of any commodity, rather than a railway construction enabling bill. With respect, I advise the house that the government does not support this amendment and seeks the committee's concurrence in that.

**Amendment put and negatived.**

**Clause put and passed.**

**Clauses 4 to 8 put and passed.**

**Schedule 1 put and passed.**

**Title put and passed.**

*Report*

Bill reported, without amendment, and the report adopted.

*Third Reading*

Bill read a third time, on motion by Hon Simon O'Brien (Minister for Transport), and passed.