

## **Ports Legislation Amendment Bill 2017 Second Reading Speech**

Madam President, I have pleasure in delivering the Second Reading Speech introducing the *Ports Legislation Amendment Bill 2017*.

The legislation represents the culmination of a comprehensive review of port governance arrangements in Western Australia, following a significant expansion in port facilities and shipping operations over the past decade.

This legislation, when passed, will enable the Government to implement the second tranche of Ports Governance Reform – that is to bring all trading ports under consistent legislation for the first time in over 100 years.

This is consistent with the terms of reference for this Government's Service Priority Review, in particular identifying opportunities to deliver government services more effectively and efficiently, supporting economic activity, and achieving greater economies and efficiencies in public sector administration.

The first tranche of the ports reform agenda was completed in 2014 with the *Ports Legislation Amendment Act 2014* and the subsequent amalgamation and renaming of the regional port authorities, with the capacity and authority to manage or oversee multiple ports and to take a regional perspective to decision making.

Currently we have nine ports regulated under the *Port Authorities Act 1999* and nine other ports, encompassing 13 port facilities, regulated under the *Shipping and Pilotage Act 1967* and overseen by the Department of Transport. The latter include the ports of Barrow Island, Cape Preston, Carnarvon, Derby, Onslow, Varanus Island, Port Walcott, Wyndham and Yampi Sound.

This *Ports Legislation Amendment Bill 2017* is designed to enable all trading ports in Western Australia to be regulated under the *Port Authorities Act 1999* by the relevant regional port authority.

The *Port Authorities Act 1999* provides a more comprehensive and cohesive framework for regulating modern ports than the *Shipping and Pilotage Act 1967*.

This legislation will enable the Department of Transport to exit the business of regulating trading ports, although the department will continue to oversee and manage small boat harbours and marinas. The timing of the exit will depend in some cases on reaching agreement with proponents on changes to State Agreements.

Regional port authorities are better placed than the Department of Transport to oversee marine safety at these locations and to assist with trade facilitation at ports located in the regions.

The reform will take advantage of each port authority's port management expertise and bring a more regional focus to port planning and landside access. This allows for enhanced planning, local government and community consultation, policy and priority setting, financial planning, budget allocation and decision making.

Regional port authorities will be appropriately resourced and have the critical mass to oversee a number of ports and respond to, and cater for, trade opportunities. Besides having strong connections to government and industry, being regionally-based, port authorities are well-placed to understand the needs of regional port users and the workings of their local governments. As Government Trading Enterprises, port authorities have a trade facilitation role and are well-placed to realise commercial opportunities that present themselves in the regions.

Regional port authorities will be able to work closely with private port facility operators to ensure a systematic and comprehensive approach to marine safety. This will lead to a better service and improved management of marine safety risks. Shared learnings between private port facility operators and port authorities will further improve the management, productivity and efficiency of WA ports.

The amalgamated structures provide increased scale. This allows port authorities to benefit from the engagement of senior specialist staff whose skills and knowledge will be able to be accessed by multiple ports.

The changes will result in a better overall structure for the oversight and governance of WA's ports and provide a sharper focus on the way ports operate, in order to manage risks associated with the operation of ports, commercial shipping and other vessels.

The proposed changes are essentially about how the Government organises itself and undertakes its marine safety and other obligations at ports in Western Australia. In most cases, the regional ports authorities will only be acquiring water areas and seabed at the transferring ports, because the land abutting the port is not vested in the body corporate Minister for Transport, and the assets upon such land are privately owned.

This means that the port authority's role will primarily relate to marine safety oversight of private port facilities. This includes the appointment of harbour masters, approval of ships' pilots, the safe movement of vessels, approval of new jetties, the placement and maintenance of navigational aids, and ensuring the port is safe and free of obstructions.

The exceptions to this are the ports of Derby and Wyndham where the Kimberley Ports Authority will be inheriting land, jetties and related port infrastructure as well as water and seabed that are currently vested in the body corporate Minister for Transport under the *Marine and Harbours Act 1981*.

The Kimberley Ports Authority will assume the Department of Transport's role as landlord at the ports of Derby and Wyndham. The existing lease and management agreement between the State and the Shire of Derby-West Kimberley to operate Derby Port will transfer to the Kimberley Ports Authority, unless replaced by agreement. The existing lease and operating agreement between the State and Cambridge Gulf Ltd to operate Wyndham Port, which has not got long to run, will be allowed to run its course. The port of Wyndham will transfer to the Kimberley Ports Authority after the lease and operating agreement expire on 30 June 2019.

Jetty licences for jetties within transferring ports that are wholly on port authority land (such as at Wyndham and Derby) will be transferred as "converted" licences under the *Port Authorities Act*. State Agreement-related jetty licences and licences for jetties not wholly on port authority land will transfer as "continued" licences under the *Jetties Act*, under regulation by the Department of Transport. There will be provision for the "continued" licences to be prescribed in regulations, which will allow the port authority to take over regulation of the licences under the *Jetties Act*, and to renew or vary the licences at the request or with the agreement of the licence holders. The Minister for State Development's approval will be required prior to continued licences relating to State Agreements being prescribed and transferred to port authority control.

Provision is also included in the Bill for the limited number of *Jetties Act* licences within existing port authority ports to be similarly prescribed in regulations and transferred to port authority control. Again, the Minister for State Development's approval will be required prior to State Agreement-related licences being prescribed. Licence holders' rights will be preserved.

There are six State Agreements that will need to be amended to reflect the new governance arrangements before the related port facilities can transition to the *Port Authorities Act 1999*. While the amendments are expected to be minimal they nevertheless require the prior agreement of the companies concerned. Government will be pressing to get the necessary amendments agreed, so that ports can transition under this reform in a timely manner. All State Agreement holders have agreed to engage with this process.

The legislation itself will not result in the automatic transfer of any port upon the proclamation of the Act. Rather, transitional orders will need to be made covering all the details before any port transfers. Port users and interested parties will be consulted before the transitional orders are made. The Minister for State Development's approval will be required before the transfer of any State Agreement-related port. Not all ports will transfer at the same time. The transition of ports will occur progressively as each one is ready and all matters of detail are resolved.

The Bill covers proposed amendments to other legislation in order to facilitate the new arrangements. It also includes some minor amendments to introduce consistency across maritime legislation, such as penalty regimes.

The maritime Acts that are amended by this Bill include the:

- *Jetties Act 1926*
- *Lights (Navigation Protection) Act 1938*

- *Marine and Harbours Act 1981*
- *Marine Navigational Aids Act 1973*
- *Port Authorities Act 1999*
- *Shipping and Pilotage Act 1967*
- *Western Australian Marine Act 1982*

Over the past 12 years, Western Australia has seen a significant increase in the amount of trade passing through our ports and in the number of ship visits. For example, the volume of trade has almost trebled from 319 million tonnes per annum in 2005-2006, to 940 million tonnes per annum in 2016-2017. The value of exports from Western Australia during this period rose from around \$39 billion in 2005-06 to approximately \$94 billion in 2016-17 (having peaked at \$132 billion in 2014-2015, when iron ore prices were higher). This has coincided with a doubling of the number of calls to WA ports by vessels coming from overseas ports.

Trade is set to continue growing, with the iron ore sector continuing to expand, very large oil and gas projects coming into production, and the prospect of increased agricultural production in the State's northern regions. This has and is resulting in both the expansion of existing ports and the addition of new ones, such as Ashburton, against a backdrop of increasing vessel movements and the deployment of larger ships.

Besides existing ports, new and planned ports such as Anketell, Balla Balla, Browse, Cape Preston East and Oakajee will also be subject to the proposed oversight arrangements and regulated under the *Port Authorities Act 1999*.

While our port governance arrangements have served the State well in the past, it is the role of a responsible Government to review our existing arrangements, to see if they are still the best way of doing things today and into the future. The time has come to take a more holistic approach to port decision making and governance, and to ensure that our port managers and regulators have the capacity to meet the port planning and operational challenges ahead, and to manage the risks and opportunities associated with the operation of ports and shipping.

The *Ports Legislation Amendment Bill 2017* positions the State and the port industry to meet the challenges of the future, while facilitating growth in trade for ultimate benefit of the State of Western Australia and its citizens.

Pursuant to Standing Order 126(1), I advise that this Bill is not a uniform legislation Bill. It does not ratify or give effect to an intergovernmental or multilateral agreement to which the Government of the State is a party. Nor does this Bill, by reason of its subject matter, introduce a uniform scheme or uniform laws throughout the Commonwealth.

I commend the Bill to the House and table the Explanatory Memorandum.