PILBARA PORT ASSETS (DISPOSAL) BILL 2015

Receipt and First Reading

Bill received from the Assembly; and, on motion by **Hon Helen Morton (Minister for Mental Health)**, read a first time.

Second Reading

HON HELEN MORTON (East Metropolitan — Minister for Mental Health) [3.59 pm]: I move —

That the bill be now read a second time.

The long-term lease of the Utah Point bulk handling facility, which is currently vested in the Pilbara Ports Authority, is being prepared by the government, with a divestment to proceed only when it is demonstrated to be in the interests of Western Australian taxpayers. The government firmly believes that a rigorous assessment process is a precursor to any divestment decision. In accordance with this philosophy, the Department of Treasury, supported by the lead financial adviser, Rothschild Australia Ltd–Deloitte Australia, has undertaken a detailed due diligence process for the divestment of Utah Point. The divestment process is being run in close consultation with the State Solicitor's Office—supported by external legal advisers Minter Ellison—the Department of Transport, the Department of State Development and the Pilbara Ports Authority.

As members will recall, in the 2014–15 budget speech to Parliament, the Utah Point facility was one of the first assets announced for consideration as part of the government's asset sales program. The asset sales program is an important element of the government's fiscal management strategy, with proceeds generated from sales to be put towards reducing the state's debt level. It is noted that the forward estimates make no provision for the anticipated sales proceeds, which will be reflected in the state's financial position only upon execution of the transaction. The divestment of port facilities is a strategy that has been, and continues to be, pursued by a number of governments in other jurisdictions. This strategy reflects the view that governments are better placed to ensure fair access and pricing of these infrastructure assets rather than to own and operate them. A transition to private sector ownership will incentivise the new owner to optimise the capability of the asset by investing in supporting infrastructure and upgrades so as to maximise its return on investment. Consequently, the divestment of Utah Point has the potential to not only unlock capital and improve our state's budget position, but also improve the export potential for our minerals.

The overarching objectives for the divestment of Utah Point are to facilitate the continued efficient and reliable operation of the facility; maximise transaction proceeds and the financial return for the state, while minimising residual financial risks and liabilities; facilitate private sector provision of infrastructure for the future and contribute to the state's economic growth; drive efficiencies through the introduction of private sector disciplines; and ensure that the operating models for the remaining businesses of the Pilbara Ports Authority are financially sustainable. These objectives are key guiding principles and will remain important considerations for government when forming policy positions and making decisions.

To provide members with a brief overview of the asset, Utah Point is one of four berths owned by the Pilbara Ports Authority in Port Hedland, facilitating the export of bulk products, currently iron ore and manganese. Constructed in 2010 as an export facility for junior miners in the Pilbara region, Utah Point comprises a berth that is 272 metres in length and has a harbour depth of 14.5 metres; a shiploader designed to load at a rate of 7 500 tonnes per hour; two stockyard product storage facilities; reclaiming and conveying equipment; and supporting infrastructure. The facility represents the key route to market for several junior mining companies.

In the financial year ending 30 June 2015, Utah Point facilitated the export of 19.5 million tonnes of ore, compared with 18.8 million tonnes in the year ending 30 June 2014. In dollar terms, this equated to $146 million in revenue in 2014–15 and $141 million in 2013–14.

Utah Point presents an attractive proposition to prospective bidders for several reasons, including that it is a strategic asset situated in the world's largest iron ore export port; it performs a valuable function as an export gateway for junior miners, noting that it offers capital efficiency as an existing operating facility that does not require the significant investment in channel dredging and berth construction that may otherwise be required to facilitate export for these miners; it is a relatively new facility, operating for just five years, with limited maintenance expenditure required; and the transaction package will include shipping capacity rights in an environment of increasing export volumes, noting that the vessels utilising Utah Point are generally not tidally constrained, thereby offering increased flexibility for sailing times subject to compliance with the Pilbara Ports Authority's vessel movement protocols.

Several commercial and policy issues were considered during the detailed due diligence process. Key among these considerations was the definition of the exact scope of the divestment and the access and price parameters that will be attached. The government is mindful that the development of an access and pricing framework is important to provide comfort around the continued operation of the asset. This is important both from the perspective of existing consumers of Utah Point to ensure that appropriate protection from monopolistic behaviours will be in place and from the state's perspective to ensure that the facility continues to optimise trade throughput, such that any spare capacity is utilised and is not strategically hoarded by incumbents to the detriment of the state.

A further and very clear consideration for government is the outlook for the iron ore market. The government acknowledges that current market conditions may impact on potential bidders' assessments of Utah Point. Nonetheless, the government is confident in the long-term outlook and that there will be a pool of investors interested in Utah Point on a standalone basis or as part of a longer-term strategic supply chain integration strategy. Formal market soundings have been conducted to test the depth of investor appetite, which has confirmed strong interest from a pool of investors.

I now refer to the structure of the bill. The bill has been drafted with a degree of flexibility to allow for varying scenarios in the transaction structure and legal entities that may be employed, while ensuring sufficient certainty and protections if the transaction proceeds to market. The bill consists of 47 clauses that broadly provide for the disposal of all or part of certain assets and liabilities of the Pilbara Ports Authority and any identified associated assets; controls and limitations on the parameters of the disposal; and post-sale transitional arrangements and regulatory matters. The bill is divided into six parts. Part 1 relates to the usual preliminary matters and specifies that the bill will come into operation on the day after it receives royal assent. Part 2 deals with the authorising powers and related limitations for the disposal. It is noted that the bill prevents ownership of land from being transferred to a private entity, instead authorising only a licence or an interest no greater than a leasehold interest to be granted for a period not exceeding 99 years. Part 3 provides for the administrative mechanics of implementing the disposal, including, but not limited to, the making of transfer orders, access to records, registration of documents, disclosure of information and payment of proceeds. Part 4 relates to specific provisions for the use of corporate vehicles in a disposal, ensuring that relevant laws may, if prescribed by regulations, apply to the operation of the port assets while held in a corporate vehicle that is owned by the port authority or the state prior to disposal. Part 5 contains provisions relating to leases and licences, including the designation of port asset leases and leaseholders, and provisions relating to the effect of port asset leases. Part 6 covers a range of miscellaneous matters, including, but not limited to, the optional exemption of the disposal from state taxes, the protection of existing leases, and regulations for the purposes of disposal or for pricing and providing access to port services.

I emphasise that the enactment of this bill is an important precursor to the next stage of the process, during which commercially sensitive information will be provided to bidders. Consequently, it is imperative that an operative legal framework is in place to protect the state against improper disclosures of confidential information by bidders. The divestment of Utah Point will be another major achievement of the government's asset sales program, with the state realising a return on its investment in developing the facility. It will help secure the efficient and reliable operation of the facility into the future, with the incentive for the new owner to invest in further infrastructure that will drive efficiency and contribute to the state's economic growth.

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 I table the explanatory memorandum.

[See paper 3865.]

Debate adjourned, pursuant to standing orders.