



MESSAGE No. 165

Mr Speaker

The Legislative Council acquaints the Legislative Assembly that it has agreed to the *Pilbara Port Assets (Disposal) Bill 2015* subject to the amendment contained in the Schedule annexed; in which amendment the Legislative Council desires the concurrence of the Legislative Assembly.

A handwritten signature in blue ink, consisting of several overlapping, sweeping strokes.

Hon Barry House
President of the Legislative Council

Legislative Council Chamber
Perth, 16 November 2016

No. 1

New Clause 46A, page 35, after line 16 — To insert —

46A. Preservation of rights to future access

(1) In this section —

access means access to a service;

access capacity means the capacity to provide services of the person who owns, controls or operates a port facility;

eligible request for access means a request for access that would not, if granted, result in the proportion of the access capacity taken up by protected users exceeding 50%;

prescribed period for a request for access means 180 days, or such other period as is specified in regulations, after the day on which the request is made;

prescribed user means a person specified in regulations as a user or potential user of a service;

protected user means a user or potential user of a service other than a prescribed user;

service has the meaning given in section 46(1).

- (2) It is a condition of the operation of a port facility that, subject to subsection (3), 50% of the access capacity must be reserved for protected users.
- (3) Despite subsection (2) if a request for access made by a prescribed user would, if granted, result in the proportion of the access capacity taken up by prescribed users exceeding 50%, the request may be granted as long as it is granted on terms that would not prevent a protected user who subsequently makes an eligible request for access from being provided with access within the prescribed period or at a later time agreed to by the protected user.



Clerk of the Legislative Council