

WESTERN AUSTRALIA

LEGISLATIVE COUNCIL

AMENDMENTS AND SCHEDULES

**Supplementary Notice Paper No. 161
Issue No. 2**

WEDNESDAY, 14 SEPTEMBER 2016

PILBARA PORT ASSETS (DISPOSAL) BILL 2015 [161-2]

When in committee on the *Pilbara Port Assets (Disposal) Bill 2015*:

Clause 11

Hon Robin Chapple: To move –

1/11 Page 9, after line 8 — To insert —

- (1A) Without limiting anything in (1), prior to giving effect to a section 10 disposal order, the Minister is to cause to be laid before each House of Parliament a report detailing the retention value of port assets and associated assets.
- (1B) Prior to giving effect to a section 10 disposal order, the Minister shall order the publication of all source documents upon which the retention values referred to at (1A) are based.

Clause 45

Hon Robin Chapple: To move –

2/45 Page 32, lines 4 to 18 — To delete the lines.

Clause 46**Hon Robin Chapple:** To move –

3/46 Page 33, after line 7 — To insert —

terms and conditions, in relation to an access arrangement, includes —

- (a) prices and charges relating to the access arrangement; and
- (b) any discounts, allowances, rebates or credits given or allowed in relation to the access arrangement; and
- (c) any commissions or similar benefits (whether monetary or otherwise) payable or given in relation to the access arrangement; and
- (d) the supply of other goods or services, where the other goods or services are supplied in connection with the first-mentioned goods or services; and
- (e) the making of payments for such other goods or services.

Hon Robin Chapple: To move –

4/46 Page 33, after line 9 — To insert —

- (2A) Prior to executing any access arrangement under this section, the service provider shall publish standard form terms and conditions of access in the *Gazette*.
- (2B) Any variation to the standard form terms and conditions of access referred to at (2A), shall be published by the service provider prior to them having any lawful force and effect.
- (2C) The terms and conditions on which any access arrangement is agreed are —
 - (a) so far as the service provider and any party to the access arrangement agree on the terms and conditions — the agreed terms and conditions; and
 - (b) if the service provider and any party to the access arrangement do not agree on terms and conditions, but terms and conditions are set out in a standard form of agreement — the relevant standard form terms and conditions shall apply.

New Clause 46A**Attorney General representing the Treasurer:** To move –

5/NC46A 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.

