

PORTS LEGISLATION AMENDMENT BILL 2013

Order of Business — Motion

MR J.H.D. DAY (Kalamunda — Leader of the House) [2.43 pm]: I move —

That debate be resumed on order of the day 3.

The SPEAKER: The question is that the motion be agreed to.

Several members interjected.

The SPEAKER: Leader of the Opposition!

Mr C.J. Barnett: That is hopeless. It is pathetic.

The SPEAKER: Thank you! I do not know what is going on on the floor of the house, but please listen to the Clerk.

Mr B.S. Wyatt: I am sure you were bullied as a child, Premier.

The SPEAKER: Member for Victoria Park, I call you to order for the second time.

Question put and passed.

Second Reading

Resumed from an earlier stage of the sitting.

MR C.J. TALLENTIRE (Gosnells) [2.45 pm]: I would like to resume my —

Mr B.S. Wyatt: Were you bullied as a child, Premier?

The SPEAKER: Member for Victoria Park, I call you to order for the third time.

Mr C.J. TALLENTIRE: Resuming my remarks regarding the Ports Legislation Amendment Bill 2013 —

Mr M. McGowan: You are still at it, Premier—pathetic and nasty.

The SPEAKER: Leader of the Opposition, I call you to order for the first time. The member for Gosnells is trying to make a speech.

Ms M.M. Quirk interjected.

The SPEAKER: Member for Girrawheen, I call you to order for the third time. Can everybody settle down and listen to the member for Gosnells.

Mr C.J. TALLENTIRE: Thank you, Mr Speaker. Prior to the lunch break, I was talking about the ports around Western Australia and the different commodities they tend to specialise in. I noted that some of the ports deal with fairly low-value commodities that occupy an enormous amount of their tonnage. I was interested to see some recent statistics that showed that hay for livestock feed is one of Fremantle port's biggest exports of actual tonnage or container movements. That made me realise that for all that massive infrastructure and investment in stevedoring equipment, ports are sometimes built around moving commodity items such as livestock feeds that may not actually be of a particularly high value. We put massive amounts of investment into our ports to ship out commodities. That is very different from the situation for a lot of the northern hemisphere ports, which may be developed to receive those commodities or, more likely, the infrastructure is developed to enable the export of high-value items that have been processed, built, developed or manufactured and are ready for export. Some of the European ports have a strong emphasis on containerisation. One of the biggest ports in terms of ship movements and the value of exports is the port of Rotterdam in the Netherlands. Items that leave there are often high-value goods.

The SPEAKER: Members! Minister for Sport and Recreation, the member for Gosnells is trying to make a speech. If you want to have a private meeting, go outside.

Mr C.J. TALLENTIRE: Thank you, Mr Speaker. In Australia, we are putting a lot of investment into our ports to get the efficiency needed to enable us to export commodity items that in themselves are of fairly low value in comparison with the sorts of manufactured goods that go out of ports elsewhere in the world. That poses its own set of problems regarding the nature of a port and the type of financing model that needs to be put in place. One commodity that Western Australia exports in large amounts is salt. Salt is a particularly low-value commodity; nevertheless, it requires dedicated port infrastructure. Ports at Useless Loop and Cape Cuvier, which services Rio Tinto's Dampier Salt enterprise, are specialist operations dedicated to the export of a very low-value commodity—salt. It is interesting to consider that only a few years ago there was a proposal by a company

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known as Straits Resources for another huge salt enterprise not far away in Exmouth Gulf. That project would have been so large that it probably would have put some of the other salt operations out of business.

The SPEAKER: This is about the fourth time I have had to get up to ask everybody to listen to the member for Gosnells. If you want have to a meeting or crack a joke, go outside.

Mr C.J. TALLENTIRE: The situation could have been that we would have had all that investment go into these other ports dedicated to the export of the low-value commodity salt, only to find that a new player could have come in and sent the other enterprises out of business. That would have been a waste and it would have left us with not only the legacy of the salt farms, but also the infrastructure built up around the Useless Loop enterprise and Cape Cuvier. It would have been a difficult situation.

I note the nature of things in Western Australia, but I have an ongoing concern about a trend we might see towards the privatisation of regional port authorities. I have looked at the Department of Transport's "Ports Handbook Western Australia 2013", which certainly presents an interesting picture. Quite surprisingly, the handbook refers to such things as visits of cruise ships to places such as Port Hedland. I think it is interesting that people on those brilliantly white vessels, often wearing white dinner jackets while enjoying the fine dining available on cruise ships, would visit Port Hedland port, where, inevitably, things get covered in red dust. Perhaps *Voyager of the Seas* that visited Port Hedland left there with a pink tinge! It is an interesting trend, and I am pleased there is capacity to use an iron ore port for something other than iron ore and that there is a multipurpose aspect to the design of these ports. I wonder how many cruise ships will visit ports such as Port Hedland into the future, whether that will appeal to people and whether cruise liner companies will receive requests from potential customers interested in visiting iron ore ports? I am not convinced that will be the case, and I think it much more likely that the cruise liner business will be focused on areas of higher and stronger tourism interest, which naturally brings to mind areas in the Kimberley where another type of vessel would be needed. I conclude my remarks.

MR T.R. BUSWELL (Vasse — Minister for Transport) [2.53 pm] — in reply: I thank members opposite for their contributions to the debate. I am not going to talk for too long because I want to get into consideration in detail. Some contributions were of some value and reflected on some of the issues to do with the Ports Legislation Amendment Bill 2013; others did not, but that is okay. I will touch on a couple of things that were raised today. Did I jump up too soon?

Opposition members: Yes.

Mr T.R. BUSWELL: I had a cramp that caused me to shoot to my feet, and my view is that I probably should not have done that at this stage. I might have to retire gracefully for a second.

The SPEAKER: I have given you the call, minister; sorry.

Mr T.R. BUSWELL: I do apologise for that, member for Kimberley; it was not my intention.

Mrs M.H. Roberts: She can make her contribution during the third reading debate.

Mr T.R. BUSWELL: Yes. During the third reading debate, I am sure the house will afford the member for Kimberley every latitude required to speak on behalf of her constituents.

Mr M. McGowan: How is that cramp going?

Mr T.R. BUSWELL: I have recovered. Like all true athletes, never out for long! When someone is in peak condition, as I know the member for Armadale is as he and I prepare for the Busselton ironman event, they are never out for long. I am not going to waste the house's time with this for too long, but the member for Armadale will swim only four kilometres, then mount his cycle and travel 180 kilometres, and then run past my house, where I will be in peak condition on the veranda cheering him on! He will run 42 kilometres, and I wish the member for Armadale well!

Several members interjected.

The SPEAKER: Members!

Mr T.R. BUSWELL: The member for Collie–Preston may call me a baby whale—some people would be offended by that in this place. If some members were standing and the member for Collie–Preston called them whales or overweight, they may be offended. I put up with that a lot and I will probably continue to.

Several members interjected.

Mr T.R. BUSWELL: I just make the point to the member for Collie–Preston that some people would be offended by those sorts of comments.

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Mr F.M. Logan: But you dish it out, so you don't mind.

Mr T.R. BUSWELL: I am not; I am simply pointing out that some people would be offended. If some members in this place were standing and we started calling them whales, they would be offended. Personally, I am not offended.

Several members interjected.

Mr T.R. BUSWELL: No! My body is my tool—temple!

Several members interjected.

Mr T.R. BUSWELL: Anyway, back to the debate and where I was before the member for Collie–Preston rudely interrupted my train of thought.

Several members interjected.

The SPEAKER: Back to the bill, please.

Mr T.R. BUSWELL: Back to the bill, Mr Speaker. Of course, I am assuming the member for Collie–Preston meant a killer whale—an orca!

Several members interjected.

The SPEAKER: We have had a little fun; can we get back to the bill.

Mr T.R. BUSWELL: One of the issues legitimately raised by members opposite was: what do these changes mean for the capacity of regional ports to support their communities? I think that is a legitimate concern. There are a couple of aspects to that, one of which is the capacity of ports to provide social support or community support, and generally that would be by way of financial support to local communities. I am of the view that this bill will not impact on that capacity at all. But it is also important to understand that for the ports to have the maximum economic impact on their local communities and to provide the maximum opportunities a port should for its local community, they have to have the capacity to expand trade, to accept business opportunities when presented and to grow and develop, because that supports local communities. I think this legislation will help that happen to a greater extent. There is probably no better example than the port of Esperance, which the members for Kalgoorlie and Eyre, among others, talked about. The port of Esperance has a wonderful opportunity at the moment. As the member for Eyre pointed out, there have been a few false starts in the expansion of the port of Esperance. We need to make sure we do not have false starts and that we have a level of skill and governance in our ports to get these things right. I join the member for Kalgoorlie in acknowledging the work done by Shayne Flanagan at Esperance—I think he has done a fantastic job. Of course, before Shayne was employed, Brad Williamson came across from the port of Albany and provided assistance to the port of Esperance during its difficult transition. In many ways, that capacity to optimise a resource is a reflection on why these new arrangements will be good, because good quality resources can be optimised, and Shayne and Brad are two examples of a good quality resource.

These ports are often located in regional towns such as Esperance, Albany, Geraldton, Broome and the like. Local residents want ports to operate in a way that meets all the approvals and fulfils the expectations a local community has of a port. Our ports operate in a much more complicated environment now.

The ACTING SPEAKER (Mr I.M. Britza): Excuse me, members. The conversations are too loud.

Mr T.R. BUSWELL: I think the levels of expertise we will be able to generate through these amalgamated authorities will actually help deliver those outcomes. Local communities will derive a lot of positives and upsides from the amalgamation of the ports.

Let us not forget that the ports will still exist. The port of Albany will still be the port of Albany; the port of Broome will still be the port of Broome; and the port of Esperance will still be the port of Esperance. They will have locally employed port managers and still be local businesses—large local businesses in the case of regional areas—working in their local communities. We also need to understand that, although it is not the subject of this bill, later on a bill will come before this house to deal with bringing the Shipping and Pilotage Act ports into these new authorities, which I think is a much better governance model. At the moment, we have a situation in WA —

Mr B.S. Wyatt: Minister, you said in response to me when I raised the issue that you'd find out when that legislation had to be brought into the Parliament. Did you find the answer to that?

Mr T.R. BUSWELL: Indeed, I did. There are no specific legislative requirements, but we anticipate that the second tranche will be in the first half of 2014.

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Ms M.M. Quirk interjected.

Mr T.R. BUSWELL: Long before, member for Girrawheen.

It is odd, for example, to have Port Walcott–Cape Lambert, a Shipping and Pilotage Act port —

Ms M.M. Quirk interjected.

Mr T.R. BUSWELL: No, because this one actually has already been allocated.

It is odd to have that Shipping and Pilotage Act port, while up the road there is the port of Dampier. I think that anomaly needs to be fixed and in time we will deal with it.

I will just touch on a couple of other things that were raised this morning. The member for Bassendean asked me a range of questions, including whether I had a positive reflection on the Maritime Union of Australia. The answer is no.

Mr W.J. Johnston: Go on, break out the book!

Mr T.R. BUSWELL: No, I am not going to break out the book!

I have had a meeting, though, with Mr Chris Cain. He came and met with us, and it was an interesting discussion. He is a Scouser, if I remember, as is my former father-in-law, and that was an interesting conversation. I think a lot of Mr Cain's views probably reflect those of my former father-in-law on a whole range of things to do with workers and workers' rights. One thing I will say is that he definitely has passion, and I am sure that passion is now being shared with a whole new group of people as they re-enter activity in the Labor Party. That is something that —

Mr F.M. Logan: As long as he supported Liverpool, you'd be definitely on side!

Mr T.R. BUSWELL: I am not going there!

I will not reflect on the conversation, because it was a private conversation, but it was an interesting introduction and conversation. We deal with that union often, and although we do not get involved in the negotiations, of course, we are kept well apprised of them by our officials. It can be difficult; the port of Esperance, for example, was last year pretty much held to ransom and it was a very, very difficult negotiation and business environment, not only for the users, but also for the town. So, in respect of the Maritime Union, I cannot rise to that challenge.

Some fair comments about the port of Fremantle were made by the member for Fremantle on a couple of fronts, including heritage. I met with Mr John Dowson; in fact, I launched one of his books, *Fremantle Port*. He and others have discussed with me the importance of using potential developments at the port and the railway station to make sure that we protect the heritage value of that precinct and enhance the historic linkages between the port and the City of Fremantle, because in some ways they have been lost down that end of the city, and I think it is clearly a big part of the city's heritage. If we can get that right going forward, that will be good, and if we can work with the local community there, we can deliver some positive outcomes. I certainly had some very illuminating conversations with Mr Dowson and others.

The member for Fremantle talked a bit about High Street. I am sure that we can deal with issues around acoustic walls, or amenity walls as they are called now, and issues around pedestrian movements.

It is not a classroom, member for Warnbro.

Mr P. Papalia interjected.

Mr T.R. BUSWELL: I have not finished yet.

I am confident that we can deal with that. I am not so sure about the issue around road widths. I do not mean to be argumentative about this, but I will be taking my advice from Main Roads on that front. At one of my recent meetings with Main Roads, I stressed again my very strong desire for this project to move ahead. Given the apparent reluctance of the local government, as I understand it, to support Main Roads' preferred option, it is likely that the moving-ahead process may be a little more painful than would otherwise be the case. However, that is what we intend to do.

We need to work on road and rail linkages to the port. As the member rightly pointed out, the important issue here is around what happens in the long run. I do not have last year's container throughput figures from Fremantle to hand; I am sure I could get them, perhaps from the report referred to by the member for Gosnells. We are generally of the view that Fremantle can grow to about 1.2 million twenty-foot equivalent units in size; a couple of years ago, it was about 600 000, so that is a big step up in volumes. That will have impacts on transport linkages into the port, including the railway line, the bridge over the river, the urban rail and a whole lot of other things. We have to do a lot more work on making sure that that capacity can keep growing.

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The member for Cockburn talked a lot about Bunbury as a container port and, rest assured, some thought was given to that in this process. I think he raised the point about maybe Bunbury and Fremantle; I thought that could have been great. We could have called them the West Coast Port Authority, and if that had been the case, the Fremantle Port Authority could have stopped wasting money on its sponsorship of the Dockers and made a sound investment in the Eagles!

Several members interjected.

Mr T.R. BUSWELL: I am joking; it is all right, member for West Swan. It has taken me a little while to understand this about the Fremantle Port Authority, but I think its sponsorship of the Dockers is a good thing. People may question whether a government trading enterprise should be providing sponsorship, but I think the authority sees it as being an important part of its commitment to the local community, and I support that. The more I meet with the CEO of the Fremantle Port Authority and others, the more I am convinced of their very strong desire to be a positive part of the community rather than a negative part.

Mr W.J. Johnston interjected.

Mr T.R. BUSWELL: I think I might have been to the football with the Fremantle Port Authority once during my entire time in Parliament, and I am not sure that I was actually invited; I might have been there as a guest. I cannot remember.

Mr B.S. Wyatt interjected.

Mr T.R. BUSWELL: I have not gone; and I do not think it has a box. I think it has a table or something. I do not know the arrangements! I think that is a good thing for the authority to do as a corporate citizen of Fremantle; I think it is perfectly acceptable.

The members for Fremantle, Kwinana and Cockburn touched on the broader issue of what happens around planning in the outer harbour. The government has embarked on a process of developing a planning solution for the outer harbour because, clearly, the next expansion of container capacity will not be in Bunbury; it will be in the Fremantle outer harbour. That is not to say that there will not be container activity at Bunbury in due course, but our initial policy position is that it will be through the outer harbour. However, it is a big task of work that needs to be done, especially around road linkages, such as Rowley Road and Anketell Road, and particularly around the rail access into that port. The issues with rail access into the port are, I think, twofold. There is a physical capacity issue, and we can always deal with that a little bit with railways, but a big part of the physical capacity issue is the number of at-grade intersections that that railway runs through. I have been out there with the member for Southern River—in his electorate, I have been to North Lake Road—and I have been out to Midland, and I know that there are some significant issues around the capacity of the railway line to support the outer harbour, and that all needs to be picked up as part of the planning process. The planning process is not just about land use and where we position a future container terminal in that area; it is also about transport linkages—rail and road—and intermodal facilities. There is limited capacity to grow intermodal facilities in the Welshpool area; there are one or two sites to be developed. The Latitude 32 industry zone is important but, again, limited in terms of size relative to the freight task that lies ahead. We are now looking at —

Ms S.F. McGurk: Why did you shelve the intermodal terminal?

Mr T.R. BUSWELL: Because we could not find anyone to partner with us on the project.

Ms S.F. McGurk: Was that because it was a poor choice of site?

Mr T.R. BUSWELL: No. I understand that International Lashing Systems, which has the container contract, is keen to continue using the existing site. Ultimately, there will have to be more intermodal capacity as well as other intermodal sites chosen. I do not know whether that will end up at Bullsbrook or somewhere else, but that will be interesting work. I suspect that Bullsbrook makes a lot of sense.

Ms W.M. Duncan: What is the next intermodal terminal?

Mr T.R. BUSWELL: It is Kalgoorlie, of course. I forgot about that, but that is slightly different. There is a big job of work to be done around that; it is very important.

Mr F.M. Logan: I was making the point that the installation of a terminal at Bunbury would take over 20 000 containers and it would be cheaper to do.

Mr T.R. BUSWELL: A potential user of the port has been in discussion with a potential provider of a box lifter at Bunbury—perhaps not to move containers, but something like containers; and it might be mined from a bit further up the hill! There is a lot of activity in the port space, but our general approach is that the additional container capacity for the metropolitan area will be provided in the outer harbour. We need to work through that. I know that I mentioned the growth rates last week; the member did not believe me and he made me doubt

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myself. I have not had a chance to check them, but I will because it is quite staggering, based on a certain set of assumptions. I will move on to another aspect raised, namely, live sheep. Our preference is for live sleep to go out through Kwinana, or the outer harbour. However, until we come to some arrangements about how the bulk capacity of the outer harbour will be realised, that is still some way off.

Several members interjected.

Mr T.R. BUSWELL: We can swim them out to the boat! I think I have dealt with a number of issues that were raised this morning.

Ms R. Saffioti: That will impact the shark issue! There will be a few more sharks around!

Mr T.R. BUSWELL: I can tell the member for West Swan that I have not been in politics for long, but this shark issue is probably one of the most difficult issues I have personally had to deal with.

Mr P. Papalia: Is it true that you didn't say what they claimed you said?

Mr T.R. BUSWELL: What is that about?

Mr P. Papalia: About the culling.

Mr T.R. BUSWELL: I apologise for going off for one second, Mr Acting Speaker. I said we are reviewing our imminent threat policy in relation to sharks. I said we need to have a more proactive approach. The Premier has said he wants a more aggressive response. I said there is a probability that when we determine a response that is proactive and more aggressive, it will require us to go back to the commonwealth to seek some changes—it may be the commonwealth; I am not sure. It may require us to go back to the commonwealth to seek some change in terms of our capacity to take sharks. We do not know yet, because we have not finished that process. It is a very difficult process.

I get back to the bill. Some other questions were asked the other night during debate on the second reading. A lot of this went back to the composition of boards. My view is simply this: we want to get the best skill sets on the boards to make the ports as optimal as possible in their operations, compliance, approvals and all of those things. That is something we are working through. I announced the interim heads of the regional port authorities a couple of weeks ago. We needed to appoint people early in the process to help guide all our ports through the next six months. For the information of the house, those people include the current chair of the Port of Bunbury, Neema Premji, who has been appointed to the Southern Ports Authority; and Ian King, who is currently the chairman of the Mid West Port Authority. In the Kimberley, it is the member for Victoria Park's friend and mine, Laurie Shervington. Ken Pettit will take up that position in the Pilbara; and, of course, Jim Limerick stays at Fremantle. There is a big job of work to be done over the next few months as we work through some of the challenges and local sensitivities about bringing those ports together.

My focus is on the right skills mix. I am aware of the sensitivities, especially during the transition over the next few years around having local people in ports. I think I made the point during debate in the house that I was not aware that members of the two ports in the Pilbara lived locally. It may well be that the company representatives do; I am not sure of that. Perhaps the exception is the chair of the Dampier Port Authority board, who has a house in Denmark and he may also have a house somewhere in the Pilbara, and I am not sure whether he would be regarded as local. Again, we have been, over time, trying to find people with the appropriate skill sets. One of the reasons for that was highlighted by the member for Gosnells; that is, in 2010 or maybe early 2011 when I visited the port at Port Hedland, I was astounded to discover that Australia's largest port by trade volume did not make a profit. I felt that was not an entirely positive reflection on the outcomes that that port had been delivering. Ultimately, these are state economic assets being used by commercial entities. We expect them to generate a rate of return for us—the taxpayers who currently own that infrastructure.

Mr W.J. Johnston: Last year, I was up in Karratha and was talking to a small port user—not one of the big ones—who was complaining about lease costs with the land they had from the Dampier Port Authority. It was a 20-year lease, I think, and at the end of the first five years the cost of the lease had tripled. Their comment was that the big port users weren't having anywhere near that sort of inflation for their port charges. I indicated this in my contribution to the second reading debate. Is this an issue where there are huge rises for small users, but the large users —

Ms R. Saffioti: Like shopping centres!

Mr W.J. Johnston: Yes, like shopping centres!

Mr T.R. BUSWELL: It is an issue that has been raised with me from time to time. Is there differential treatment? I am not aware of the nature of the agreements that different users have in ports. I suspect that the larger users probably have quite long-term agreements in place, which has probably locked them into some rent

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review arrangement. I do not know. However, especially in the Pilbara—I think it has stopped now—where there has been significant appreciation of land values, clearly, that has had an impact on what people have to pay to access the port footprint. In relation to relativity, I am not in a position to be able to comment.

One of the other issues that has been raised quite frequently is privatisation. I have been in New South Wales of late. New South Wales has leased lock, stock and barrel a number of its ports, and it is continuing to do so now. These include the port of Newcastle and, if my memory serves me correctly, Port Kembla and Botany. I am not attempting to detract from the points of view of members opposite, but I did not get a sense—maybe I was mixing with the wrong crowd—that it was a particularly volatile, political issue, to be frank.

Mr B.S. Wyatt: It's probably not the crowd you mix with!

Mr T.R. BUSWELL: That is more than likely, even though they are the ones who made the decision! When I reviewed and looked at the public commentary that accompanied those decisions, I did not get a sense that it was a particularly volatile decision. The Premier has made it very clear that we will not sell the port authorities as going concerns; they will continue to be owned by the state. We have also made it very clear that we intend to look at assets within the port authorities that we may be able to sell. That will not only give us the ability to recycle that capital, perhaps into debt repayment, which would be handy, but also reduce demands on us for capital, should there be the opportunity to expand that infrastructure at a later date.

That landlord model, as I loosely call it, is not unique. If we go to the port of Albany, which the member for Albany is justifiably very proud of—no doubt the most picturesque port in the state; I would say it is the oldest port—that works on the landlord model. At the port at Port Hedland, the iron ore expansion, in particular, has largely been financed by the provision of, effectively, private terminals or private facilities. At the moment, there are two, with BHP and Fortescue Metals Group, and Utah Point, which is owned by the state, has a small capacity of about 18 to 22 million tonnes. Utah Point is the sort of asset that we would be looking at, not the Port Hedland Port Authority. The port authorities, as entities, will remain state owned. They will continue to remit profits to the state. They will continue to charge users for things like the charges they levy, generally based around tonnage, to bring ships in and out and all the other things that port authorities do. The landlord model has served the state very well. In some ports it is not as advanced as in others. I use Albany as a good example of where the landlord model, on a relatively small scale, has enabled it to expand. Assets in a variety of ports around the state fall into that category. If it is a valued proposition, the government will look at their sale.

Ms R. Saffioti: Will there be real issues about third-party access and some of those questions about ownership?

Mr T.R. BUSWELL: They are some of the things we have to work through. I do not think they will be issues; we will just have to work through them. The big issue at Port Hedland, as the member for West Swan will be aware, is capacity. Capacity is an issue at all ports. Some may say that capacity becomes a bankable or tradable commodity in some ports. The government is very cautious about how to proceed on that front. I hope that Roy Hill will pick up its allocation of 50 million tonnes at South West Creek as that project comes forward. That then leaves in Port Hedland only the 50 million tonnes that were allocated by the former government to North West Infrastructure, in policy theory, to enable juniors to access the port. There is more work to be done in that space to activate that capacity. To its credit, the port of Port Hedland has made some significant changes to the protocols by which they operate the port and provide access to the channels. That has meant that a number of the larger users have the capacity to build their export volumes beyond that which they are allocated in the ultimate 495 million tonne allocation, understanding that at some stage the 50 million tonnes for Roy Hill will have to happen. By and large, Port Hedland has done a good job to deal with some really big issues. It used to frustrate me that the focus at Port Hedland, from a user's point of view, was on stopping other users from exporting when, from my point of view, every day the port is not at optimal capacity is a day of lost opportunity for the state. There have been some good changes there.

A range of other things were raised and I will deal with those during the consideration in detail stage.

Mr P. Papalia: I raised the ports governance review and asked whether that was part of what led to the current proposal. Is it your intention to release that review so that it can be made public and we can have some transparency about the thinking behind it?

Mr T.R. BUSWELL: I do not think we have released it thus far.

Mr P. Papalia: You haven't—that is why I am asking you to release it right now.

Mr T.R. BUSWELL: I am not going to release it right now. I will have a look at it.

Mr P. Papalia: It was done in 2011, so it's not exactly hot material.

Mr T.R. BUSWELL: I am happy to have a look at that issue, but I am not in a position to answer that at this stage.

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Mr P. Papalia: Why not?

Mr T.R. BUSWELL: Because I am not. I will go back and look at it and make a decision. I am prepared to have a look at the issue the member for Warnbro has raised. I am not saying no; I will have a look at it. Off the top of my head, I do not see why we would not, but I will have a look at that document. It is a good document.

Ms R. Saffioti: We have to trust your judgement on that one.

Mr T.R. BUSWELL: The member for West Swan can read it and make up her own mind.

Mr P. Papalia: You guys don't have a great record with regard to transparency on ports.

Mr T.R. BUSWELL: I am not sure about that.

That will do for the second reading. The bill can now go into consideration in detail so we can move through some of the issues that were appropriately raised.

Question put and passed.

Bill read a second time.

Leave denied to proceed forthwith to third reading.

Consideration in Detail

Clause 1 put and passed.

Clause 2: Commencement —

Ms R. SAFFIOTI: This bill contains for the first time the ability to charge an interim dividend from the corporations to the consolidated fund. What is the expected timetable for this legislation to pass? Has the minister booked in the budget an interim dividend for this financial year?

Mr T.R. BUSWELL: I do not know, but I will find out for the member for West Swan. I will make sure that I go back and check with Treasury. I do not think it has—in fact, I am pretty sure it has not.

Mr B.S. Wyatt: Sorry, Treasurer, you do not think it has —

Mr T.R. BUSWELL: The interim dividend has been included. If I get a chance, I will go to budget paper 3. We will be able to pick it up in budget paper 3, because what we would effectively get in the year, if it has been included, is the old regime, which is where everything from last year gets paid this year, and there would be a bump.

Ms R. Saffioti: A bring forward.

Mr T.R. BUSWELL: Yes; it may well be, after your question, but I am pretty sure that it is not now. I do not think it is, but I will confirm that.

Ms R. SAFFIOTI: I understand that the midyear review cut-off date has passed and that the midyear review will be released in the next couple of weeks.

Mr T.R. Buswell: No, the cut-off date hasn't passed.

Ms R. SAFFIOTI: Okay.

Mr B.S. Wyatt: It is fairly close.

Mr T.R. Buswell: Of course.

Mr B.S. Wyatt: Are you going to tell us what the cut-off date is?

Ms R. SAFFIOTI: Can the Treasurer tell us?

Mr T.R. Buswell: I do not think it has passed.

Mr B.S. Wyatt: What is it?

Ms R. SAFFIOTI: I think it has passed.

Mr B.S. Wyatt: If it is in December, it hasn't passed.

Ms R. SAFFIOTI: What is the cut-off date?

Mr T.R. Buswell: You will find out when you read the midyear review.

Ms R. SAFFIOTI: That is interesting, as I thought it had passed.

Mr T.R. Buswell: That is interesting!

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Ms R. SAFFIOTI: That is interesting too!

Mr T.R. Buswell: I think that your revelation to me is more interesting than my revelation to you.

Ms R. SAFFIOTI: I hope the Treasurer is not making any assumptions about that.

Mr T.R. Buswell: Not at all.

Ms R. SAFFIOTI: All the advice I had in relation to that was aboveboard and through formal channels, so I hope the Treasurer is not making any assumptions on that front.

Mr T.R. Buswell: Not at all.

Ms R. SAFFIOTI: I can tell the Treasurer that it was not through any informal channels.

Mr T.R. Buswell: I was not suggesting that at all.

Ms R. SAFFIOTI: I had thought, through a formal process that I am part of, that it had passed. Obviously, the Treasurer has pushed back the midyear review cut-off date because of negotiations with the commonwealth. Have there been any discussions in recent weeks to prepare for the midyear review cut-off date in relation to this bill, the interim dividend and any expectations for the midyear review?

Mr T.R. BUSWELL: None that I have been involved in and none that I am aware of that other people have been involved in.

Mr B.S. WYATT: In light of the fact that the Insurance Commission dividend of last year was included in the aggregates of the midyear review revenue but not specifically mentioned in an individual line item, will the interim dividends be included and noted separately in the midyear review and/or budget paper?

Mr T.R. BUSWELL: That will depend on the extent to which a decision was made at the time of the midyear review to request an interim dividend from port authorities. I can give the member for Victoria Park an undertaking that if the government has made a decision ahead of the midyear review to harvest an interim dividend and, by extension, that interim dividend is included in the midyear review financials, there will be a clear note by which the member can understand what that is.

Mr B.S. WYATT: This commencement clause is more complicated than most. The clause reads —

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent (*assent day*);
- (b) ... on the day after assent day;
- (c) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

Presumably, the act in its entirety must be commenced by a particular date. What is that date?

Mr T.R. BUSWELL: That is a good question, member for Victoria Park. It will come up again when we deal with the way in which the port authorities are renamed, which I think is in clause 31.

Mr B.S. Wyatt: Is that why in clause 2(2) there is specific reference to "... 36 cannot be earlier than the day on which section 31 comes into operation."?

Mr T.R. BUSWELL: The issue we have is that mergers of the ports may happen at different times for different reasons, so we need flexibility. We will get to that in clause 31 in which subclauses deal with renaming. The renaming will happen immediately post the merger of the ports, as I understand it. The merging and renaming of each authority will happen on the same day, but for each entity, it could happen on separate days.

Mr B.S. Wyatt: With respect to subsection (1)(a), (b) and (c), there are three separate times that it could happen. Presumably, all those must be proclaimed and commenced prior to 30 June 2014 for the government to achieve what it wants.

Mr T.R. BUSWELL: Yes; for us to achieve our objective, that has to happen. That is our intent.

Clause put and passed.

Clause 3 put and passed.

Clause 4: Section 3 amended —

Ms R. SAFFIOTI: This clause is about the new definition of "port security" to be added to the act. What are the existing arrangements between both the federal and state agencies, whether they be customs or Australian Federal Police? What does this amendment facilitate or change from the existing operations?

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Mr T.R. BUSWELL: Security is a very interesting issue at a port. Clearly, there are a number of levels of security. By inserting “port security” in the “terms used” section of part 1 of the act, we are attempting, as I understand it, to codify a definition of something that already happens in port operations.

Mr B.S. WYATT: The definition of “port property” reads —

port property, in relation to a port authority, means —

(a) port facilities;

“Port facilities” is already defined and “port property” is broadened from “port facilities” to include —

(c) vested property; or

(d) other property held by the port authority;

Can the minister give me an example of what sort of vested property ports have that is not covered by the definition of “port facilities”, which seems fairly broad in covering all the activities of a port? Obviously, the government is anticipating extra property that will be vested in ports, which seems to me to be outside the core business of port facilities.

Mr T.R. BUSWELL: Section 25, on page 17 of the act, provides some guidance around property that is vested in port authorities. It is generally seabed, shore, navigation aids and the like. I hope that gives some clarity to vested property as it is intended to be covered in this new definition of “port property” to be inserted into section 3.

Ms R. SAFFIOTI: The issue of security has been introduced into this legislation, and I understand that was due to a recommendation of the report to the Western Australian Parliament on the operation and effectiveness of the Port Authority Act 1999. As I recall, one of the issues was that since the original legislation was passed in 1999, we have had the 11 September incident and other terrorism incidents. Apart from the definition, what else does this bill facilitate since the issue of terrorism has become more of a factor for both airports and shipping ports around the world?

Mr T.R. BUSWELL: I have been advised that separate commonwealth legislation provides for security issues at ports. Without going into it, because I do not know a lot about it—I have been briefed but I am getting old!—it is one of the issues in a port to the north that we are working through with the commonwealth in relation to Citic Pacific Ltd and Mineralogy. This is an issue for the commonwealth on whom it appoints as the security operator for the port. It is commonwealth legislation, and under that legislation a security operator is appointed at the port. When I went to the Port of Fremantle, for example, no-one would let me in; the good friends who were referred to earlier were on the gate. I am assuming the port authority has that relationship with the commonwealth. Shipping and pilotage at the ports are shared between the state through the Department of Transport or through the operator of the port. There will be broader security arrangements in commonwealth legislation to appoint, I assume, an agent to provide those port security services at and around the port.

Mr B.S. Wyatt: Will these definitions that you are changing now in the Port Authorities Act also be required to be changed for the Shipping and Pilotage Act ports for consistency?

Mr T.R. BUSWELL: No. Do not forget that the Shipping and Pilotage Act ports will eventually come across into this legislation,

Mr B.S. Wyatt: Will that other act simply disappear or be repealed at some point?

Mr T.R. BUSWELL: Yes. We still will have other smaller ports around the state and probably the boat harbours such as Beaton Creek, Exmouth, Bandy Creek in Esperance and the like, but we will continue to manage them under the Shipping and Pilotage Act.

Clause put and passed.

Clause 5 put and passed.

Clause 6: Section 5 amended —

Ms R. SAFFIOTI: What will be the practical impact on both the operations of the port and the government sector of this amendment to the Port Authorities Act, which states that port authorities will not be regarded as agents of the Crown for the purposes of state laws?

Mr T.R. BUSWELL: My understanding is that this amendment means that port authorities are not regarded as crown agents for state legislative purposes only, and that the change is required to deal with some issues that emerged under commonwealth legislation.

Ms R. Saffioti: Like, for example?

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Mr T.R. BUSWELL: This is advice we have received from the State Solicitor's Office because of some issues that emerged from the amalgamation of some of the state energy utilities. That is all the advice I can provide, but I can get the member some more detail on that.

Ms R. Saffioti: Can you restate what you just said about the advice?

Mr T.R. BUSWELL: It is advice from the State Solicitor that flowed out of the work that the State Solicitor's Office has been doing in and around the merging of energy utilities. However, I can get the member some more information on that.

Ms R. Saffioti: Yes, as I think it is quite important.

Mr B.S. Wyatt: It looks like the sort of change a lawyer would suggest, because it seems to say the same thing it said before, so there is obviously something in there that's different.

Mr T.R. BUSWELL: Yes.

Dr G.G. JACOBS: If lawyers do not understand it, I have Buckley's!

Mr B.S. Wyatt: Don't sell yourself short!

Dr G.G. JACOBS: Is the port authority not a statutory authority of the state government? Is it not actually regarded as an agent of the Crown now and this is a change? Does it have any implication for the property of the port authority and the port's ability to be a landlord and to sell sections of assets? Does it have any of those financial implications? I would be happy to hear that it is truly a very legalistic change with no implication for the operation of the port authority. I just wonder whether it is a change in status. Why do we need it other than to make the legal books look right?

Mr T.R. BUSWELL: My advice is no, it will not have any impact on the capacity of the ports to operate in the way they currently operate. It is simply, as I said before, a change to clarify that for the purpose of state law the port authority will not be regarded as an agent of the Crown. As I said, for the reasons that I will provide that information to the member for West Swan, which I am happy to provide to the member for Eyre, there is bound to be a perfectly sensible and no doubt suitably long-winded legal explanation for why that is the case.

Clause put and passed.

Clause 7: Section 7 amended —

Dr G.G. JACOBS: Before I go too far, this clause is about the number of people on the new convened board. I will talk about Esperance Port Authority as I am particularly interested in it. Southern Ports Authority will therefore have no fewer than five and no more than seven people on the board. What determines that number? Is it a skills-set thing or is it the size of the operation in the north versus the south? Am I to believe that each port, in this case Bunbury, Albany and Esperance, will at least have one board member on the new convened board?

Mr T.R. BUSWELL: That is a fair question. Really whether it is five or seven is at my discretion, or at the minister's discretion.

Mr B.S. Wyatt: They will have at least five.

Mr T.R. BUSWELL: They will have at least five but up to seven at the minister's discretion. I think all the reasons the member for Eyre raised are reasons that may lead the member to land at one point or tother. I think board members are appointed for two years and it is the case that from time to time the required skills set of ports may change. That is because some may be in a growth phase or whatever. The member for Eyre raised issues with my staff and with departmental staff when he received some briefings.

Dr G.G. Jacobs: Yes, thank you for those.

Mr T.R. BUSWELL: It is my understanding that we indicated to the member for Eyre at those briefings that when Southern Ports Authority is established, it is our desire for it to have representatives from each of the three ports that will be amalgamated. I think that is fair and reasonable to maintain a base of corporate knowledge as those entities are established and as they move forward. We have certainly been looking to do that in the Pilbara, and we will certainly look to do that in the south. As I said earlier, I have announced the chairs of the regional port authorities. I anticipate that well ahead of the amalgamations, let us assume it happens at the start of the next financial year, we will communicate with the different board members and inform them of that decision. However, from the view of maintaining corporate knowledge, that to me would justify the commitment we have given to the member for Eyre. We will do that with Albany and Esperance ports. I have already appointed the current chair of Bunbury Port Authority as chair of the proposed Southern Ports Authority.

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Dr G.G. JACOBS: Who nominates that person from Esperance Port Authority, for instance, to go onto the board? I was under the assumption that the present chair would suggest to the minister the name of someone from the Esperance board to go onto this new convened board. Just to clarify as well, the days have gone, have they not, when customers of the port were on the board, which I suggest caused some of the issues we faced in Port Hedland?

Mr T.R. BUSWELL: The days of having customers on the board of the port will be gone. A lot of that is a legacy issue related to the formation, I suppose, of the port authorities. I think four customers sit on boards: Fortescue Metals Group and BHP Billiton at Port Hedland, and Woodside and Rio Tinto at Dampier. It is my view that that is not appropriate and not good governance, and it will cease. We have had discussions with those companies about the transition and about how they can maintain appropriate lines of communication appropriately with the ports at management level, and I think that is important.

Mr B.S. Wyatt: There is nothing to stop you appointing someone. The right has been taken away; is that right?

Mr T.R. BUSWELL: That is right. But, similarly, we are moving away from the days when the ports were dominated—I do not think they are to the same extent now—by local appointees. I am not saying that local people do not have the required skills; they may well do. But as we move forward, there is no guarantee that at any point in time the port authorities will contain people who reside in all the towns in which those ports operate. We have given some undertakings around Esperance and Albany and that will certainly happen in the initial appointments to those boards, but I cannot —

Ms R. Saffioti: What are those undertakings?

Mr T.R. BUSWELL: Members of the existing boards will be part of the new Southern Ports Authority board. As I said before, that is appropriate to maintain some consistency of corporate knowledge as the boards merge, and it helps to manage some of the transitions. The board will have an increased capacity to better deal with any issue that may arise.

Mr B.S. Wyatt: So on the new southern board, there will be one rep from —

Mr T.R. BUSWELL: There will not be a rep. I have not gone through this process yet, but my objective is to appoint at least one of the existing board members from Esperance and at least one of the existing board members from Albany. Clearly, the current chair of the port of Bunbury, who has been made the interim chair, if I can use that term, of Southern Ports Authority, will roll into the position of chair of Southern Ports Authority. Why did we make those interim appointments? It is because we have to resolve a number of issues over the next six months, particularly in those ports where port authorities are amalgamating.

Ms R. SAFFIOTI: Is the minister proposing any residential requirement? The minister has suggested that there will be one person from each existing board, but will at least one of the up to seven board members be required to live within the region covered by the new amalgamated board?

Mr T.R. BUSWELL: I do not think so. It may well be that that is what happens, but we need to make sure that we get the right mix of people from the existing port authorities. I cannot recall off the top of my head who on the board is or is not resident in Esperance. I am sure there are a couple of Esperance residents.

Dr G.G. Jacobs: There's one—Phil.

Mr T.R. BUSWELL: In Albany there may be a couple. I seriously cannot recall off the top of my head. Again, I am not reflecting on any of those people who are currently on those boards, but for me it is about the capacity to get the right mix of people to do the job. We will work through that process in conjunction with the chairs of the existing boards and with the interim chairs. We will do that in both the southern ports and the Pilbara ports. I am very keen to get this cross-pollination of the new boards, as I think it is important to assist with the transition.

Mr B.S. WYATT: This amendment stipulates that the board cannot have fewer than five members. Has that been strengthened from the current drafting because of any particular problems with the quorum of the board or did a board get fewer than five? Why has that been strengthened to stipulate a minimum of five?

Mr T.R. BUSWELL: There is a change in the wording in that amended section 7(1) states “not less than 5”. The existing section states “A port authority is to have a board of directors comprising 5 persons”. I think “not less than 5” is simply referring to the lower end of the five to seven on the board. But to answer the member's question, I am not aware of any particular issue or failure to have quorum.

Mr P. PAPALIA: I return to the consideration of the residential appointment of board members. That is a sensitive area, particularly in light of what occurred at Esperance and at other ports that have been impacted by dust and had other negative outcomes for their residents. The likelihood that someone who is not a local resident being swayed by an argument from the residents of the community is, I suggest, less than the likelihood of

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swaying someone who is living in amongst the people impacted by lead raining down on their houses or, for instance, in Port Hedland by red dust settling everywhere. I ask the minister to reflect a little on the likelihood that the communities involved will not be satisfied with the minister's response to the suggestion that at least one of the board members may be required to be resident in each of those ports. I say that in light of what has happened, particularly in the great southern, where Esperance was subjected to the lead contamination. Even if it is not as threatening as lead, something such as iron ore dust could impact on the community. I do not know whether the residents of those towns involved would be satisfied with the suggestion that the only imperative is to ensure that the port's management reflects the type of skill sets that the minister is talking about.

Mr T.R. Buswell: We are not talking about the management; we are talking about the board.

Mr P. PAPALIA: I suggest that those communities are sufficiently large and established to ensure that in each of those towns there is not only one person suitable to be on the board with the skill sets required, but possibly more. I would have thought that some weight should be given to representation of the local community on those boards and their desire for representation.

Mr T.R. BUSWELL: I understand the argument the member is trying to make, but I do not agree with it. In fact, I use the port of Port Hedland as an example. I am not aware of the residential status of the company representatives on the board, so let us park them, but the other members of the board, I understand, are not local residents.

Mr P. Papalia: I am not using them as the example.

Mr T.R. BUSWELL: It is still a port. If local people have the skills that are required for the job and in the view of the chair and the minister of the day, whoever that is at the time, that they should be appointed, there is nothing to prevent that happening, but I am not comfortable that the act should mandate that that has to happen. We need to make sure that we have the best mix of people at the particular time to manage the port authorities. I am not doing that for any reason other than that I think it is absolutely the right thing to do. It is not about trying to make sure that—I am just talking personally, not on behalf of future ministers—we can parachute in the people we want on the boards, and we do not have a history of doing that. We need to focus on delivering the best governance that we can to the port authorities. The member for Warnbro raises an important point. Let us not forget that new section 14A provides that there must be community consultation.

Mr P. Papalia: I'm going to talk about that too.

Mr T.R. BUSWELL: I think that is an important mechanism. I saw this when there were some issues with the export of lead sulfate, not lead carbonate, out of Geraldton. The system and the mechanisms worked very well.

Mr P. Papalia: I'll give you an example of where it didn't work well.

Mr T.R. BUSWELL: I am sure there are plenty of examples. Life is full of examples of things that do not work 100 per cent well. However, our focus in presenting the Ports Legislation Amendment Bill 2013 and this reform is to make sure that we have the very best people on the boards to do the best job. Ultimately, the best benefit for local communities from their ports happen when the ports seize every opportunity that is presented and operate to the full extent that economic circumstance enables them. Ports are an important employment generator in towns; they not only are a direct employment generator but also generate the employment that sits behind ports in port-related activities. In Broome—again, I apologise to the Kimberley for jumping up too soon—the port authority is a major employer. Indirectly, the port authority employs a range of people. That is one obligation of the board. I think local communities will benefit if the boards can grow to their full extent.

Our ports are now operating in an increasingly complex environment, especially in complying with environmental conditions. Therefore, we need to make sure that we have the very best level of governance for the organisation. We need to employ the appropriate people to make sure that governance issues are dealt with, because no-one benefits when there is an issue like the one in Esperance; the community does not benefit and the users of the port definitely do not benefit. This is a genuine attempt to make sure that the very best people engaged at any point in time have board-level responsibility for the port authorities. It is my and the government's view that mandating regional representation is not necessarily going to deliver that outcome.

Mr P.B. WATSON: I was not in the chamber, but I think the minister said before that someone from Albany would be on the board.

Mr T.R. Buswell: Albany Port Authority.

Mr P.B. WATSON: Is that someone living in Albany or is it someone on the port authority now who is on the board and has come from outside?

Mr T.R. Buswell: I do not know, member, because we have not made that decision yet. It may not be —

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The DEPUTY SPEAKER: Minister, are you answering the question; and, if so, perhaps you could stand?

Mr T.R. BUSWELL: Someone from the existing board will be on the new Southern Ports Authority when it commences operation next year. Those appointments are made for up to three years, so that will happen. The decision on who that will be has not been made. Again, I am not reflecting on the local people who are on the port authority or the ones who are not local. I cannot remember the mix in Albany; the member would probably know it better than I do. I think that Albany has a high level of local representation —

Mr P.B. Watson: From the region.

Mr T.R. BUSWELL: Yes, Albany and Bunbury probably more so than Esperance. I will sit down with the existing chair of the Albany Port Authority, Peter, and the interim chair of Southern Ports Authority, Neema Premji, and we will work through the skill sets of the people on the board of Albany Port Authority at the moment and make sure we get the best possible outcome. The commitment is that an existing member of Albany Port Authority will become an inaugural member of Southern Ports Authority.

I am concerned that mandating regional representation dilutes our capacity to give the very best outcomes. I am careful in how I have this discussion because I do not want to reflect negatively on people who have served in good faith and have given plenty of time and energy to port authorities right across the state. However, as we put in place the governance framework for WA ports for the twenty-first century, or parts of it, we need to make sure that the boards are the very best that they can be. I think that is in the best interests of the communities that those boards represent.

Mr P.B. Watson: While you're on your feet, minister, through the Chair, we are concerned because we've had people from the wheatbelt and people from all the different industries on the board and they're on the ground and they know what's happening. We fear that we will lose that touch when it goes to a central board.

Mr T.R. BUSWELL: I can understand how people would share that concern, but given the roles and responsibilities of the boards, their focus will be on making sure that the port of Albany fulfils its obligations, economically, in operating within all its guidelines and conditions and in terms of the obligations to the community that a corporation of that size and history in a town like Albany would have. I am not discounting what the member is saying, but I do not think that it will be an issue in the overall growth and development of the three ports in the south—Esperance, Albany and Bunbury—nor the existing two ports in the north, Port Hedland and Dampier, noting that Pilbara Ports Authority will pick up a raft of other ports when it comes across.

Mr P.B. WATSON: What criteria will the minister look at in deciding where the base will be for the port authority? Who will run it? We can say that Bunbury is a conservative seat, Albany is not a conservative seat and Esperance is. Being in Albany, we are a little concerned about that. We think that the proper thing is that Albany, being right in the middle, would be the ideal spot, and I am sure that the member for Bunbury and the member for Eyre would think the same. I just want to know what criteria the minister will look to in determining what the best decision is to make on that.

Mr T.R. BUSWELL: My view is that will be a decision for the new board. If we look at a spot that is ideally suited to service all those ports, with our Skywest links to Albany from Busselton, we could probably do it in Busselton, member for Albany, which I know —

Mr P.B. Watson: Don't start!

Mr T.R. BUSWELL: It could be centrally located, maybe in Mt Barker. We have to work through that. I am not disputing that this is a delicate matter. Another issue, especially at an executive level, is about the structure of the organisation and who fills the places within it. As the member would allude to with Brad, as the member for Eyre and the Deputy Speaker have alluded to with Shayne and as the member for Bunbury would argue about Kevin Schellack, they are very, very good operators of their ports and under them are some very good people. I am not denying that there is a job of work to do in developing a corporate structure for this new entity, and it will be the same in the north. Determining the people who populate that corporate structure who are not particularly involved with the day-to-day operations of the ports will be a delicate matter. I have asked the interim chairs to start work on forming a view of what that should look like. I have not met with them subsequent to that, but I expect that that will be front and centre in their minds as we head into the first couple of months of next year.

What that means in terms of where the head office is, I cannot tell the member. I suspect that, given a lot of people who will stay in the organisation but may play a broader role have been located for long periods in their home towns, a bit of work will have to be done on accommodating the fact that they are going to stay in those towns. Thank heavens for the modern capacity to communicate and to work remotely. I think we can minimise the relocation challenges for people because if an appropriate person in Albany fits into the organisation, there is no reason that they should not stay in Albany. I think that is a really important factor because the people I meet

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in port authorities are proud of the fact that they work at the ports and have made a long-term commitment to the local area.

Mr P.B. Watson: Just before you sit down, could you make a commitment that they won't be based in Perth?

Mr T.R. BUSWELL: Again, I am reluctant to make a commitment on behalf of the future board. I can make commitments around who I will appoint to it. However, I cannot imagine that they would form a view that they will be based in Perth. I cannot imagine that. Even the Port Hedland and Dampier Port Authorities, although they have a presence over here and some of their staff work from an office in Perth, still have their headquarters at those two ports.

Mr W.J. Johnston: So the Pilbara authority is not going to follow Horizon to Bentley?

Mr T.R. BUSWELL: No.

Dr G.G. JACOBS: This is just on the issue of the board member from Esperance who hopefully will be on the newly convened board. We will get only one go at this, so only one person from the Esperance Port Authority board will be on the newly convened board. I am not suggesting for a moment that local residential boards are the best. In fact, a heavily loaded local residential structure of the board did not protect us from what happened with the lead incident. There are some issues about introducing skill sets, but if we are going to get only one go at the new structure, ideally for us in Esperance, that person should be resident in Esperance. I am recognising, of course, that the local person on the board post-2008 already has a significant skill set; otherwise, he would not be there. The best outcome for Esperance, all things being equal and understanding the skill set, would be that the person representing Esperance on the board is a local person and not someone from out of town. I thank the minister for the reassurance and answers he has given, because there is a bit of angst in the community on the issue of local trading, local content, staff numbers, potential staff cuts and all these things. I have been reassured that essentially it will be business as usual. The only thing we will see on day one is someone taking the Esperance Ports Sea and Land sign down and putting up a sign for the Southern Ports Authority. We want to see a smooth transition. For me, as a member, if we are going to get only one person from the present Esperance Port Authority board on the newly convened board, understanding the skill set of that person already, I hope the minister would agree that an ideal situation for our community would be for that person to not be someone who flies in from Perth to Esperance but who is from Esperance. I am sure there may be ways for that to happen.

Mr T.R. BUSWELL: I understand what the member is saying but I cannot give an absolute guarantee on how that process will play out as we look to appoint the new board with directors from the existing board. I still think that in the long run, the best outcome for Esperance, Bunbury and Albany —

Mr P. Papalia: The long run?

Mr T.R. BUSWELL: In the short, medium and long run, the best outcome for those communities is to have the very best possible board making sure that the port does the very best that it can.

Mr W.J. Johnston: Didn't Keynes say that in the long run we are all dead?

Mr T.R. BUSWELL: He did, much to the disgrace of Marshall.

We will work through that. I am happy to sit with the member for Eyre, the member for Bunbury and maybe the member for Albany and understand —

Mr P.B. Watson: Bring the Premier along.

Mr T.R. BUSWELL: I understand the sensitivities. I want to understand their private views on the board representation. I do not have any problem with that. But I cannot offer any more than that at this stage. Again, I do not want to reflect on what has happened with ports in the past. The member for Eyre made the observation about what happened in Esperance with the lead contamination. There have also been some issues around the multi-user facility, which we are addressing now; we are progressing those issues. I take hat my off to Shayne for the work he has been doing. These are complex organisations that we now have to manage. They are operating in a different business environment. A 10 million tonne expansion at Esperance may not be large by BHP, FMG or Rio standards, but in terms of the port of Esperance, it is a doubling of capacity. It is a very, very complicated organisation in terms of its relationships with its customers in Esperance. The layers of that onion of complexity have built up over the years. More than one eye has been watering as we try to peel that apart, as I am sure the member for Eyre would agree. I apologise for the onion analogy, but it was the only one that came to mind. It is very, very difficult. I am not in a position to give a commitment around what the member is seeking, but I acknowledge why it is important. What I will say is that I will talk with him, the member for Bunbury and the member for Albany as I work through that process. I am sure they will stress to me, at some length, the importance to their communities of the arguments they will put.

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Ms R. SAFFIOTI: I want to ask another question about the board appointments. What will be the process? Will the Department of Transport, for example, put forward a range of recommendations and names to the minister, who will have to choose or appoint them through the cabinet process? Is that what will occur, as is normally the case?

Mr T.R. BUSWELL: They will definitely go to cabinet and through the cabinet process. I expect that the Department of Transport will make recommendations to me, but I will also be involved in discussions with the chairs of the existing ports. I will also be involved in discussions with the interim chairs of the ports. As I indicated, I will seek some advice from the local members in each of those three towns as I form my views around that. We have not yet applied ourselves to that task; we intend to do that very early in the new year.

Ms R. Saffioti: The normal process would be for the Department of Transport to put forward recommendations.

Mr T.R. BUSWELL: Yes; that is pretty much right. That will probably happen again, but because of the unique nature of the amalgamations, it is appropriate that we all work on that together. I expect that I will receive some formal recommendations from the Department of Transport, which, with my approval, will go to cabinet. I have not even started looking at that. I have formed the view that I have to look at it. I have asked the interim chairs to give me some advice. I will talk to the local members and the existing chairs and we will go from there.

Ms R. SAFFIOTI: We have talked a bit about the local questions. Will any other considerations be given to the skill set? The minister has talked a lot today about getting the right skill set on these boards. For example, will the minister require each board to have a lawyer, an economist —

Mr W.J. Johnston: All the bloody economists are ganging up.

Ms R. SAFFIOTI: There are lots of economists! Would there be any other prerequisites for the skill set on the boards?

Mr T.R. BUSWELL: That is a good question. Again, it is difficult to comment on exact ports because they are different. For example, with the Southern Ports Authority, given the onion of complexity that we have to unwind in terms of some of the historical and contractual relationships with some of the clients, I expect that we would be looking to appoint people with professional legal experience to the board. Clearly, we need people with appropriate financial experience and engineering experience, given that Esperance in particular is looking at expansions and that Bunbury is doing some work around the Preston River diversion.

Mr P. Papalia: Actually, the environmental implications will be important.

Mr T.R. BUSWELL: Environmental; perhaps.

Mr P. Papalia: Considering the environmental impacts of ports centred inside communities, it is probably of greater implication.

Mr T.R. BUSWELL: The member for Warnbro can put it on his list; I did not write it on mine.

Mr W.J. Johnston: Yes, you did. You raised the question of environmental —

Mr T.R. BUSWELL: I know, but I did not have it on my list. That is why I said I did not.

Mr W.J. Johnston: You should answer it, since you raised it.

Mr T.R. BUSWELL: That is the member for Cannington's view; I am just saying that I am reading off the list that I quickly wrote off the top of my head.

The other thing, I think, is that there are some well qualified people who have been involved in maritime industries or have been involved at senior levels as customers of ports and are no longer involved. I think they have skill sets they could possibly bring to the table as well. I will work with the different chairs to have a look at that. For example, I am pretty sure the interim chair at Bunbury is an engineer by profession.

Mr P. Papalia: An engineer is the last person you want.

Mr T.R. BUSWELL: He is very competent. Ken Pettit, who is the chair of Port Hedland port, has a legal background, as does Laurie Shervington at Broome.

Mr P. Papalia: We need more jobs for lawyers!

Mr T.R. BUSWELL: I can tell the member that at Port Hedland there have been some major legal issues we have had to try to work through, and Mr Pettit has been valiant.

Several members interjected.

Dr G.G. JACOBS: This may have been covered already, so forgive me. For a board member who now takes on a chair or a position at the Southern Ports Authority table, will the position be more highly remunerated? Will

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there be a different fee structure, and what will the arrangements be? It may not be part of the Ports Legislation Amendment Bill 2013; it may be in the regulations.

Mr T.R. BUSWELL: That is an issue, and I have asked Ports WA, which is the collective of the port authorities and all the chairs of the port authorities sit on it —

Mr B.S. Wyatt: Their union?

Mr T.R. BUSWELL: No; it is their industry association.

I have asked Ports WA, member for Eyre, to look at the issue of pay for board members because I am not entirely comfortable with the levels that are being paid and the workload for someone with responsibility for a single port. I have asked it to look at that. I have not received that formal advice yet, but it is not far off and we will have a look at that when it comes through. I think that is fair and reasonable, provided it sits within, of course, the broad parameters that apply to remuneration for government board members right across the range of government trading enterprises.

Clause put and passed.

Clause 8: Section 13 amended —

Ms R. SAFFIOTI: My question relates to the issue of administrative support, which I think we touched upon in our previous discussion. For example, what is the current number of people providing administrative support to the existing boards, and how many people will be required to provide administrative support to the new regional boards? What is the expected impact on employment across the regional areas?

Mr T.R. BUSWELL: I do not know. I am assuming that for Albany, Bunbury or Esperance, the level of support provided to the board is pretty consistent. I am assuming that the member is talking about things like the preparation of minutes, agenda items, the arranging of briefings and all the sorts of things that go with a board position. I do not know what their current support resourcing is. What will the impact be on the levels of employment with the combined port authorities? Again, I am not prepared to speculate. Will it mean there will be fewer staff involved? Maybe at the margin, but do not forget that the workload of the combined entities will be significantly greater than the individual entities. I do not have that information, member for West Swan, and I am not sure I would be able to provide it because I do not think the interim chairs will have done any work around what that administrative and support structure will look like when they are combined. But if there is a change, I suspect it will be marginal.

Ms R. SAFFIOTI: In relation to the transitional arrangements, will there be, for example, redundancies offered? For example, will the Workforce Reform Bill 2013, which we debated and passed last night—or the government passed last night—be of relevance to the operation of the existing ports where positions are no longer required and there are involuntary redundancies? How is that transition going to be handled, given that the government is reducing the number of boards and I suspect the level of administration will fall by some amount?

Mr T.R. BUSWELL: Again, I cannot provide accurate advice on that until I see the organisational structures that the interim chairs will be discussing with their board and, I am assuming, their chief executive officer. Clearly, from a port operational point of view, there will be no change in staff because the ports will still operate and each town will have a port manager who will operate the port et cetera. At an administrative level there may be some changes, but again I have not seen or had provided to me examples of what those organisational charts will look like, so I am not in a position to comment. There will be some sensitive discussions needed around positions like CEOs. Clearly, a combined port authority will have only one CEO, but I am not sure what other positions will be created within that management structure, if I can put it that way, as a result of the increased workload of the single organisation; I am just not in a position to comment. Does yesterday's legislation impact on port authorities? No, because they are all employees of a government trading enterprise as opposed to general government employees. There may be some rationalisation of management positions. I have never asked for an analysis of that. One of the reasons I did not was that I have never seen this reform as being about necessarily saving in the short term, medium term and quite possibly the long term; I have seen it more about making sure we have the right structures to enable the ports to grow into the future. Next year, when we discuss legislation that deals with the Shipping and Pilotage Act ports, when responsibility for managing the SPA ports shifts from the Department of Transport to the port authorities, that may result in a relocation of effort out of the Department of Transport. I used the words "relocation of effort" because I suspect some effort would have to be expended in the port authorities managing those same facilities. There may be some minor changes there. I can provide the member with that advice when we deal with that piece of legislation.

Mr P.B. WATSON: One of the three ports is going to have the board there; is that right?

Mr T.R. Buswell: I'm not sure. You're right; there will be a headquarters somewhere —

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Mr P.B. WATSON: Let us say that port is Albany, would that mean there will be additional staff there? They have staff there at the moment, so will there be additional staff at whichever port the minister is picking, which will benefit the community?

Mr T.R. BUSWELL: Member for Albany, I am reluctant to say yes or no because I am waiting to get some advice around what the organisational chart looks like and then who ultimately plugs into those places. I think I said earlier that we are going to have to be very sensitive in this process, because there will be people who will be employed—let us take the southern ports—in the new entity who, for example, may be based in A, when the notional head office is in B. Does that mean that person cannot do their job effectively and appropriately? No, it does not. It is going to present some logistical hurdles, but I do not think they are impossible to overcome. When I have met with the interim chairs and we have discussed the need to have a look at this organisational chart, I have also highlighted that we need a little flexibility about how we manage people. As the member knows, we are not going to be able to say to someone who has made the decision to be a long-term resident of Albany but who would be a valuable asset in the new organisation that we want them to leave Albany, because that is where they have their associations. We are just going to have to move through those particular issues as they arise.

Mr P.B. Watson: The best thing to do is have it in Albany!

Mr T.R. BUSWELL: I note the member's enthusiasm and, of course, if it did go there, there would have to be a new hotel for all the visiting mariners!

Mr P.B. Watson: That's my next question, minister!

Clause put and passed.

Clause 9: Section 14A inserted —

Mr P. PAPALIA: My recollection of the Esperance lead inquiry findings is that some of the greatest concerns within the community were about the lack of knowledge of the environmental threats presented to the community by some of the materials being shipped through the port. People were concerned about the lack of knowledge of environmental impacts and the lack of environmental protections. In fact, some of the best information about that threat, with regard to measuring it and determining the extent of the contamination, came from community members of the Local Environmental Action Forum, or LEAF. Members of that local Esperance community group had far more appropriate qualifications and in-depth knowledge of those matters than did people on the board or within the port authority, and they took more action to seek out further advice than did either the board or the authority. That aside, the minister has added that to the list of potential specialist area knowledge that may be required on the board.

Clause 9 inserts proposed section 14A. Proposed section 14A(4) makes provision for the minutes of the proceedings of the consultation committee to be made available on the port authority's website or in a "prescribed manner". I assume that this may just be standard practice and was already in place at the time of the Esperance lead contamination, but there was a real issue about members of the consultation committee being able to access the minutes of the meetings and getting direct access to information. Members of the committee were very critical about the lack of available information. I wonder why the proposed subsection does not just provide that the information must be made available on the port authority's website. Through what other prescribed manner could that information be provided? Would it be better if the proposed subsection were worded in such a way as to provide that the information is to be made available on the authority's website and/or in a prescribed manner, rather than just providing for two alternatives? As I recall, one of the other prescribed manners in which the information was formerly made available was for people to actually go to the front desk and read the minutes, and if the minutes were not available, people had to come back. There were all sorts of difficulties involved in that. Nowadays, there is probably no reason why it should not be freely available to everybody on the website and possibly in another location.

Mr T.R. BUSWELL: The advice I have is that it is worded "or in a prescribed manner" as a future-proofing provision. In other words, at some stage down the track there might be a better way to communicate than a website. That may never happen, but I can remember when there were no websites, and I am only a young man! This place has aged me, Madam Deputy Speaker, as it has not aged you!

Ms M.M. Quirk: Just imagine if there were websites when he was a young man!

Several members interjected.

Mr T.R. BUSWELL: Yes, very good, member for Girrawheen; and things were going along nicely!

That is the reason, but I will pick up on another point without labouring it. The member for Warnbro has raised a really interesting issue, because often when one thinks of issues around environmental sensitivities in particular,

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it is often not the authorities, be they at the local government level or at the state level, who are the discoverers of the issue and the drivers of the awareness campaign. I reflect on what happened at Cockburn Cement —

Mr P. Papalia: And Geraldton; they brought it to people's attention, too.

Mr T.R. BUSWELL: At Geraldton it was brought to people's attention by the company.

Mr P. Papalia: I thought —

Mr T.R. BUSWELL: No, let us be clear: at Geraldton, with the lead sulphide, an excess was detected in one of the air monitors and the company and, I think, the port, informed all relevant authorities. If the member is talking about the occurrence at the back end of 2010—I cannot remember the exact date—it was dealt with in early 2011. It is often the community groups who bring these matters to people's attention, because they live there, they have obvious concerns, and they get involved. However, I am comfortable, and I hope the member is also comfortable, with the use of “prescribed manner” there.

Mr W.J. JOHNSTON: I have two quick questions, minister. The first is: will these consultation committees be counted as committees by the government? There has been quite a bit of commentary about what does or does not constitute a committee, so I am wondering whether these will be included in that list of committees. My second question relates to proposed subsection (5). Under what circumstances would the minister contemplate a regulation to exempt a particular port?

Mr T.R. BUSWELL: In relation to proposed subsection (5), it would be distance from community, so that would include Useless Loop—one of my favourite ports!—Cape Cuvier —

Ms R. Saffioti: See how many times you can mention Useless Loop!

Mr T.R. BUSWELL: Salt export through Useless Loop is very important; very important.

Proposed subsection (5) predominantly deals with Useless Loop, and I do not think anyone would argue that it is a useless provision —

Mr W.J. Johnston: You'd better loop back to your answer!

Mr T.R. BUSWELL: Well, it loops back to proposed subsection (2), but it is not a useless loop, even though it would apply to Useless Loop. What was the other part of the question?

Mr W.J. Johnston: Will these be committees for the purposes of the government's committee count?

Mr T.R. BUSWELL: I do not know, but I know that the boards will be, so there will be fewer boards. I cannot remember the criteria by which they apply as committees.

Mr C.J. Barnett: One outside paid member.

Mr T.R. BUSWELL: Okay; I do not think they have paid members on the community committees, so they will not.

Mr W.J. Johnston: So they'll be committees but they won't be called committees.

Mr T.R. BUSWELL: No, they will be a committee of the port authority.

Mr W.J. Johnston: They won't be a committee of the Department of the Premier and Cabinet.

Mr T.R. BUSWELL: Hairdressers are gone, though.

Mr W.J. Johnston: That was a very big step forward, minister. You weren't the minister when it happened, though.

Several members interjected.

Mr B.S. Wyatt: With regard to the expected size of that consultation committee, in respect of proposed subsection (3), is it anticipated that the local government authority will nominate that member, or will the port authority ensure that local government is represented by selecting that member?

Mr T.R. BUSWELL: My experience is that the port authority would request a nomination from the local government; I think that would be appropriate. In relation to size, I think it would be up to the port authority to determine at that time. For example, I would expect that a port like Fremantle, which has a significant number of user groups spread across quite a large area of coastline, might well have a larger consultative committee than would, for example, Bunbury.

Ms R. SAFFIOTI: The minister may have picked this up as I was over there trying to negotiate with his very accommodating Leader of the House. If he had been on the front bench it would have been a much quicker trip, so I would not have missed any of the conversation. With regard to the consultation committee: what are the

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guidelines? How many times a year will it meet? What are the obligations for consultation? What are the basic guidelines that will establish the protocols of the committee? Who determines those? Are they done through regulation? Will they be made public in a prescribed period of time?

Mr T.R. BUSWELL: I think what this lays out is an expectation of the port authority. Ultimately it is up to the port authority to determine those particular details. We should be mindful of the fact, though, that proposed subsection (2) gives some clear guidance to the port authorities on what it is intended that the committees will do. We should not forget that most port authorities already have a form of consultative committee sitting in and around their operation. I expect that the arrangements around those committees vary from one port authority to another.

Dr G.G. JACOBS: The minister's advisers informed me the other day that the model for this community consultation committee was the Esperance port consultative committee. For all the imperfections in the past in and around Esperance, I believe there has since been a strong consultative committee. It is about a balance between the commercial interests and the environmental concerns, and those other interests within the community. There does have to be some balance in that structure, which the minister has acknowledged before. How do we strike that balance? Is it one in which every environmental group says, "I want a member to be on it"? Obviously, the shire has to be on it because that is predicated in the bill.

Ms R. Saffioti: The local doctor!

Dr G.G. JACOBS: Does the local member of Parliament get a gig or will people say he has some sort of a conflict, so they leave him out! Actually, I am on the present board.

Several members interjected.

The DEPUTY SPEAKER: Order, members!

Dr G.G. JACOBS: The Deputy Speaker has been there previously as well. It is about structure. Will that structure be left up to the port, because, if it is, there needs to be some balance. Of course, it is a two-way thing. It is about the port educating and making the community aware. There is also the other flow with the community making the port aware. We do need to have some balance, because there has been a consideration in the port consultative committee in Esperance previously of how we structure that. There was no guidance for the committee on how to structure that. Does every environmental group get a go—I am not decrying that necessarily—versus the other interest groups in town? There needs to be a bit of balance in that.

Mr T.R. BUSWELL: My understanding is most port authorities have in place, either formally or informally, a user group-type forum where its members can share information and communicate with their major users. The purpose of this committee is to enable ports to consult with their local communities. How ports determine the composition of these committees is a responsibility best left to them; although, it is a requirement that they have a representative or that the local government is represented on the committee.

Ms R. Saffioti: Useless Loop.

Mr T.R. BUSWELL: Except for Useless Loop, Cape Cuvier and a couple of others. I know there are issues from time to time, but I have not had a lot of negative feedback from around the state about the operation of these consultative groups at the moment. If we entrust the port authorities with the good management and operation of its ports, this legislation gives me very clear direction in what they have to do in engaging with their local communities.

Ms R. SAFFIOTI: This is quite an interesting issue because, as the minister just outlined, some committees exist. Clause 9 suggests that only one committee can exist under this legislation. Can the minister provide clarity about whether more than one committee can exist? In the whole issue of where there are merged ports—we keep talking about the southern ports—would it be of more benefit to have a community based committee so that the existing ports keep some sort of continuation and good linkages with the local community?

Mr T.R. BUSWELL: Section 13 of the existing legislation gives the board the capacity to appoint committees as the board sees fit.

Mr B.S. Wyatt: Committees of directors or other persons.

Mr T.R. BUSWELL: Is it?

Ms R. Saffioti: Yes.

Mr T.R. BUSWELL: My understanding is it is committees. My expectation is that there will be a consultative committee in each town.

Mr P. Papalia interjected.

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Mr T.R. BUSWELL: Effectively, the chief or the predominant point of contact would be the port manager. This is largely operational stuff; namely, when there is, perhaps, some revisions of long-term plans. A lot of that will be picked up through other public processes. Very clearly the intent is that the Esperance port will have a community consultative committee attached to it, as will Albany, Bunbury, Geraldton, Port Hedland or Dampier, I suspect, and so on, up the coast to Broome. Those committees will provide that conduit between that operating facility and the local community.

Ms R. SAFFIOTI: The member for Eyre raised a good point about guidelines. Is there discussion or will the minister adopt the idea of having guidelines to ensure consistency of the structure of these committees around the state?

Mr T.R. BUSWELL: My view is that proposed section 14A(2) gives pretty clear guidance to the entity for what the purpose of those consultation committees will be. I am a bit reluctant to over-specify this. We have to have some confidence that the entities that we charge to have responsibility for the ports will comprehend fully what this legislation is directing them to do in relation to community consultation committees.

Mr B.S. WYATT: Proposed section 14A(3) states that a local government that has electors who are or may be affected by port operations at the port is to be represented on the community consultation committee. The bill has been deliberately drafted so that it does not say “local government authority” in which the port is located. “Port operations” is defined in the new definition at clause 4. Proposed section 3(1)(c) refers to “the provision, management or operation of port facilities”. Port facilities are defined to include railways. The minister can see where I am going here. My question is about railways that may go through the Pilbara, which has a number of different local government authorities and which will have electors who may be affected by the port operations by an extension of that definition. Does the minister anticipate or is it his intent that proposed section 3(1)(c) should be focused on the local government authority?

Mr T.R. Buswell: While the member is on his feet, I refer him to the second line of proposed section 14A(3) about a local government having electors who are or may be affected by port operations at the port. Therefore, it is operations in and around the port, as it is an operating port.

Mr B.S. WYATT: Port operations at the port.

Mr T.R. Buswell: Yes.

Mr B.S. WYATT: That is limiting it to the local government in which the port is located.

Mr T.R. BUSWELL: Yes, I acknowledge that in that case. For example, while it is not yet exactly determined, a port like Fremantle will clearly involve more than one local government authority because the port of Fremantle extends from North Mole, which will be in a local government, through to North Quay, South Quay, down to Kwinana into Rockingham.

Clause put and passed.

Clause 10 put and passed.

Clause 11: Section 29A inserted —

Mr C.J. TALLENTIRE: Clause 11 makes reference to the Planning and Development Act 2005. It seeks to insert a clause into the act that would enable a port authority to avoid getting an approval under the Planning and Development Act when it might be considering granting a lease or a licence in relation to port authority land. My concern is that approval might be sought for an activity for a new leaseholder to come in under the umbrella of a port authority, and for that to not receive any consideration from the local government for that new leaseholder or that new activity to be undertaken. Also, it might impose on the local community. We do see this sort of thing happen. That could occur if something that dramatically increased the number of trucks coming into a port was constructed. That decision would have to be made with local government approval because the local government would have to significantly upgrade the surrounding roads. Would it not make sense that such an approval would be given only if the local government authority completely supported it and was in a position to do the upgrade works? It is difficult to contemplate the outcome of a local government not being forewarned about a decision of a port authority that thinks it can force things along. A woodchip or grain terminal could suddenly be established and a local government would have imposed on it the need to do massive upgrade works. How will this clause work?

While the minister is focusing on this aspect, could he reflect on the general interplay between the ports legislation and local government authorities? I would have thought that it was essential that the activities of a port, given that they occur within a local government area, would only ever be carried out with the approval of a local government. I would like the minister’s advice on that. Could he let us know, when he was considering these amendments, what thought he put into making it plain that a port has to have its activities come under the

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arrangements of local government? Is it his view that the situation should be otherwise—that a port authority should be given this enormous power to make all kinds of decisions that can impact on the surrounding area in a dramatic way but it should be allowed to do that without consulting the local government? I look forward to the minister's comments on that.

Mr T.R. BUSWELL: My advice is that section 38 of the Port Authorities Act 1999 deals with that already. Section 38 effectively means that for the purposes of port works the port authority is not required to seek the authority of local government.

Mr C.J. TALLENTIRE: That may be the current situation, but the bill seeks to amend and improve the act. I can think of any number of cases in which that situation the minister has confirmed has caused enormous problems. I am amazed that the minister is prepared to tolerate that situation continuing and that he believes that the scale of the operations that occur at a port should go ahead without a local government being able to express a view or ask that something be done in a particular way. Is the minister prepared to allow a port to suddenly be open to the export of millions of tonnes of grain that could suddenly be trucked into that port? Does he not believe that the local government that has responsibility for the town that surrounds the port should have some say in the activities of the port? If that is what the minister is saying, it would be is the most amazing imposition and is giving a port the authority to make that kind of imposition without any check at all. Surely a local government authority should have the right to say what goes on in a port area. Why would that not be the case? Any other business activity in a local government area would come under the decision-making authority of the local government, so why should a port be any different?

Mr T.R. BUSWELL: This provision has been in the Port Authorities Act for a long time. No-one has ever raised this issue with me. I do not see the member for Gosnells' amendment on the notice paper to change clause 38 of the act. I have no intention of changing clause 38. It has been there for a long time. It deals with how port authorities seek approval and the treatment of port works. Port works are treated as public works. I can tell the member that it has never been raised as an issue with me. I am very comfortable with that provision remaining. The member has a different view and he is more than welcome to develop that as a policy option for consideration through his internal policy options processes. It is not the policy position of the government.

Mr C.J. TALLENTIRE: Is the minister saying that I have reviewed this legislation only in the last 24 hours? I certainly have heard people raise this concern. I imagine those members whose electorates include ports would have heard people raise this concern. It strikes me that this bill gives a port authority an amazing amount of power. There have been some discussion on the consultative committees, but they do not have the same decision-making authority that a local government would have.

Mr T.R. Buswell: A good example is probably Bunbury, where the local government has developed a structure plan that sits over the port, so that the local government has the capacity, and that structure plan deals with issues like what is port land, what is buffer, where transport corridors are. The port has to comply with a lot of that work that the local government authority does.

Mr C.J. TALLENTIRE: It is not decision-making authority, though, is it?

Mr T.R. Buswell: What do you mean?

Mr C.J. TALLENTIRE: Can a local government make a decision about whether a particular proposal will be accepted?

Mr T.R. Buswell: No.

Mr C.J. TALLENTIRE: It is not a decision-making power; it is a planning power. I put it to the minister that every other business activity in a local government area would have to get that decision-making authority, or it would fall under the decision-making authority of a local government, but the minister wants to continue a situation of the past. He is prepared to continue a situation in which ports are somehow exempt. The minister has not explained to me why a port should be exempt and treated differently from other businesses.

Clause put and passed.

Clause 12: Section 30 amended —

Mr B.S. WYATT: This clause makes amendments to the functions, powers and related provisions of a port authority by deleting subsection (1)(e) and inserting two paragraphs. In light of the question I put to the minister about vested property, why is the responsibility of a port authority for maintenance and preservation of vested property and other property held by it being removed? I am curious about that because earlier on in the amendments "vested property" was specifically included as port property in the definitions amendment at the beginning of the bill. Is there a particular reason why we are removing the obligation for maintenance and

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preservation of vested property? I assume that the amendment to paragraph (f) simply responds to the definition change made around port operations.

Mr T.R. BUSWELL: We are looking at proposed section 31(1)(e). “Vested” disappears because in the new definition “port property” includes “vested property”. On the member’s question about paragraph (fa)—one of the member’s favourite terms —

Mr B.S. Wyatt: It is missing one word.

Mr T.R. BUSWELL: Fiscal action plan! Yes, but it is the way the member pronounces it, with such an emphasis on those first two letters!

Mr B.S. Wyatt: Very sharp, minister; I had not realised I was focusing on it.

Mr T.R. BUSWELL: It has caused me to reconsider the presentation of wonderful initiatives in the future so that the acronym can be less applied to imply failure or a space filled with nothing—(fa)!

Mr W.J. Johnston: You got to him.

Mr B.S. Wyatt: I never thought you got my references; how wrong I was!

Mr W.J. Johnston: The first time he reacts is on the port bill.

Mr B.S. Wyatt: While you are on your feet, with (fa), “to be responsible for port security” —

The DEPUTY SPEAKER: Member for Victoria Park, I am glad you are on your feet.

Mr B.S. WYATT: I know the rules require someone to be on their feet. I will ask a question about paragraph (fa) if the government is responsible for port security.

Mr W.J. Johnston interjected.

Mr B.S. WYATT: I am not referring to anything other than paragraph (fa).

Mr P. Abetz interjected.

Mr B.S. WYATT: This is what happens when we have a couple of late nights late in the year, member.

Mr T.R. Buswell: I am focused.

Mr B.S. WYATT: Sorry, Treasurer. Port security is also in line with the question just asked by the member for West Swan regarding commonwealth bodies around port security.

Mr T.R. BUSWELL: I will try to cast some light on paragraph (fa), as I read from explanatory memorandum. The amendment to insert proposed section 30(1)(fa) will add a broad responsibility for port security to reflect a port authority’s responsibilities in relation to new commonwealth and international maritime legislation, which was legislated, as the member for West Swan pointed out, after the 9/11 terrorist attacks and which was not in existence when the Port Authorities Act was enacted.

Clause put and passed.

Clauses 13 and 14 put and passed.

Clause 15: Section 34A inserted —

Mr W.J. JOHNSTON: This clause effectively provides that if the government directs a port authority by an instrument in writing with budgetary requirements, the port authority must meet those budgetary requirements. The government is defined as the cabinet, a committee of the cabinet, a subcommittee of the committee of the cabinet, and the Treasurer. In fact, the Treasurer can write to a port authority and ask what its financial targets are and the port authority is required to meet those financial targets. Am I right?

Mr T.R. Buswell: Yes.

Mr W.J. JOHNSTON: Proposed section 34A(3) refers to section 33, and I am indebted to the member for West Swan who pointed out that section 33 is the strategic development plan for the port. Under section 33 the board and the executive sit down and work out the plan for the port. Even though the port will have its own plan—I assume the plan will go to the Minister for Transport and he can sign off on it —

Mr T.R. Buswell: And the Treasurer.

Mr W.J. JOHNSTON: Yes. Despite the fact that the board develops its plan in conjunction with the government, the government can say that it will not worry about that and the port must still achieve budgetary outcomes. We can see that that is a bit unusual. The minister is sitting here as the Minister for Transport and also happens to be the Treasurer, but that is coincidental; it is not the rules. The government could need to fill a

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budget black hole and issue a letter to the port authority saying, “We don’t care what happens, just send us the cheque, or spend no money on capital.” For ports to send the cheque, as they are required to do because the minister has sent them a letter, they might have to cut maintenance or stop capital expenditure or whatever. It is an unusual provision. Is there a particular reason we are heading down this path given the powers are already in section 33 to get ports to develop a plan, and we can imagine that the board will be good.

Mr T.R. Buswell: It is a reasonable question. My advice is that this is simply attempting to codify what is effectively the current circumstance. I do not think in my time we have ever been required to communicate with a port authority some budgetary requirement different from its strategic development plan or its statement of corporate intent, but we could. I understand that this provision will simply put some legislative framework around the potential current practice environment.

Mr W.J. JOHNSTON: I raise this because I think during the 2011 estimates process, when I was a humble backbencher helping out in the transport portfolio and dealing, I think, with the Geraldton port, I asked about the change in the dividends in its budget, which were very much larger than they had been the previous year. The port authority CEO and the chairman said they had not seen those figures until I asked the question in the chamber.

Mr T.R. Buswell: That was a problem around the Treasury information system and the data being fed in by the Geraldton Port Authority. All the advice I have is that it was a one-off.

Mr W.J. JOHNSTON: When I saw this clause, a light went on and I had a think about what had occurred. There will need to be a process in which the government does not put unrealistic expectations on the port.

Mr T.R. Buswell: That is absolutely correct.

Mr W.J. JOHNSTON: Even though this legislation will allow the government to do that, is it not intending to do it?

Mr T.R. Buswell: No; to the best of my knowledge the information fed into the budgets comes out of the advice provided by the ports on their intended financial performance for the year. That may change from time to time and there will be a change at the midyear review that the member will peruse around the Port Hedland Port Authority where, for example, a revenue stream around a port enhancement charge we had hoped to levy is delayed. But that delay is not due to a government decision; there has been a delay in implementing it. I cannot remember the quantum.

Mr W.J. JOHNSTON: As I say, this is probably something oppositions of all stripes over the years will keep an eye on because we could end up with some very strange outcomes.

Mr B.S. WYATT: The Treasurer made the point that proposed section 34A will effectively codify something that already takes place.

Mr T.R. Buswell: Potentially.

Mr B.S. WYATT: These things go into legislation for a specific reason. From memory, the statement of corporate intent is prepared by the port authority annually. Is that the same for the strategic development plan or is it a longer-term document?

Mr T.R. Buswell: We review both every year.

Mr B.S. WYATT: The statement of corporate intent, on my understanding, deals with a 12-month period but development plans are longer.

Mr T.R. Buswell: That is a good point, but it is updated every year. Every year an additional year is added on every year; if that makes sense.

Mr B.S. WYATT: On the strategic development plan?

Mr T.R. Buswell: Yes.

Mr B.S. WYATT: Is it a three-year plan?

Mr T.R. Buswell: It is a five-year plan. That is a good question and I am happy to have a conversation—perhaps not now—about the need for ports to do longer term planning.

Mr B.S. WYATT: We did deal with it during the second reading stage.

Mr T.R. Buswell: Yes. The strategic development plan, as I understand it, is effectively upgraded every year so that the last year drops out and the fifth year is a new year. It is not like the Chinese 10-year plan that starts here and ends there and a new one starts.

Mr B.S. WYATT: Yes, it is always a five-year plan.

Mr T.R. Buswell: Yes.

Mr B.S. WYATT: If a decision is made by the minister—or by cabinet, a committee of cabinet or a subcommittee of a committee of cabinet—to instruct the port authority about something, will that then become a permanent amendment to the statement of corporate intent and/or the strategic development plan? I did ask the minister in an exchange by way of interjection during my second reading contribution about the motivation for this proposed section. Is the minister finding that when he approves or when previous ministers approved, the statement of corporate intent or the development plan, the port authorities then wander far from that plan? This proposed section will create for government quite a tight rein on the port authority. My question is: what has motivated this requirement?

Mr T.R. BUSWELL: Perhaps an example is a timing gap in a financial year during which the statement of corporate intent has yet to be formally adopted by government. Often that is because of some inconsistency between the data in the statement of corporate intent and the state's budgetary requirements, if I can put it in that way. Inevitably there is a period of negotiation and then an outcome is delivered. I assume that this would assist us in that period of transition. It may well be that the SCI is not signed until some period into the financial year to which that SCI applies. For example, the requirement to comply with budgetary requirements outside of the approved SCI may well help cover that period when there is no approved SCI in place. That does happen from time to time when we do not sign off on the SCI because the SCI is not consistent with what is literally in the state budget, and we have to go back to the agencies and have a discussion about that. That is more often than not about capital investment. My expectation is therefore that in the period while there is no signed SCI in a particular financial year, those budgetary requirements and associated approvals would be the guidelines with which the port would comply.

Mr B.S. Wyatt: My response to that is that proposed section 34A(2) states —

A port authority ... performing its functions must —

- (a) comply with approved requirements as to capital works expenditure limits and associated funding;

Presumably that means approved requirements through the SCI or the strategic development plan. This is not a critique. I am simply asking whether this proposed section is simply a protection for government if a port authority goes rogue.

Mr T.R. BUSWELL: Yes, possibly.

Mr B.S. Wyatt: Does the minister see what I am saying?

Mr T.R. BUSWELL: Yes.

Mr B.S. Wyatt: You are telling them to do what they are approved to do.

Mr T.R. BUSWELL: Yes, I know; possibly. Maybe another example is capital spending on major capital projects.

Mr B.S. Wyatt: What, a budget shock in some form that you suddenly need to do something about?

Mr T.R. BUSWELL: It could perhaps be a piece of port infrastructure that was supposed to cost \$200 million and ended up costing \$300 million. It is to make sure that the authority itself is not going to go out and finish that infrastructure outside its budgetary requirements without proper approvals from government. It would then adjust its budgetary parameters. I am not saying that it has happened that infrastructure costing \$200 million ended up costing \$300 million. I have not been around when that has happened, but I can foresee examples, especially with capital works. A port authority may form a view that it can for a range of reasons invest in an opportunity that presents itself. Again, I am not saying that it has happened, but it could happen. They do require a bit of management from time to time. I think this gives us the clout to say that what is approved is what the port authority will deliver on.

Mr B.S. Wyatt: Yes, and that is clarified in proposed subsection (3), which makes the point that regardless of the duty on directors to act in accordance with the policy instruments, the government will prevail.

Mr T.R. BUSWELL: Yes.

Mr B.S. WYATT: I will move from the floor an amendment to clause 15. I move —

Page 9, after line 4 — To insert —

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- (c) to maximise the return to the State, ensure that all assets with a value of more than \$5 million are disposed of or leased through a public tender process.

The minister will get a copy of that in a minute. I do not intend to labour the amendment. I just want to make the points that I made during my second reading contribution. This amendment will add paragraph (c) to proposed section 34A(2), which commences, “A port authority in performing its functions must”. It simply makes the point that in the event that a port authority considers selling an asset with a value of more than \$5 million, that asset must be sold by way of open public tender. This amendment is motivated, obviously, by some of the recent commentary and public disclosures on the possibility of Kwinana Bulk Terminal forming part of the settlement of litigation with James Point Pty Ltd. I have asked the minister and the Premier on a number of occasions whether any valuation of Kwinana Bulk Terminal will be released so that the public can have confidence that the value of that port will be realised in any settlement. There are two components to my proposed amendment, and they relate to the potential liability and the realistic exposure to the state in that litigation.

Mr T.R. Buswell: Litigation risk.

Mr B.S. WYATT: Litigation risk; I thank the minister. Let us say for a minute that the litigation risk is \$1 billion and the State Solicitor’s Office is telling me that if the matter goes to court I am highly likely to lose. As I said in my second reading contribution, and looking back on the ministerial statement of Hon Alannah MacTiernan back in 2001 or 2002, it is clear that a one-sided deal was signed between James Point Pty Ltd and the state government—the taxpayers of Western Australia. There is therefore some concern that if the minister does not disclose that litigation risk and the true value of Kwinana Bulk Terminal, Parliament cannot be satisfied that the minister will realise a fair value for that port. It is my understanding that the proposal being considered in the Supreme Court mediation process going on at the moment—again in light of the difficulty in getting answers from the Premier on this issue and getting the information only from the media—is the idea that if the government accepts a high litigation risk of \$1 billion and we think that Kwinana Bulk Terminal is worth \$500 million, we should transfer ownership to James Point Pty Ltd and walk away from the litigation; or that and some money or whatever the terms are of the proposed settlement. There is a lack of clarity around that. In the answers given by the Premier he has never once guaranteed the release of any evaluation of the Kwinana Bulk Terminal, in the event that option is pursued and taken by the government. The opposition has moved this amendment to protect Western Australian taxpayers by ensuring that any significant sale or disposition of port assets over the value of \$5 million—we are not requiring small landholdings, for example, to go through this process although they probably ordinarily would, but we are simply requiring a public tender process—are sold in an open and transparent way and Western Australians can be sure that they are realising value for those assets.

Division

Amendment put and a division taken, the Deputy Speaker casting her vote with the noes, with the following result —

Ayes (14)

Mr R.H. Cook
Ms J. Farrer
Ms J.M. Freeman
Mr D.J. Kelly

Mr F.M. Logan
Mr M. McGowan
Ms S.F. McGurk
Mr M.P. Murray

Mr P. Papalia
Ms M.M. Quirk
Mrs M.H. Roberts
Mr C.J. Tallentire

Mr B.S. Wyatt
Mr D.A. Templeman (*Teller*)

Noes (30)

Mr P. Abetz
Mr F.A. Alban
Mr I.C. Blayney
Mr I.M. Britza
Mr T.R. Buswell
Mr V.A. Catania
Ms M.J. Davies
Mr J.H.D. Day

Ms W.M. Duncan
Ms E. Evangel
Mr J.M. Francis
Mrs G.J. Godfrey
Dr K.D. Hames
Mrs L.M. Harvey
Mr C.D. Hatton
Mr A.P. Jacob

Dr G.G. Jacobs
Mr R.S. Love
Mr W.R. Marmion
Mr J.E. McGrath
Mr P.T. Miles
Ms A.R. Mitchell
Mr N.W. Morton
Dr M.D. Nahan

Mr D.C. Nalder
Mr J. Norberger
Mr A.J. Simpson
Mr M.H. Taylor
Mr T.K. Waldron
Mr A. Krsticevic (*Teller*)

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Pairs

Ms L.L. Baker
Mr P.C. Tinley
Mr P.B. Watson
Ms R. Saffioti
Mr W.J. Johnston
Dr A.D. Buti
Mr J.R. Quigley

Mr S.K. L'Estrange
Mr M.J. Cowper
Mr G.M. Castrilli
Mr C.J. Barnett
Mr B.J. Grylls
Mr D.T. Redman
Mr R.F. Johnson

Amendment thus negated.

Mr B.S. WYATT: I am disappointed that the government did not support what I thought was an eminently important amendment to protect taxpayers' interests. Therefore, I move —

Page 9, after line 4 — To insert —

- (c) ensure that, in the disposition of any port asset, including port property, comply with the Strategic Asset Management Framework.

The amendment we divided on just a moment ago was very specific in requiring the disposition of any port assets over the value of \$5 million to be done by public open tender. The government voted against that, so now I have moved another amendment to require that the disposition of any port property be simply in compliance with the government's own policy—that is, the “Strategic Asset Management Framework: Asset Retention and Disposal”. I am sure that when the Deputy Speaker says, “All those in favour, say aye”, members will join me in a chorus of “aye” and we will insert an eminently sensible provision into the act. It is important to note that although the first amendment, which was defeated by the government, required a public open tender, “Strategic Asset Management Framework: Asset Retention and Disposal” does not so specify. It simply requires, as stated on page 2 —

Asset disposal should be well-planned and managed to ensure that maximum value for money is achieved for government, and that probity and transparency are upheld.

Disposal should be at market value, unless specific exemption has been provided by Cabinet.

With this amendment all I am asking is that the government agrees that, in the event that one of the port authorities wishes to dispose of an asset, it does so in accordance with the strategic asset management framework. All that does is simply require market value for the disposal of those assets. I am sure that every member in this place would be incredibly comfortable with that philosophy, as I know all Western Australian taxpayers would be. Again, I make the comment that the motivation for this amendment is my concern about the secrecy and the lack of transparency that surrounds the so-called mediation between James Point Pty Ltd and the state government.

The point I made in question time yesterday was that the statement of claim from James Point Pty Ltd does not seek ownership or claim any entitlement to the Kwinana Bulk Terminal. All the statement of claim is looking for is damages and that the original agreement signed with the Court government back in 2000 is effectively enforced. That is to allow Mr Buckeridge, James Point Pty Ltd, to proceed with the construction of his port as per that agreement. It is not a reasonable proposition for the government to simply say that Mr Buckeridge should not worry about his company's obligation to build its own port and to give him another one—“Here's one that we built earlier”—that he can have as part of the settlement negotiation. It is not reasonable for the Premier, once it is all done without any transparency and any openness, to come into the Parliament and tell us all what happened without any guarantee that any valuations will be released and without giving us an idea of the threat of the litigation risk.

Let us not forget that the Premier was willing to go to the High Court to challenge the minerals resource rent tax, even though he said that there was no prospect of success. Now with a potential billion-dollar exposure, we are looking straight into a negotiated settlement and the potential transfer of assets in a way that the opposition certainly does not think is clear. All I seek, members, is that we all support the proposition that the government policy around the disposal of assets—that is, the strategic asset management framework—forms part of the requirements of a port authority in the disposition of those assets. Ultimately, cabinet can still provide a specific exemption under that policy; therefore, it is certainly not an amendment that members need fear.

Mr T.R. BUSWELL: The reason we will not be supporting the amendment is that those provisions already apply to port authorities at a policy level.

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Mr B.S. WYATT: It is interesting; I got that last part, “at a policy level”, as the minister sat down! In reference to clause 15, which we are currently dealing with, the minister said to me, just a little while ago, that all it is doing is codifying a practice that already exists. That is all we are doing. I want the minister to codify a practice that already exists; that is, the application of the strategic asset management framework into the terms of the legislation so that Western Australians can be satisfied in respect of not only Kwinana Bulk Terminal or any potential settlement of the litigation with James Point Pty Ltd, but also any sale of assets. We are now creating larger port authorities with more assets, so there should be a strong codified element of transparency and accountability for the government.

Amendment put and negatived.

Clause put and passed.

Debate adjourned, on motion by **Mr J.H.D. Day (Leader of the House)**.

House adjourned at 5.32 pm
