

PORTS LEGISLATION AMENDMENT BILL 2017

Committee

Resumed from 13 February. The Deputy Chair of Committees (Hon Dr Steve Thomas) in the chair; Hon Alannah MacTiernan (Minister for Ports) in charge of the bill.

Clause 47: Section 60 amended —

Progress was reported after the clause had been partly considered.

The DEPUTY CHAIR: I understand that when progress was reported last night, the minister was in the middle of an explanation that she might want to continue.

Hon ALANNAH MacTIERNAN: Basically, the advice is that this is not a required provision. These sorts of mechanisms are now included in regulations for the ports generally. This was designed to ensure that there was third party access, but those provisions already exist elsewhere.

Hon SIMON O'BRIEN: I thank the minister for that explanation.

Clause put and passed.

Clauses 48 to 50 put and passed.

Clause 51: Schedule 8 Division 2 inserted —

Hon SIMON O'BRIEN: I just want to get a point of clarification for the benefit of the Committee of the Whole. We are considering clause 51, which, if passed, will insert division 2 into schedule 8 of the Port Authorities Act 1999. It continues for about three pages. Under "Subdivision 1 — Preliminary" is proposed clause 52, "Terms used". Is it just coincidental that, in contemplating clause 51 of the bill, we are now contemplating a new part of that division numbered 52?

Hon ALANNAH MacTIERNAN: My advice is that it is just a coincidence.

Hon SIMON O'BRIEN: I actually did read it correctly in my own mind, so I am not losing my marbles, which is probably an observation best thought about rather than expressed publicly! It is considerably more than the three pages that I initially alluded to, but I just wanted to make sure that what I thought was the case is the case, because this is a very substantial part of the machinery that is before us at the moment. Having said that, I have already indicated the opposition's support for the way the machinery is constructed, and this is what gives it effect. Therefore, we agree with clause 51.

Clause put and passed.

Clause 52: Schedule 8 amended —

Hon SIMON O'BRIEN: Clause 52, on page 57 of the bill, inserts some significant matters. In particular, it will insert into schedule 8 of the act proposed clause 66A, "Port of Derby: special provisions". That continues in some detail right through to about halfway down page 63 of the bill. During the course of discussions with departmental officers and our contemplation of the future of the port of Derby, I started to form the view that because of the effluxion of time since the bill as it is before us was first drafted, the entirety of this material might not now be required. If it is the case that proposed clause 66A, "Port of Derby: special provisions", is no longer required and therefore redundant, I ask the minister whether it would be better to delete proposed clause 66A from the bill as it stands now because otherwise it will be present in the act into perpetuity and serve no purpose.

Hon ALANNAH MacTIERNAN: As I canvassed in the second reading debate, it is correct that now an agreement has been signed by the Shire of Derby–West Kimberley, these provisions are no longer required. These provisions were put in when the old pre-existing agreement was in place and these amendments were necessary. I agree with the member. I have canvassed the advisers extensively about whether there would be any scenario in which we would require these provisions, but because that agreement has been superseded already, they are not required. My instincts are probably the same as the member's. Although it is going to be a pain to have to send this bill back to the other place, I do not think we should have otiose provisions in the bill, particularly given that they are so extensive. Therefore, I suggest that we do not pass this provision. I am going to seek guidance from the Chair as to how we might, if there is a general agreement, not proceed with this clause.

The DEPUTY CHAIR (Hon Dr Steve Thomas): Is that clause 52 in its entirety?

Hon ALANNAH MacTIERNAN: Yes.

The DEPUTY CHAIR: If the chamber votes against the clause, that will remove the clause.

Hon SIMON O'BRIEN: I thank the minister for that clarification. We are contemplating negating the entirety of clause 52. There is something in clause 52 before proposed clause 66A, but that is —

Hon Alannah MacTiernan: That is just the mechanism to insert it.

Hon SIMON O'BRIEN: Yes. It is almost a Clerk's amendment just to make it fit on the end. I thank the minister for that. Governments do not like to amend clauses in their legislation unless it is unavoidable and they do not like to transmit a message to another place inviting agreement to an amendment. I get that as well. I make it clear that we do not want to insist either way and it would be —

Hon Alannah MacTiernan: Let's vote against it. You're right. Otherwise, it will make the legislation more difficult.

Hon SIMON O'BRIEN: The minister has obviously checked. While she is getting a little more advice, I will add that we do not want to delete the clause and then find out at length that there was a bit of it that might still be applicable. However, it seems to me that all that has been covered.

Hon Alannah MacTiernan: We have absolutely workshopped that, member.

Hon SIMON O'BRIEN: We will vote against this clause. In doing so, we will not be opposing the bill or the government's intentions in any way; we are just trying to make a better, and at least a briefer, piece of legislation.

Clause put and negatived.

Clauses 53 to 65 put and passed.

Title put and passed.

Report

Bill reported, with an amendment, and, by leave, the report adopted.

As to Third Reading — Standing Orders Suspension — Motion

On motion without notice by **Hon Alannah MacTiernan (Minister for Ports)**, resolved with an absolute majority —

That so much of standing orders be suspended so as to enable the bill to be read a third time forthwith.

Third Reading

Bill read a third time, on motion by **Hon Alannah MacTiernan (Minister for Ports)**, and returned to the Assembly with an amendment.

Sitting suspended from 1.01 to 2.00 pm