

PORTS LEGISLATION AMENDMENT BILL 2017

Second Reading

Resumed from an earlier stage of the sitting.

HON SIMON O'BRIEN (South Metropolitan) [5.06 pm]: In the very earliest part of my opening remarks, I was reflecting on the importance of the transport task as part of the economy of Western Australia. Never more so is that demonstrated than within our ports. Ports around the state, within themselves, exhibit a variety of attributes. In the early to mid-1980s, I worked for just under three years in Port Hedland and other ports in the north. It is a very different part of the world from metropolitan Perth. The Pilbara has two or three of the world's biggest export ports located within its area, and that has been the case for some decades. That, of itself, underlines the colossal degree of importance that attaches to international transport links for Western Australia. There are a series of other ports around the state's coast, which I will come to in just a moment.

Regardless of whether ports are large or small, it is very important that the government facilitate their smooth operation. I mentioned some behemoths. I will use the port of Port Hedland as an example. Port Hedland has been a standalone port for a very long time, but it has grown out of all proportion from its original role with the mass exporting of iron ore and other minerals since its hyper-development in the 1960s. Members should not forget that commodities have been exported and imported through the Port Hedland port for a heck of a lot longer than that. It is interesting for any historian to examine the history of Port Hedland and its hinterland. In those far-off days, in the 1860s for example, the local economy was still driven by primary products.

Hon Robin Chapple: Sheep.

Hon SIMON O'BRIEN: There were certainly sheep. It must have been a pretty hard life being a sheep in that part of the world, given the climate and what have you.

However, there were plenty of commodities from mines in the hinterland. Indeed, a range of mineral products has been constantly extracted from mines big and small throughout the Pilbara, to be exported through Port Hedland. That is the case to this very day. I remember having the privilege to be involved in the building and establishment of the Utah Point common-user facility, which exports a range of what I might call minor ores. It does so to the benefit of not only a whole range of operators, but also the community at large, because when we have production, it means that jobs are created and revenue is generated for not only the companies and other participants, but also the government. It flows through in the form of services that are made available to not only the locals but also, of course, the teeming masses down in the metropolitan area. Some members sometimes do not like to see so much of the state's mineral wealth being channelled in their direction.

I will make a couple of points using Utah Point as an example. Utah Point is a government owned and operated common-user facility—or it was the last time I left it. If I have learnt only one thing from being involved in the transport portfolio, it is that if common-user facilities are not maintained and guaranteed by government, a lot of smaller operators will be squeezed out. We have seen that in Port Hedland, for example. Major players in that part of the world do everything they can to squeeze out their opposition, great or small, specifically by denying them access to their own facilities, whether it is over the wharf, via rail or whatever. I have certainly come to the conclusion that, particularly in this state—although I suspect it is the same in other jurisdictions—if there is going to be genuine third party access to that sort of infrastructure, the government needs to control it. In many cases, that means ownership of the infrastructure. A lot of economic rationalists perhaps do not subscribe to that view, but I certainly do and I will argue the toss about it with anybody.

Hon Robin Chapple: You've done it very well in the past.

Hon SIMON O'BRIEN: I have, indeed, done it in the past and I will certainly do so in the future. I do not know when the member's bill is going to come on again; I am quite looking forward to it, but that is another part of the notice paper and we will not digress.

Ports are very important for our overall economic fabric and for local prosperity. A number of our perhaps more traditional, long-established regional ports are an important part of the community. We heard from Hon Colin de Grussa just now about how the port in a place like Esperance is a very important part of the local community in a number of ways. I have already mentioned the essential infrastructure they provide for suppliers to connect with markets, but they are also —

Hon Darren West: The word "port" is contained within the word "important" for good reason!

Hon SIMON O'BRIEN: I thank the honourable member for his thoughtful contribution.

Hon Tjorn Sibma: So is "ant" and I know what you would put before it!

Hon SIMON O'BRIEN: Just working my way through these unruly interjections, a port like Esperance does a lot of those things. It is a major business in the town and a range of people in the community look to the port for

support, to not only provide the jobs that I mentioned, but also do all the sorts of things that a major local employer does. For example, port authorities provide sponsorship for school and youth groups.

Hon Darren West interjected.

Hon SIMON O'BRIEN: I got that; members may wish to make their own contributions. I just want to get beyond the monosyllabic.

The Esperance port authority does all those things and more. It also has to be engaged, actively and closely, with local planners at the shire, for example, to make sure that a range of landside transport considerations are maintained. In Esperance, there are other important issues of heritage and recreation. The Esperance tanker jetty cracks a mention in this legislation because its status is being, if not changed—that is unclear—then it is certainly going to be confirmed by a provision in the Ports Legislation Amendment Bill 2017.

I think Hon Colin de Grussa referred to a review of the changes that have been made to management in the Southern Ports Authority. It is a process I put in train but it then fell out of my purview, so I was not able to follow it through and I have not done so closely.

It was interesting listening to Hon Colin de Grussa's remarks in which he raised a point about the importance of how local community members see their port and what they expect to see for its management. With all these considerations, there are pros and cons. People want to feel a sense of, "This is our port" and a sense of ownership and so they should. It is a good thing if they feel comfortable about the role the port plays. This is the same port that was mismanaged to the extent that we had a very serious degree of lead contamination. It also can be advanced that, perhaps in some country ports, having a local chief executive and board members, if not the whole board from the chairman down, who are also a group of locals, is not necessarily the best dynamic to provide good governance of the port without fear or favour. However, there is no doubt that having that degree of familiarity and close association with the place where people live has some benefits as well. It is a question of how the government measures the relative merits of all these considerations. As it often does, the truth lies somewhere in between. They are all important considerations. In due course, we will see whether this bill arrives at getting the correct balance.

This Ports Legislation Amendment Bill's objective is to make sure that the governance and role of our ports are designed to meet the challenges of the future. Indeed, as we have seen with the evolution in ports such as Port Hedland and Esperance over more than a century, we will continue to rely on our ports into the future and we need to make sure that they are functioning well. Hon Robin Chapple referred to more recent legislation governing ports that places an emphasis on environmental considerations. Earlier legislation from perhaps the 1960s and before was silent on those matters and that reflects that the environment in which a port operates changes and evolves over the years. I will not go back to C.Y. O'Connor or anything like that this afternoon because I want to move forward with this bill.

At first glance to a casual observer, the bill is quite a daunting prospect. It contains many provisions and amends sundry existing acts. However, the main purpose, as reflected in the second reading speech, is covered also in a November 2017 handout prepared by the Department of Transport entitled "Port Governance Reform — Tranche 2", which is available to members and the public. It summarises what the government is trying—I might add, successive governments have tried—to achieve in this space. I do not think it is oversimplifying it to say that this amends the legislative machinery to enable the existing ports administered by the Department of Transport to come under the management and oversight of the various port authorities around the state. That is an important development, one that I am sure is not entered into lightly, nor should it be, but the Liberal Party's view is that it is a positive step forward and that is why this bill enjoys our support. Nonetheless, there are a few considerations that I am sure members will wish to explore.

I have already expressed my appreciation to departmental and ministerial officers for the benefit of the briefings they have provided to me. Nonetheless, a few matters probably need to be recorded on the Parliament's record for possible future reference. We will come to those in due course. For now, I want to give a brief overview of what I see are the key parts of the bill and then I will conclude my second reading contribution, so that we can get on with it.

The number of ports to be transferred is nine and they have sundry port facilities contained within them. They are not necessarily minor operations; they are ports currently administered by the Department of Transport. As someone put it to me, there is basically a harbourmaster and a deputy harbourmaster in Fremantle administering port operations at Useless Loop, Koolan Island and so on. Clearly, there are some obvious efficiencies, including operational efficiencies, and benefits of expertise to be obtained by providing more local management through existing experts in the existing ports, specifically the Mid West Ports Authority, the Pilbara Ports Authority and the Kimberley Ports Authority. I hope members will bear with me if I refer to the Broome Port Authority by a slip of the tongue, because I have known it a lot longer than I have the current incarnations.

The port of Carnarvon, with its facilities at widely spread areas on different parts of the landmass at Cape Cuvier and Useless Loop, will transfer to the Mid West Ports Authority. At Cuvier there is a salt operation, which is run ultimately by Rio through Dampier Salt. I was there many moons ago. A couple of things distinguish it. If it is still there, it has perhaps the biggest free-standing laminated wood building in the world. I have to say it is quite an impressive structure. It is very big. There can be a whole shipload. I am sure Hansard will be careful how they spell that in the *Hansard*! I will rewind a bit. A whole ship's cargo of salt—quite a few thousand tonnes—can be accommodated in this building to keep it dry. The laminated aspect of the wood helps stop the wood from being corrupted by the salt when there is the addition of moisture. Aside from that, in the 1980s there was not much else to recommend it, but I am sure it is a lovely place if people want to go there now. I have not been to Useless Loop where Shark Bay Salt operates with Mitsui and Co as a partner, but it has a similar operation. I have not been there myself but a fellow customs officer in the 80s had been. When I asked him what it was like, he said, "It's useless." He obviously was not impressed with it.

In the Pilbara, a number of ports big and small are to be transferred to the governance of the Pilbara Ports Authority. There is massive infrastructure at Port Walcott, which is Rio's Cape Lambert facility. In the scheme of things, there are relatively minor operations at the port of Onslow where Onslow Salt and Mitsui operate. Barrow Island, where Chevron is a major stakeholder, will also be moved in. That also is a massive operation, and Varanus Island will be moved in. Interestingly, there is Cape Preston, held by Mineralogy Pty Ltd. I do not know how smoothly this transition will go in respect of that area. I wish the new Minister for Ports all the best if she is required to have dealings with Clive Palmer and co. I have a lot of confidence in the new Minister for Ports, particularly when it comes to matching it with the likes of Clive Palmer should that prove to be necessary. I do not know whether the minister wants to take along an apprentice, our colleague Hon Pierre Yang, to show him the ropes. It might be best to leave him at home and I will take him to Cape Cuvier instead!

Hon Alannah MacTiernan: I would be quite happy to take him to Cape Preston.

Hon SIMON O'BRIEN: I am sure it will help the processes.

Hon Alannah MacTiernan: We are very proud of our diversity on this side of the house—very proud.

Hon SIMON O'BRIEN: That brings me to Hon Darren West, who must be short-listed for ministerial promotion. Good luck to all of you because these are the state's interests that we want to secure.

When we come to the Kimberley ports, there is a matter of interest that has already been raised by Hon Robin Chapple because we have a couple of good, old-fashioned, general purpose, common-user ports at Derby and Wyndham. I have had a bit to do with both these ports in a number of capacities over a number of decades. Interestingly, the Shire of Derby–West Kimberley runs the port there and at Wyndham, the port operation is contracted out to a local operator, Cambridge Gulf Ltd.

During the second reading debate, Hon Robin Chapple mentioned some things that I will not now go over again. He sought assurances that the operations being run there and their efficiencies will not be compromised somehow by a takeover in management from those involved in other port operations that, in their eyes, they might see as minor operations, such as Derby and Wyndham, and somehow not mattering and not as important. I share what I think is Hon Robin Chapple's inferred concern that someone in the Kimberley Ports Authority might decide that it would be better off consolidating port operations in a different way and winding back investment in Derby and Wyndham because it can do it more efficiently or more conveniently in some other way. I go back to my earlier remarks that general-purpose, common-user ports are very important aspects of a town's local economy and need to be treated with respect—not only for their own sake, but also for the benefit of the whole of Western Australia. I look forward to the minister's comments and reassurances in that regard.

The bill contains a range of other details—matters of necessary machinery, as I call it—to enable the transition of a whole lot of aspects of these existing ports into their new homes. A number of transitional arrangements are proposed to be given by orders from the minister and so on. Amendments to the Jetties Act reflect what is happening in this bill. There is an examination of who, in the future, will license jetties at existing port authority ports and who will control jetty licences at the transferring ports and how those processes will be done. It was interesting to discover that it could be argued that some of the jetties currently licensed in some of these areas were historically and perpetually invalidly licensed. However, at least this bill will now make good some of those inadequate arrangements.

I think that is a sufficient examination for a second reading stage of this bill. I reiterate the opposition's support for the bill. I get the idea that there is a desire for a Committee of the Whole House stage from some quarters of the house. I see nods of agreement around the chamber, so I will not seek to put in any further questions for the minister to take on board now. I am sure there are some things that we can do. For example, through the effluxion of time and the evolution of the ports picture in Western Australia since this bill was first drafted, some provisions, including at least one voluminous provision, are probably now redundant. We might want to contemplate whether

that provision should be excised from the bill before it is enacted. I tend to think that it should be. I see no point in having a multipage detailed description of something that is meant to happen remaining in what will be an act when the requirement for it has already been superseded. I am referring to proposed section 52 of schedule 8, division 2 of the Port Authorities Act 1999. We will ask questions about that in due course and make a decision as a house. Who knows? We might even have to send a message to another place with an amendment just to show that we have fixed the bill up for them, which is not an uncommon occurrence. With that, I conclude my remarks in support of this bill.

HON ALANNAH MacTIERNAN (North Metropolitan — Minister for Ports) [5.35 pm] — in reply: I thank all members for their support of the Ports Legislation Amendment Bill 2017 and also the thoughtful discussion that went on. I will make a few reflections. If we go into committee, we might have the opportunity to talk about some more of those things.

This is a piece of legislation that has gone over many administrations. In fact, I first started this, probably around 2007, when I was becoming increasingly alarmed by reports that I was receiving—I do not how valid they were—and increasing claims of problems at Cape Lambert. As members will recall, that was a time when the usage of those facilities was increasing very dramatically. I began to understand that that port, theoretically, was managed by someone sitting down in Fremantle, who was also managing other ports across the state. It was clearly a charade and a nonsense. A number of those ports were getting to such a scale that it was irresponsible for us to allow that to continue. Indeed, we secured, I would have to say, the somewhat reluctant approval of Rio Tinto in the first instance to allow those to be brought out of the Shipping and Pilotage Act and into the Port Authorities Act. I was advised by our officers that shortly after a change of government in 2008, Rio very quickly wrote and said that it was withdrawing its consent for that move. In around 2012, the Barnett government decided that it was going to move forward with that tranche of port reform. As we know, these things do take a long time.

I say to Hon Simon O'Brien that I have some sympathy towards the amendment that he wants to move. The only thing that makes me slightly reluctant is knowing just how long the gestation of this thing has been. In a sense, it is in its eleventh year. However, I do agree with the member. It is a very large tract of information that was designed, because when this bill was first introduced into the house, the agreement with the Shire of Derby about the Derby port had not been completed, so a whole raft of provisions had to be written in to ensure that the existing agreement would be compatible with the new agreement. They have obviously been superseded. I have tried to workshop with the group to see whether there are any circumstances in which these provisions might be needed again—for example, if the agreement fell over for some reason or other. I am assured that that is not the case. I think, as a matter of principle, and to make legislation readable and understandable, that it is probably an amendment that has to be made. If the member wanted to entertain putting that amendment forward, I would support that as long as we can move forward pretty quickly on the bill.

I will not go through all the points that have been made. Hon Robin Chapple expressed some concern about the port authorities' strictly commercial base, which in some way would potentially jeopardise the regional development aspirations of the smaller ports. I want to make it absolutely clear that although the port authorities are required to act commercially, the overwhelming purpose of having these ports in public ownership—the concept of having a state-owned port—that is enshrined at the very heart of the port authority legislation is to facilitate trade for the benefit of the state. I do not think there is any concern that the principle of the port authority legislation is entirely compatible, and that it should be so much focused on regional development.

Hon Simon O'Brien and Hon Colin de Grussa raised concerns about structural issues—how do we make this work? One thing we have learnt from the Southern Ports Authority experience is that no matter the logic of a structure, the structure alone is not necessarily going to deliver outcomes; it is how you populate that structure and the skills and abilities of the people within the structure that effectively drives us forward. We do not have a naive view that these structures in themselves will create massive benefits, but we are saying that we can no longer entertain the fiction that some bloke sitting down in Fremantle is taking the responsibility for the safety of all these ports. That is what the legislation says that he does currently—it is a he—and that is not real. We have to put in place a structure that has the potential to be fit for purpose. We have even looked at the Kimberley Ports Authority. It will not be in the interest of the Kimberley Ports Authority to try to close down Wyndham port if it is within its purview, but I understand the concern that an entity could perhaps become centrally focused on that part of its operation that has been its traditional base. Part of our responsibility is to make sure that we populate the authority with people who will actively take on the role needed. In the case of Derby, since the legislation has been introduced to Parliament, a new agreement has been entered into with the Shire of Derby–West Kimberley.

I want to reflect on some of Hon Robin Chapple's comments that people will still want to be able to go to their beach, but if the beach is in one of these nasty port authorities, they will not be able to use it. We need to grasp a bit of reality. If people want their port to be like Darwin, if they want their port to be a driver of the local economy with Sheffield Resources and the Warburton development, they will want ships that go overseas, not ships that potter around the local area. If people want ships that will go overseas, they will have to comply with the international

Extract from Hansard

[COUNCIL — Wednesday, 13 February 2019]

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Hon Simon O'Brien; Hon Alannah MacTiernan; Hon Robin Chapple; Hon Colin De Grussa

maritime rules. The international maritime rules require that these protections are put around a berth. It is not the fact that we are bringing this facility back into the overall administration of the Port Authorities Act that will change those requirements; it is the fact that, aspirationally, this port will have ships that take produce into the international sphere. Our advice from our officers doing work with the shire is that they believe that both things can be accommodated—they might just meet people up the end. We need to make sure that when we do this critique, we analyse the cause of the problem and not confuse the change of structure with international shipping requirements.

Hon Robin Chapple also talked about the shire being aggrieved that it has had to spend hundreds of thousands of dollars—I believe they were the words the member used—doing this due diligence. I cannot tell the member what the shire has spent; the member will have to rely on his sources. From our perspective, the Kimberley Ports Authority, which was charged with doing the due diligence across the three ports, has spent about \$1.5 million on that. Again, I urge the member to understand that this shire wants to run an international port. Much of the money that the shire has spent on due diligence is money that it would have had to spend to get the subleases. The subleases for Sheffield Resources and for the very big and imaginative Warburton locked-port facility required due diligence. It is probably helpful that the shire has gone through this process, because sometimes small local shires are not necessarily aware of how much they should give away. One might say that they were not necessarily counting all the fingers they were going to have left on their hand after they did those deals. It is important to have people with some skill who can offer some support to the shire, which probably does not have staff with a lot of experience of entering into these types of deals with these very large and well-resourced companies.

I was quite fascinated when the member kept talking about the tides. I was trying to work out the relevance of that; I thought he was going to come up with something very exciting, like powering all the ports off tidal power, because that would be very interesting.

Hon Colin de Grussa expressed concern about the Southern Ports Authority. I sort of agree with him. I think there have been real concerns. A bureaucratic approach or doing a theoretical analysis of structures does not necessarily get an organisation to the place it needs to be. Ironically, it appears to me, from a preliminary view, that we had the negative double with the port—we lost the sense of connection with the local community and, from the preliminary advice I have had, we did not get the concomitant benefit of the integration of financial or environment management systems. We got almost the worst of both worlds. Our challenge is to try to turn that around. I have a great deal of confidence in the wisdom and experience of our new CEO. He tells me there are a lot of good people in the Southern Ports Authority. It is a question of trying to rebuild that authority to not only have that sense of connection with the local community, but also get some benefit from being part of a larger entity.

The member also asked whether I had some ideas about where we might want to go. I would have to say that it is a bit early in the piece. I think I have said publicly that we have to be open to the idea of whether Bunbury is better positioned within the Fremantle port; whether we make it western ports or something like that. Over the next 12 months or so, we need to look at whether there is a credible case for that.

One proposition was that all the ports in the south become part of one port authority. I am not sure that we would necessarily want to go that far initially. I would see some benefit, even though logistically it is a bit hard, but the sense of being able to share some expertise and financial and commercial capability across the other two ports is important. Not leaping to any early conclusions and certainly not proposing to want to unwind all of the changes that have been made, I was always a great supporter of the idea of a Pilbara Ports Authority. Many of the issues dealt with in the Pilbara are shared across both ports, such as really major environmental issues, the knowledge needed around dredging, and the sorts of companies that are interacting. It always seemed to me to make a hell of a lot of sense for us to share that expertise.

The Esperance tanker jetty is always a big issue. It is approved under the Jetties Act and is within port authority land. The Shire of Esperance has indicated it would like it to come out of the port authority if we were able to miraculously find the money to help it do that restoration. I would love to do that. Who knows? One day, in the fullness of time, we might get to that point.

I have addressed many of the issues that Hon Simon O'Brien raised. He raised the question of how the Cape Preston arrangements were likely to go. As the member reflected at the beginning of his speech, this was enabling legislation. In respect of those areas that are covered by state agreements, there is still a body of work to be done. Cape Preston will probably be the most challenging of the arrangements that we have to work through. The important thing is that we would have the legislative framework to do that. Hon Simon O'Brien pointed to this complex problem. There is some question that jetties that were licensed under the Jetties Act but which at the time were within port authority boundaries may not have been competently leased. This legislation gives the government the ability to deal with those anomalies and to rectify the situation where we conclude that that is indeed the case.

I thank members for their involvement. Three administrations have now agreed that this is the way to go. I appreciated very much getting on and doing it. I commend the bill to the house.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chair of Committees (Hon Martin Aldridge) in the chair; Hon Alannah MacTiernan (Minister for Ports) in charge of the bill.

Clause 1: Short title —

Hon ROBIN CHAPPLE: I will now deal with an overall issue. One of the concerns raised with me was the setting of harbour fees and charges across the board. For example, the Kimberley Ports Authority's fees and charges are set. It concerns the ports of Wyndham and Derby that the fees that might be set for shipping, mooring and all the different sorts of things would be uniform with Broome and, by very their nature, would disadvantage the Shire of Derby–West Kimberley and the company that runs the Wyndham shipping facility.

Hon ALANNAH MacTIERNAN: There is absolutely no necessity for one port authority to have uniform fees if it determines that it is appropriate for whatever reason to have a differential rating. The port of Derby has been leased to the shire until 2040 and it will determine those fees. We will have a lease and we will have some overarching responsibility to set fees. Likewise with Cambridge Gulf, we will probably do an extension of its lease because of the way that things normally go. The glacial pace of government reform is such that this will probably not be resolved in all of the following proclamations et cetera by the time that that lease expires. My understanding from the officers is that the appropriate thing would be to have a year's extension and then consider what the best process is: whether there is a case for bringing it within the port authority, whether we should just renew the lease or whether we should go out to tender. There will be a range of options to consider.

Hon ROBIN CHAPPLE: During my contribution to the second reading, I asked two questions. I will turn to those and seek clarification. The first related to the consultation costs with Derby. In her reply, the minister said that those costs might be accrued with the development of Sheffield or with the lock-gate system. I was really driving at what it has cost Derby so far in the current consultation process—was there a cost associated with that? I am advised by the shire that it has cost hundreds of thousands of dollars. I am trying to find out what the government estimates further costs will be to each of the above to complete the transition of the Derby port.

Hon ALANNAH MacTIERNAN: I think the member does not understand that the big issue for the shire is really the fact that it is moving from a very small port and it now has these two potentially international operations that will be in play. We believe that the figure of hundreds of thousands of dollars is really conflating the process it had to go through in any event in order to get those subleases. We do not accept that the shire's part in this process has cost hundreds of thousands of dollars. The member would really need to ask the shire. We do not have access to that material. I have given the member what our costs have been to date. It is entirely up to the shire whether it wants to continue to be a player. If it does not want to spend that money and be involved, there is another alternative. The shire has indicated that is what it wants to do. We have entered into an agreement to 2040 and the shire clearly sees this as something. It wants to play in the big pond and it has taken on that obligation.

Clause put and passed.

Clause 2: Commencement —

Hon SIMON O'BRIEN: In talking to the commencement clause very briefly, I just want to advise the Committee of the Whole that the opposition is aware that a variety of prospective commencement dates are provided for in clause 2. Given what is proposed by the bill, in our view, that is appropriate. As I think the minister has just alluded, this process is part of an ongoing transitional process. She made some tongue-in-cheek reference to the glacial speed of government processes, which I am sure was hyperbole. Nonetheless, it means that these processes of transition will take some time. There are considerations of state agreement parties that have to have matters worked through, and there is a whole range of other considerations. I think it is not only reasonable but also necessary that there be this format for staggered commencement so that we will hopefully have the continuation of an orderly, well-managed process, rather than some big bang event due to happen on some arbitrary date. We certainly support that aspect of it.

Hon ALANNAH MacTIERNAN: I agree with that, and that is why we support this tiered commencement structure. I guess I was pointing to those areas where there is not actually a state agreement in play, such as bringing the port of Wyndham into the process. But we are on track.

Hon Simon O'Brien: You were. I was actually speaking tongue-in-cheek. I am sorry—not trying to have licence!

Hon ALANNAH MacTIERNAN: Okay, I thank the member.

Clause put and passed.

Clauses 3 and 4 put and passed.

Clause 5: Section 4 amended —

Hon COLIN de GRUSSA: In my contribution to the second reading debate I referred to amendments to the Jetties Act. I obviously understand that when legislation like this comes through, it perhaps presents an opportunity to update some acts along the way that probably have not been touched for a little while. As a consequence of that, there are a number of changes proposed to the Jetties Act. I just want to understand a few of those, in particular clause 5 of the amendment bill, which amends section 4 of the Jetties Act and adds the word “removal” to section 4(5). I just want to understand why that has been added and what the implications are of that on existing jetties.

Hon ALANNAH MacTIERNAN: I am quickly looking at the notes here. It was primarily seen as a measure to increase, adjust and modernise the penalty. There is not an explanation here of why this is just for the insertion of the words “replacement and removal”. I suppose this to be a penalty. I have been given some clarification. The existing power is to make regulations in relation to the management, use, maintenance and preservation of jetties, but it is not a power to make regulations on the replacement and removal of jetties. This is just to give a full suite of powers that may be required; for example, for a jetty—I will not name one!—that might require to have a part removed. This allows the making of regulations in respect of that.

Hon COLIN de GRUSSA: In that case, does this power override any other act—for example, the Heritage Act? What would be the relationship there if, for example, the jetty had a heritage order on it?

Hon ALANNAH MacTIERNAN: My understanding of the Heritage Act is that it would continue to override a provision like this.

Clause put and passed.

Clauses 6 to 14 put and passed.

Clause 15: Sections 13 and 14 inserted —

Hon COLIN de GRUSSA: Proposed sections 13 and 14 are to be inserted into the Jetties Act. A table in proposed section 13(2) lists a number of different port authorities, licences et cetera. The Southern Ports Authority forms part of that and the licence regarding the Esperance tanker jetty is captured, as are a number of others. I want to understand the intent of these transitional provisions and whether they make any changes to existing licences for the jetties, and whether there are any other implications that might be foreseen from these changes.

Hon ALANNAH MacTIERNAN: These are jetties that lie within port authority land and that have been approved under the Jetties Act. Proposed section 7AA clarifies that the Jetties Act generally does not apply to land within port authority land, but makes exceptions for these. There is also future provision that it will be possible for them to be excised from the Jetties Act at a future date. At the moment, the conception is that the jetties are under the Jetties Act; that is the general intention. These are existing ones that have been licensed under the Jetties Act and are in the port authority zone. They will continue to be licensed until a decision is made by regulation to take out each individual one. In the case of the tanker jetty in Esperance, its licence remains under the Jetties Act for the time being. At some later point it may be transitioned out of that. It will probably continue to come under the Jetties Act but there might be an adjustment to the port authority boundary in order to accommodate that.

Clause put and passed.

Clauses 16 to 44 put and passed.

Clause 45: Section 31 amended —

Hon COLIN de GRUSSA: Section 31 of the act states —

The fact that a port authority has a function given to it by section 30 ...

Clause 45 seeks to amend that to read —

The fact that a port authority has a function given to it by this Act or any other written law ...

I just want to understand why we need to widen the scope of that particular section. What, if any, implications are there or what other acts may be captured by that?

Hon ALANNAH MacTIERNAN: Other acts such as the Environmental Protection Act 1986 may be affected. This amendment clarifies that the discretion applies to functions specified elsewhere in the Port Authorities Act or any other external act, such as the Environmental Protection Act, and that it is not just limited to those things set out in section 30 of the Port Authorities Act. The clause seeks to broaden the discretion as to how and when it performs its functions. It recognises that it has to exercise discretion in the way that it discharges its duty, as set out in other parts of the Port Authorities Act and other external legislation.

Clause put and passed.

Clause 46 put and passed.

Clause 47: Section 60 amended —

Hon COLIN de GRUSSA: This clause seeks to delete section 60(2)(ka) of the act, which states —

proposed arrangements to facilitate the participation of potential suppliers in the provision of port services ...

Why is this paragraph being removed and what does that mean for any potential local suppliers who might be wanting to supply?

Hon ALANNAH MacTIERNAN: Section 60 of the act lists a range of matters to be included in a statement of corporate intent. It was considered that this provision was a duplication. It is an inherent obligation that is captured in other sections. All port authorities now have in place standard provisions for port service providers to seek a licence for the provision of relevant services within a port under their management. I do not think a great deal turns on it, but it was generally felt that it was repetitive.

Hon COLIN de GRUSSA: Could the minister explain where that particular arrangement is captured in the other parts of that subsection, to be clear?

Hon ALANNAH MacTIERNAN: This section requires that the port authority's annual reports include a great deal of detail. The argument is that a major function of the port authorities is to facilitate trade with and through the port. Port authorities are required under part 5 of the Port Authorities Act to raise strategic development plans. The statement of corporate intent would set out those strategies and development plans. These are then approved by the Minister for Transport and the Treasurer. The port authorities now have standard provisions for port services to seek a licence for the provision of relevant services within a port under their management. It is perhaps about making statements of corporate intent a little more concise and not going into that level of detail.

Progress reported and leave granted to sit again, pursuant to standing orders.