

**PORTS AND MARITIME ADMINISTRATION AMENDMENT (PORT COMPETITION AND CO-ORDINATION)
BILL 2008**

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Bill introduced on motion by Mr Joseph Tripodi.

Agreement in Principle

Mr JOSEPH TRIPODI (Fairfield—Minister for Finance, Minister for Infrastructure, Minister for Regulatory Reform, and Minister for Ports and Waterways) [12.42 p.m.]: I move:

That this bill be now agreed to in principle.

As trade continues to grow, substantial pressure is being placed on New South Wales ports and the supply chains servicing them. The 2003 New South Wales ports growth plan outlined the strategy for increasing port and trade capacity in New South Wales. Projects under the ports growth plan include a new container terminal at Port Botany bringing port capacity to 3.2m 20-foot equivalent units [TEU] per annum; new container and coal terminals at Newcastle; and relocating the car import trade to Port Kembla with three times the storage capacity. However, increasing port capacity is only one part of the solution. Just as important is enhancing the efficiency of port operations and the supply chains that transport goods to and from the ports. This is why the Rees Government is undertaking major port reforms to improve efficiency at the ports and along their port supply chains. These reforms are essential to ensure the continued growth of trade and the New South Wales economy.

In developing the reforms embodied in the bill, the Government has been guided by two major public reviews recently conducted into the regulation and operation of New South Wales ports. PricewaterhouseCoopers on behalf of the New South Wales Government conducted a review of port competition and regulation in New South Wales. This review was conducted to fulfil a commitment under the Council of Australian Governments [COAG] Competition and Infrastructure Reform Agreement [CIRA]. The CIRA review made a number of recommendations in relation to improving port services, price oversight, and lease and access arrangements. For example, this review recommended that port corporations should work with stakeholders to identify capacity constraints and facilitate the improvement of landside infrastructure; port charges should balance cost recovery and facilitate trade; and long-term lease conditions should be subject to greater transparency and reviewed to ensure they reflect current Government policy.

The need for reform was also shown by the recent review of Port Botany's links with inland transport conducted by the Independent Pricing and Regulatory Tribunal [IPART]. This review highlighted the need to reform the landside interface at Port Botany and for Sydney Ports Corporation to lead and facilitate the reform. Key themes arising from IPART's review included the need for greater transparency in performance reporting and access arrangements; performance standards and systems to drive improvements; and measures to drive 24-hour-seven-day-a-week operation at the port to reduce peak-hour congestion. In response to these reviews and the changing commercial environment confronting our ports, the port reforms in this bill seek to ensure port corporations' decisions balance commercial and policy objectives; enhance the role of the port corporations in facilitating improvements in the port-related supply chain; and provide regulatory powers for government to act should voluntary industry action fail to improve the efficiency of the port logistics systems.

Port corporations current objectives require them to operate as a successful commercial enterprise, promote trade, manage port facilities and ensure port safety functions are carried out. Recent reviews have clearly shown these objectives should be updated to better reflect the role of a modern port in a global commercial environment. Modern port corporations should foster competition and act as independent facilitators to reduce congestion and inefficiencies along the supply chain. This includes a leadership role in facilitating improvements in the supply chains that transport goods to and from the port. New South Wales port corporations are in a unique position to take on this role, however their current statutory functions and objectives do not support this.

This bill amends the statutory objectives of the port corporations to support their standing as powerhouses of the New South Wales economy in the twenty-first century. Port Corporations will be provided with additional objectives to promote and facilitate a competitive commercial environment in port operations; and to improve productivity and efficiency of the port-related supply chain. These objectives will have equal status with the existing statutory objectives so that no one objective is more important than another.

In leasing reforms, the CIRA review found current stevedore leases maximise rents but fail to encourage

competitive commercial behaviour. The new objectives will allow port corporations to look beyond simple rental returns and landlord style lease structures. The new objectives will provide the ability and the responsibility for the board to give equal consideration to the impact of the lease on investment and efficiency. The bill makes provisions to enable the Minister to provide direction to a port corporation if tension arises between the new policy objectives and the existing commercial objectives in making a decision. This will allow transparent management of potential tensions between public policy and commercial considerations.

Directions could be made at the request of the port corporations or on the Minister's initiative. In the case of major leases, for example, the Minister will be able to direct the port corporations to adopt certain leasing practices to foster competition, investment and productivity. This could include directions for Port Corporations to include in leases shorter terms of duration; productivity and performance targets; enforceable capital expenditure schedules; incentives and penalties for meeting targets; and end-of-term handover provisions. The bill provides a system of reviews, checks and balances in relation to issuing a ministerial direction. The port corporations' shareholders must be informed of any ministerial directions and the Treasurer's approval must be received for any direction affecting a port corporation's approved financial outcomes. The direction-giving power will not extend to directions to rail agencies, authorities or operators beyond their interface with supply chain facilities.

New Principle Function: No port works in isolation. Each port is connected to producers and consumers through complicated supply chains that include many port users and service providers. For example, the port-related supply chain at Port Botany is comprised of two—soon to be three—stevedoring terminals; more than 200 different road carriers; four rail operators; two rail track owners; six metropolitan intermodal terminals; and thousands of warehouses, importers and exporters. The Hunter Valley coal supply chain, which transports coal from the mines to the Port of Newcastle, is just as complicated with 16 coal producers; more than 20 load points or coal intermodals; two rail track owners; two train operators with 26 trains; five dump stations; and two coal terminals supplying approximately 1,000 vessels per year.

Port Kembla is already Australia's leading steel export port and the second largest for grain. The recent dismantling of the single desk for wheat grain exports will increase the complexity of the supply chain by increasing the number of New South Wales exporters involved. As car imports are transferred to Port Kembla from Sydney in late 2008, the complexity of the supply chain that serves the port will continue to grow.

This bill directly addresses the management of the complex supply chains servicing our ports. It provides a clear and comprehensive definition of the port-related supply chain to include cargo transport, handling and storage operations—and coordination of those operations—in connection with a port. Supply chain facilities are defined as providing storage, handling and distribution of cargo in connection with a port. These are vital links where bulk goods, containerised commodities, or empty containers are staged, stored temporarily and/or transferred. This can also include moving from one mode of transport to another.

Port corporations will be provided with a new statutory function to facilitate and coordinate improvements in the efficiency of the port-related supply chain. This will enable industry to lead the required efficiency improvements, with the ports providing coordination, support and independent facilitation where it is needed. The ports broadened functions will enable them to provide firm and impartial oversight of initiatives to enhance competition and meet performance standards. For example, port corporations may work with industry to encourage stevedores to look beyond crane rates and ship-side performance to deliver a fast and consistent turnaround of trains and trucks.

The Government understands that each port user and supply chain service provider will have different objectives and often competing commercial priorities. Rather than having a coordinated approach to moving goods along the whole port supply chain, at times we end up with a detuned supply chain optimised for individual links but performing well below par as a whole. With their new principal function to facilitate and coordinate supply chain improvements, port corporations will be in a position to help resolve issues arising from commercial tension between operators to help achieve outcomes to benefit the entire supply chain. These changes are expected to help to reduce costs and to improve the reliability of cargo movements between warehouses and the port. This will make export businesses more competitive and imported goods cheaper, giving extra benefits to New South Wales producers and consumers.

Should voluntary action and facilitation prove insufficient to improve supply chain performance, this bill will provide powers to initiate regulatory actions to boost supply chain performance. These powers will be used if voluntary industry initiatives are shown as ineffective in improving port productivity and efficiency. This approach is consistent with the recommendations of the Independent Pricing and Regulatory Tribunal report. IPART recommended that improvements be led by industry, with Government stepping in only if industry efforts failed to deliver the desired results. As recommended by the tribunal, Sydney Ports Corporation will take a lead role in facilitating and coordinating the industry-led response in the first phase of implementation. Should industry initiatives fall short of improving transparency and performance, the Government will progress to phase two and may step in to mandate measures to deliver the required improvements.

The bill provides for the making of regulations to support this, including the power to require provision of information to monitor performance and investment in port facilities and the supply chain; sets mandatory

standards for the operation or provision of supply chain facilities and services; requires supply chain facilities and providers to keep records and provide information for monitoring compliance with mandatory standards; provides independent audits and inspections to ensure compliance with mandatory standards; provides penalties for non-compliance with mandatory standards with incentives for meeting standards; and determines charges and the mechanism to set charges for supply chain facilities and services.

This will provide for new standards to be introduced relating to access, performance, and transparency, along with the incentives and disciplines to enforce compliance. In the event of industry initiatives failing to achieve improvements at Port Botany this would enable the Government to act to improve performance. For example, it would enable the Government to set standards for allocation such as the minimum number of truck slots available to access Port Botany. Standards could also be applied for the terms of access to require trucks to have an e-tag or transponder to use their slot booking. On rail, it could be a requirement to have a contract for a rail path to access the terminal at the port. The bill provides the power to put in place fixed charges or auction mechanisms for the allocation and pricing of charges along the supply chain. This would support either the off-peak incentive scheme endorsed in the Government's response to the IPART report or the IPART report's recommendation for a Dutch auction system for pricing access to the stevedore terminals.

Mandatory standards for performance would allow the setting of standards for maximum truck turnaround times, and for the punctual arrival of trucks for their slots. The IPART report proposed a system of matched penalties and compensation for non-compliance with these performance standards where the party that failed to meet the standard compensates the other party. This would result in payments from stevedores to truck operators for failing to meet a truck-turnaround standard or a payment from the truck operator to the stevedore for being late to a booking time. These types of penalties are expected to deliver significant alignment between the actions of supply chain participants and the economic consequences.

Regulatory powers will exist to require supply chain participants to record and provide information sufficient to check compliance with these standards and allow for enforcement. Information regarding port and supply chain performance may be published to provide greater transparency. This will introduce public accountability, which will provide a non-economic incentive to improve performance and comply with any new standards or requirements. The bill also provides for audit powers to verify the accuracy and completeness of this information.

To ensure regulations are appropriate in their scope and application, the bill does not allow regulations to be made with respect to the operation of any railway outside a port or supply chain facility or on the seaside interface of the stevedore terminals. The Treasurer will also be consulted in relation to the scope of specific regulatory proposals. All proposed regulatory action will of course be subject to impact assessment and consultation to ensure the Government's actions are required, reasonable and proportionate to the issue. Action to improve supply chain performance is needed now. The proposed regulation-making powers will ensure the Government can step in quickly if industry cannot deliver the improvements needed by ramping up its voluntary efforts.

It is clear that the forecast strong growth in trade through all New South Wales ports will require renewed efforts and innovative arrangements to improve the efficiency of our ports and their associated supply chains. The costs of the proposed reforms are minimal and will deliver long-term benefits to all participants on the port supply chain and the New South Wales economy as a whole. The initiatives in this bill will provide a platform for promoting a competitive environment in port operations and for ensuring efficiency and productivity gains along the port supply chain. This is necessary to ensure that a competitive port environment and efficient port supply chains support the growth of New South Wales. I commend the bill to the House.