



Ports Assets (Authorised Transactions) Amendment Bill 2013 (Proof)

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PORTS ASSETS (AUTHORISED TRANSACTIONS) AMENDMENT BILL 2013

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Second Reading

The Hon. DUNCAN GAY (Minister for Roads and Ports) [6.12 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

The Government is pleased to introduce this Bill to authorise the lease of the Newcastle Port to the private sector.

The bill extends the scope of the existing Ports Assets (Authorised Transactions) Act 2012 so as to authorise and facilitate the transfer to the private sector of the State's port assets at the Port of Newcastle.

The same restrictions that applied to the recent Port Botany and Port Kembla transactions will also apply to the Port of Newcastle, that is:

- Freehold title to land at the port will remain in State ownership, and
- The lease of the Port of Newcastle and associated port land can be for a term of no greater than 99 years.

Let me be clear. The bill does not introduce any new policy or regulatory powers over and above those that applied to the Port Botany and Port Kembla transaction. It simply extends the scope of the existing Act to include the Port of Newcastle.

The long-term lease of Newcastle port will continue the structural reform of the State's balance sheet to focus resources on core service delivery.

The recent completion of the long-term lease of Port Botany and Port Kembla showed what can be achieved when the right asset is offered at the right time, with the right process.

That process was marked by transparency and competitiveness, with the price achieved, in relation to retention value, exceeding all benchmarks. We will continue with that same process in pursuing the long-term lease of Newcastle port.

The success of the Port Botany and Port Kembla transaction dictates that the Government acts now to capture the current strong market demand for port infrastructure assets.

The Government is seeking approval for this important initiative to help free up millions to help fund a critical backlog of infrastructure across the State.

Proceeds from this transaction will be paid into the Restart NSW Fund, which was established to fund major infrastructure investment across the State, and has already benefitted to the tune of \$4.3 billion from the Port Botany and Port Kembla transaction.

Further, it is the Government's intention to invest \$340 million of the proceeds from the Newcastle port transaction towards the revitalisation of central Newcastle.

The revitalisation of Newcastle central already announced includes removing the heavy rail line between Wickham and Newcastle so that the city is no longer divided from its beautiful harbourfront. The proposed new light rail option between a minimum of Wickham and Newcastle is potentially only the beginning of a light rail system for Newcastle and the region. Also, \$10 million will be allocated to explore the potential for this link to be the basis for light rail linking the CBD with surrounding suburbs, beaches and the broader Hunter region

In addition, the long-term lease of the Port of Newcastle will enable the private sector to invest in the ongoing development of the port, which will help drive growth in the State economy and support jobs, at the same time allowing the Government to focus its limited resources in areas which affect people's day-to-day lives.

I now turn to the detailed provisions of the bill. Schedule 1 makes a number of definitional changes to the Ports Assets (Authorised Transactions) Act 2012, for example, including a new definition covering Port of Newcastle land, including land at the Port of Newcastle in the definition of "associated port land" and including Newcastle Port Corporation in the definition of "port SOC".

These changes allow for the substantive provisions of the Act, which are unchanged by the bill, to operate to transfer the Port of Newcastle to the private sector.

Item 6 of schedule 1 extends the existing transitional provision so that the Newcastle Port Corporation could have its name changed or be dissolved after the transaction.

Schedule 2 of the bill makes the necessary amendments to the Ports and Maritime Administration Act 1995 to facilitate the introduction of a private port manager at the Port of Newcastle, such as:

- Including the Port of Newcastle in the definition of private port, which in turn allows the Minister to declare a private sector party as the port operator at Newcastle
- Including the Port of Newcastle in the definition of relevant port lease at section 37 of the Act, the effect of which is that a private port operator at Newcastle could give directions to maintain or improve safety and security, just as the private port operator at Port Botany and Port Kembla can .
- Including the Port of Newcastle in the definition of *relevant port authority* at section 47 of the Act, the effect of which is that the private operator at Newcastle can apply navigation service charges, in the same way that the port operator at Port Kembla can.
- Including the Port of Newcastle in the definition of *site*, the effect of which is that a private port operator at Newcastle could apply site occupancy charges.

As I have indicated, the bill does not change the substantive provisions of either the Ports Assets (Authorised Transactions) Act 2012 or the Ports and Maritime Administration Act 1995.

For the benefit of the House I will elaborate on some of the key substantive provisions that applied to the Botany and Kembla transaction and will also apply to the Newcastle transaction.

The Act includes a number of provisions which set out commitments made by the Government to employees transferring to the private sector.

Newcastle Port Corporation employees will have the same protections that were afforded to staff at Sydney Ports Corporation and Port Kembla Port Corporation, including:

- a two-year employment guarantee for enterprise agreement employees
- the transfer to the lessee on at least the same terms and conditions
- continuity of entitlements, including those that relate to superannuation, sick leave, annual leave and long service leave
- a transfer payment of up to 30 weeks' pay depending on length of service.

As outlined in the Ports and Maritime Administration Act, the Government retains oversight of price monitoring of the ports.

As part of the Government's price monitoring regime which has been in place for the past six months, all New South Wales ports including the private port lessees must give notice of any proposed change in its service charges, provide a rationale for how the increase is calculated and why it is needed.

The port lessee must also provide an annual reporting of charges to the relevant Minister, and the Minister has the power to require that information relating to port charges be supplied to the Government.

If the port lessee's pricing behaviour is inappropriate, the Premier has the ability to refer the port to the Government's independent pricing watchdog, the Independent Pricing and Regulatory Tribunal [IPART], should this become necessary in the future.

In addition, a port user can always apply to the National Competition Council to have the asset declared as nationally significant infrastructure under Commonwealth legislation.

This bill is another key part of the Government's commitment in NSW 2021 to build the infrastructure that makes a difference to both our economy and people's lives.

I commend the bill to the House.