

PORTS LEGISLATION AMENDMENT BILL
(Serial 114)

Ms LAWLER (Infrastructure, Planning and Logistics: I introduced this bill into the Legislative Assembly on 28 November 2019. The Assembly subsequently referred the bill to the Legislation Scrutiny Committee for inquiry, whose final report was tabled in parliament on 24 March 2020.

The committee did not receive any submissions to its inquiry, however, given the technical nature of the bill, the committee sought advice from its independent legal counsel, Professor Ned Aughterson.

In reviewing the bill, Professor Aughterson raised a number of issues that were referred to the Department of Infrastructure, Planning and Logistics for comment.

In response to the legal advice received, the department proposed to make amendments to clauses 5 and 10 of the bill. In response to matters raised regarding clauses 7 and 8 of the bill, the department clarified the intent of the clauses and advised the committee that it did not consider any amendments were necessary.

In its report, the committee recommended amendments be made to clauses 5 and 10 of the bill and stated that it was satisfied with the department's response to the other matters raised.

Following examination of the bill, consideration of the legal advice received and the department's response to the advice, the committee provided three recommendations in its report.

Importantly, the first recommendation of the committee is for the Legislative Assembly to pass the Ports Legislation Amendment Bill 2019 with the proposed amendments set out in its recommendations 2 and 3.

I will now speak to the recommendations of the committee and the resulting Assembly amendments that I intend to bring before this Assembly. Let me say at the start that I accept each of the recommendations of the committee.

Recommendation 2 of the committee report relates to proposed section 20A in clause 5 of the bill, which provides the regional harbourmaster of a designated port with a power to delegate any of the regional harbourmaster's powers and functions under the *Ports Management Act 2015* to a person.

The legal advice received raised the issue of how any delegation is to be evidenced, stating that there is no qualification as to who 'a person' might be and whether a delegation should be in writing.

The committee recommended that proposed section 20A be amended to require the regional harbourmaster's delegation to be in writing and limited to a person employed in an agency.

The Department of Infrastructure, Planning and Logistics proposed that Clause 5 of the bill be amended to require the regional harbourmaster's delegation be in writing and limited to a person employed in an agency, to mirror the restriction in the minister's appointment power in section 19 of the *Ports Management Act 2015*.

The department's response to recommendation 2 is included in the proposed Assembly amendments at clause number 1.

Recommendation 3 of the committee report relates to proposed section 44A in clause 10 of the bill, which deals with a sale of a vessel by a regional harbourmaster.

The legal advice received by the committee stated, it is not clear why under section 44A protection is given to a person who has a registered interest in the vessel sold by a regional harbourmaster while, where there is a sale by the port operator under section 44, protection is given to a person who has a known interest in the vessel, whether that interest is registered or not.

The Department of Infrastructure, Planning and Logistics proposed that proposed section 44A be amended to provide protection for a person with a known interest in the vessel, as well as a person with a registered interest, consistent with the pre-sale notification requirement under subsection 43(11)(b).

The department's response to recommendation 3 is included in the proposed Assembly amendments at clause number 2.

Both of the Assembly amendments seek to ensure that the bill is unambiguous and drafted in a sufficiently clear and precise manner.

As we move to consider this bill in detail, I would like to point out that the Assembly amendment being tabled today includes only minor amendments to the bill as recommended by the committee's report. I make this point to the Assembly because it demonstrates that the bill has shown itself to be a measured and necessary piece of legislation.

In closing I would again like to thank everyone who has been involved in the development of this bill from the Utilities Commissioner, stakeholders who commented through the commission's review of the access pricing regime, the Darwin Port operator, the Department of Trade, Business and Innovation, the Regional Harbourmaster and the officers from department—Guy Riley and Nick Papadonakis—who have worked very hard on this bill. Thank you.

Motion agreed to; bill read a second time.