Ports Governance Review Implementation
Communiqué
19 August 2013

1. Report from the Steering Committee

The Steering Committee convened in June, July and August 2013 to consider the progress of the working groups and discuss ongoing issues.

Steering Committee members include the Chairs of the Port Hedland and Bunbury port authorities, Chief Executive Officers of the Dampier and Albany port authorities, and Deputy Directors General of the Department of Transport (DoT) and the Department of State Development (DSD).

Progress of the ports working groups

The ports working groups have been progressing with the “next steps” activities in their implementation plans, with a focus on:

- developing plans and amalgamation timelines that define the key activities in the lead up to and after the merger;
- identifying and assessing issues at each port authority port;
- collecting and reviewing non port authority port information with assistance from DoT’s Coastal Infrastructure Business Unit;
- continuing with their due diligence tasks;
- working to identify and resolve issues associated with the transfer of non port authority ports; and
- updating their risk management and treatment plans.

2. Progress of legislative work to facilitate port authority amalgamation

Over the last six months, a legislative team of the inter-agency working group reporting to the Steering Committee directed the drafting of the Ports Legislation Amendment Bill 2013 (Amendment Bill). Members include officers from:

- DoT;
- DSD;
- the former Department of Regional Development and Lands;
- the State Solicitor’s Office;
- the port authorities (including Fremantle Port Authority); and
- Ports WA.

In August 2013 the completed Amendment Bill was submitted to Cabinet for approval.

There is a need for the Amendment Bill to be passed by Parliament this calendar year in order to meet the 1 July 2014 implementation timeline for the Western Australian ports amalgamation, and to allow adequate time to effect a transition from the existing entities to the new port authorities.
3. **Discussions with the Australian Taxation Office**

In April 2013, DoT submitted two separate applications to the Australian Tax Office (ATO) seeking omnibus rulings on the proposed Western Australian ports amalgamation at the whole-of-project level.

On 4 June 2013 the Commissioner of Taxation issued a private ruling relating to the Goods and Services Tax (GST) consequences of the proposed Western Australian ports amalgamation. Based on the information provided, the ATO is of the opinion that there is no GST payable on the assets or liabilities transferred as a direct result of the proposed ports amalgamation.

Similarly, on 24 June 2013, the Commissioner of Taxation issued a private ruling on the National Tax Equivalent Regime (NTER) tax treatment of the proposed amalgamation of the Western Australian port authorities. In summary, and based on the information provided, the ATO is of the view that there will be no NTER tax consequences associated with either the merging of the port authorities, or the transfer of port assets and liabilities from the merging authorities to the continuing authorities. In addition, asset transfers from DoT to the continuing authorities will have no NTER tax consequences.

4. **Discussions with the WA Office of the Auditor General**

DoT met with senior officers from the Office of the Auditor General (OAG) in July 2013 and provided a briefing on the background and progress of the ports amalgamation. The items of interest to the OAG included:

- the timing of the amalgamation (preferring it to be at financial year end);
- the asset valuation methodology (preferring it to be at fair value);
- which of the port authorities are continuing authorities and which are merging authorities (as this will affect the work of their contract auditors); and
- the ATO’s NTER and GST rulings on the Western Australian ports amalgamation proposal.

5. **Commonwealth environmental approvals transfer**

Ports WA is liaising with the Federal Department of Sustainability, Environment, Water, Population and Communities to seek their agreement to transfer existing Commonwealth environmental approvals to the new port authorities.

6. **Contacts for more information**

If more information is required, please contact:

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