1. Report from the steering committee

The steering committee met on 22 November 2012 to discuss the implementation plans of the four regional ports working groups.

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

Also attending the meeting to discuss the implementation plans were the CEOs of the Port Hedland, Bunbury, Esperance, Geraldton and Broome port authorities and the Principal Policy Advisor - Transport from the Office of the Minister for Transport.

The implementation plans from all four working groups have addressed the Terms of Reference set by the Steering Committee but were significantly different in emphases, reflecting the varying complexities and priorities of the issues each had to address.

The Pilbara and Southern Ports working groups have focussed on:

- how existing port authority functions will be amalgamated;
- the operating model and functional architecture of the new port authority;
- the roles and responsibilities of the CEO and executive management team; and
- the proposed locations of the corporate office and functional areas.

The Pilbara Ports working group opted to address the transfer of Shipping and Pilotage Act (SPA) ports and State Agreement issues in the next phase of their implementation work. There was no need for the Southern Ports working group to address SPA port issues as there are no SPA ports included in the restructure of the Southern Ports Authority.

Without the need to address port authority amalgamation issues, the Mid-West and Kimberley working groups have concentrated on:

- how the SPA ports will be transferred;
- the interaction of State Agreements, mining and general purpose leases, vested seabed and designated port waters;
- responsibilities undertaken by DoT and local level operational management structures at each SPA port; and
- the role and responsibilities of the new port authority with respect to each of the SPA ports.

All four working groups have:

- developed strategies and timelines that fit in with current State Government planning to create the new entity and wind up the respective port authorities;
- undertaken a risk analysis of the amalgamation for their region and identified mitigation strategies to manage the identified risks; and
- outlined communication and consultation plans to support the amalgamation process.

The Steering Committee will assess the four implementation plans over the next few
weeks and recommend changes as required. The proposed approach developed by the working groups will be forwarded to the Minister for Transport for endorsement in late December 2012 or early January 2013.

2. **Next steps**

A new Terms of Reference is being developed by the steering committee and, when completed, will also be forwarded to the Minister for Transport for endorsement.

It is envisaged that, as part of the next step in preparation for the amalgamation, working groups will be asked to further develop the implementation plans to include greater detail on transition arrangements, identification and assessment of outstanding issues, risk mitigation and communication.

3. **Workshop to discuss suitable transitional arrangements**

A steering committee workshop was held on 25 September 2012 to discuss the timing and approach of establishing the new regional port authorities.

Dr Fred Affleck, Deputy Chair of Fremantle Ports, attended as a special guest in his capacity as the chair of the (previous) Midland Redevelopment Authority and a member of the Metropolitan Redevelopment Authority (MRA) steering committee which oversaw the MRA amalgamation. He is also currently a member of the new MRA board, and was able to speak on establishment issues faced by the new board during the past eleven months.

The committee considered advice received from the State Solicitor’s Office as well as information provided by the MRA. Members also reviewed the transitional provisions in the *Metropolitan Redevelopment Authority Act 2011* and the *Electricity Corporations Act 2005*.

Workshop outcomes were conveyed to the working groups to assist the regional ports working groups in finalising their implementation plans, and guide the SPA Amalgamation, State Agreement and Contractual Review and Legislation working group on how the transitional provisions in the amending legislation are to be drafted.

4. **Initiative reviewed by the Australian Competition and Consumer Commission**

In May, the Department wrote to the Australian Competition and Consumer Commission (ACCC) to establish whether the amalgamation requires ACCC clearance, and if so, the process to obtain that clearance.

Advice was received on 13 September 2012 that the ACCC has considered the WA Government proposal to consolidate its port authorities, and that based on the information provided, would not conduct a review of the proposal pursuant to section 50 of the Commonwealth *Competition and Consumer Act 2010*.

5. **Discussions with the Australian Taxation Office**

As port authority assets, liabilities and functions will have the effect of being transferred from existing (government and government-related) entities to new (government-related) entities, these transfers may have National Tax Equivalent Regime (NTER) and Goods and Services Tax (GST) ramifications.

To ensure that the amalgamation will be treated in a tax neutral manner for NTER and GST purposes, the Department, together with State Treasury, commenced discussion with the Australian Taxation Office in November to establish the relative merits of the options that are available. This includes investigating whether the State should seek a ruling from the ATO Commissioner on the extent of any NTER and GST ramifications at
the whole-of-project level at this stage of the implementation.

6. **Contacts for more information**

If more information is required, please contact:

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