

Ports Acts (Amendment) Bill

EXPLANATORY MEMORANDUM

PART 1—PRELIMINARY

Clause 1 states the purposes of the Act.

Clause 2 provides for the commencement of the Act.

PART 2—AMENDMENT OF CROWN LAND (RESERVES) ACT 1978

Clause 3 inserts a definition of “designated port” in section 3 of the **Crown Land (Reserves) Act 1978**.

Clause 4 inserts a reference to “Ports” in section 4 (1) (a) of the Act. It also inserts a new section 4 (3A) in the Act, which provides that the Minister administering the Act and the Minister administering the **Marine Act 1988** must consult before any land within a designated port is temporarily or permanently reserved under section 4 (1) of the Act.

PART 3—AMENDMENT OF MARINE ACT 1988

Clause 5 amends the heading to Part 10 of the **Marine Act 1988**.

Clause 6 inserts new sections 111 and 112 in the Act. Section 111 enables the Governor in Council to declare lands or waters “designated ports”, other than the Ports of Melbourne, Geelong, Portland or Hastings. Section 112 enables the Minister to specify additional functions and powers exercisable by a local authority which is also a committee of management of Crown land within a designated port, being functions and powers of a kind that the Port of Melbourne Authority may exercise in relation to the Port of Melbourne. It further provides that the local authority may delegate any of those functions and powers, other than the power of delegation, to a person approved by the Minister.

PART 4—AMENDMENT OF PORT OF MELBOURNE AUTHORITY ACT 1958

Clause 7 amends the definition of “the port” in section 3 of the **Port of Melbourne Authority Act 1958**, to provide that it does not include land excised under section 46.

Clause 8 inserts a new section 25 in the Act, which applies to the Authority the provisions of the **State Owned Enterprises Act 1992** relating to the preparation of corporate plans, the provision of information to the Treasurer, notification to the Minister and the Treasurer of significant matters, and the provision to the Minister and the Treasurer of half-yearly reports.

Clause 9 inserts a new section 46 in the Act, which empowers the Governor in Council to excise land from the port.

Clause 10 amends section 47 of the Act, to provide that the functions and powers of the Authority specified in that section are subject to any directions of the Minister under section 47A.

Clause 11 inserts a new section 47A in the Act, which enables the Minister to give written directions to the Authority in relation to matters within its exclusive management and control, where the Minister considers the directions necessary or desirable to promote effective competition with respect to the provision of services within the port or to ensure access to the port for the purpose of providing services.

Clause 12 amends section 50 (2) of the Act, to provide that the Authority may sell, lease, licence or develop any land which it acquires or owns, as well as land which is vested in it upon trust under the Act. It also amends section 50 (5) of the Act, to provide that if land is transferred, sold or surrendered by the Authority under any other Act, it is no longer subject to any statutory trust, and is included in the appropriate municipal district (as is already the case where land is sold under the Act) .

Clause 13 inserts a new section 106c in the Act, which enables the Authority to provide prescribed port services in the Port of Geelong, the Port of Portland and designated ports. It also inserts a new section 106d in the Act, which provides that the Authority must include in its annual report copies of directions given by the Minister under section 47A.

PART 5—AMENDMENT OF PORT OF GEELONG AUTHORITY ACT 1958

Clause 14 amends the definition of “the port” in section 3 of the **Port of Geelong Authority Act 1958**, to provide that it does not include land excised under section 21B.

Clause 15 amends section 6 (1) of the Act, to provide that the functions and powers of the Authority contained in that section are subject to the directions of the Minister under section 6A.

Clause 16 inserts a new section 6A in the Act, which enables the Minister to give written directions to the Authority in relation to matters within its exclusive management and control, where the Minister considers the directions necessary or desirable to promote effective competition with respect to the provision of services within the port or to ensure access to the port for the purpose of providing services.

Clause 17 inserts a new section 11 in the Act, which applies to the Authority the provisions of the **State Owned Enterprises Act 1992** relating to the preparation of corporate plans, the provision of information to the Treasurer, notification to the Minister and the Treasurer of significant matters, and the provision to the Minister and the Treasurer of half-yearly reports.

Clause 18 inserts a new section 21B in the Act, which empowers the Governor in Council to excise land from the port.

Clause 19 amends section 24 (2) of the Act, to provide that the Authority may sell, lease, licence or develop land which it acquires or owns, as well as land which is vested in it upon trust under the Act. It also inserts a new section 24 (5) in the Act, to provide that if vested land is sold by the Authority under the Act or transferred, sold or surrendered by the Authority under any other Act, it is no longer subject to the statutory trust.

Clause 20 inserts a new section 75B in the Act, which enables the Authority to provide prescribed port services in the Port of Melbourne, the Port of Portland and designated ports. It also inserts a new section 75c in the Act, which provides that the Authority must include in its annual report copies of directions given by the Minister under section 6A.

PART 6—AMENDMENT OF PORT OF PORTLAND AUTHORITY ACT 1958

Clause 21 amends the definition of the “port” in section 3 (1) of the **Port of Portland Authority Act 1958**, to provide that it does not include land excised under section 15A.

Clause 22 inserts a new section 10A in the Act, which applies to the Authority the provisions of the **State Owned Enterprises Act 1992** relating to the preparation of corporate plans, the provision of information to the Treasurer, notification to the Minister and the Treasurer of significant matters, and the provision to the Minister and the Treasurer of half-yearly reports.

Clause 23 inserts a new section 15A in the Act, which empowers the Governor in Council to excise land from the port.

Clause 24 amends section 17A (2) of the Act, to provide that the Authority may sell, lease, licence or develop land which it acquires or owns, as well as land which is vested in it upon trust under the Act. It also inserts a new section 17A (5) in the Act, to provide that if vested land is sold by the Authority under the Act or transferred, sold or surrendered by the Authority under any other Act, it is no longer subject to the statutory trust.

Clause 25 amends section 21 (1) of the Act, to provide that the functions and powers of the Authority contained in that section are subject to the directions of the Minister under section 21AA.

Clause 26 inserts a new section 21AA in the Act, which enables the Minister to give written directions to the Authority in relation to matters within its exclusive management and control, where the Minister considers the directions necessary or desirable to promote effective competition with respect to the provision of services within the port or to ensure access to the port for the purpose of providing services.

Clause 27 inserts a new section 26B in the Act, which enables the Authority to provide prescribed port services in the Port of Melbourne, the Port of Geelong and designated ports. It also inserts a new section 26C in the Act, which provides that the Authority must include in its annual report copies of directions given by the Minister under section 21AA.

