Ports & Terminals

June 2012

WESTERN AUSTRALIA PORT DEVELOPMENT: GROWING PORTS IS HARD TO DO

This article first appeared in the 17 May 2012 issue of Lloyd's List Australia and is reproduced with kind permission. www.lloydslistaustralia.com.au

Western Australia has 21 ports, which handled a combined total trade tonnage of approximately 517mt in 2010/11.

Contrast that with the 224mt of throughput recorded in 2001, and the increased pressure the resources boom has placed, and continues to exert, on ports and infrastructure is clearly illustrated.

WA trade volumes increased by 131% between 2001 and 2011 and trade value has trebled since 2000 to \$124 billion in 2011. WA takes care of approximately 53% of Australia's national trade tonnage.

The growth in WA's port user demand is not just a matter of the vastly increased number of capesize and panamax vessels ferrying iron ore from Port Hedland, Dampier, Geraldton or Esperance.

With every new resources project, whether onshore or offshore, comes an increase in general shipping movements and berth access requirements for offshore support vessels, tugs and barges, and for the heavy lift vessels.

More mundane are the increased volumes of general goods that need to be shipped to expanding work sites to service the needs of the burgeoning population.

Additionally, predictions of increased agricultural exports and the recent and growing interest of Asian companies in buying significant shareholdings in WA's farming companies signals increasing demand on both container and bulk shipments from WA's southern ports.

Currently two types of ports operate in WA. Eight Port Authority ports are wholly state government owned and regulated under the *Port Authorities Act* 1999, which effectively allows each authority to operate autonomously and on a commercial, profit-making basis (charging port user fees).

Fremantle is a substantial port authority container port, but the others are generally







large bulk export ports - including Albany, Broome, Bunbury, Dampier, Esperance, Geraldton and Port Hedland. All have common user facilities.

Authority ports can also have private single-user berths within the authority operated port under individual state agreements with the user.

An example is Dampier port, within which Rio Tinto operates a private berth under a state agreement with Hamersley Iron.

In addition to authority ports, there are thirteen smaller, privately-owned single user ports, governed by the *Shipping and Pilotage Act* 1967 and *Marine and Harbours Act* (SPA ports). The Department of Trade is responsible for overseeing the management of SPA ports.

In addition to proposed and ongoing port expansions, five new ports are proposed: Barrow Island's Gorgon project; Ashburton North; Oakajee; James Price Point; and Anketell.

Responsible

Under the plan, all Port Authority and SPA ports including the five new proposed ports, will fall under the jurisdiction of one of five new regional port authorities: Kimberley Ports Authority, Pilbara Ports Authority, Mid-West Ports Authority, Fremantle Port Authority and Southern Ports Authority.

Kimberley Ports Authority will be responsible for the ports of Broome, Derby, Wyndham, Cockatoo Island, Koolan Island and the proposed port at James Price Point. Pilbara Ports Authority will be responsible for Port Hedland and Dampier, the proposed new ports at Anketell and Ashburton North; and the ports at Cape Preston, Port Walcott, Varanus Island, Barrow Island, Airlie Island, Thevenard Island and Onslow.

Mid-West Ports Authority will be responsible for Geraldton, the proposed new port of Oakajee, and the SPA ports at Cape Cuvier and Useless Loop.

Southern Ports Authority will cover the ports of Bunbury, Albany and Esperance.

Fremantle is the only port authority that is not to be consolidated and will remain under the control of Fremantle Port Authority.

There will be extensive consultation and the state government expects to announce the first regional port authority in 2014.

With expansion, has come an increased demand on state and Commonwealth governments for infrastructure funding.

Infrastructure Australia and the National Transport Commission released a National Ports Strategy in December 2010 for consideration by the Council of Australian Governments to improve the planning and management of major Australian ports in order to attract private sector investments.

The state government has acknowledged the important contribution ports have made to the state's economy and in 2010/11, over \$217 million was spent on port infrastructure. Commitments have been made for another \$491 million over the next four years to further enhance port infrastructure.

However, there appears to be little appetite to sink additional public funding into port infrastructure and the state government is actively pursuing opportunities for the private sector to invest in future port infrastructure.

In addition to the oil majors and top, mid-tier and emerging miners, Chinese companies are becoming increasingly significant investors in WA port infrastructure.

It is anticipated that China will be the biggest market for the iron ore due to be exported from Oakajee.

Chinese interests are also spreading into the purchase of WA's wheat and other agriculture products.

However, private financing has had chequered progress, clearly illustrated by Sino Steel's withdrawal of support for the Oakajee project in 2011.

Agreements

For greenfield extensions and new ports, obtaining government approvals are one of the critical risks a company can face. Delays can adversely impact on both budget and schedule.

There are many approvals required to acquire port access, which starts with negotiation of port leases, licences and works agreements.

As the land will be vested in the respective port authorities, native



title is required to be negotiated by the state. Heritage agreements need to be negotiated with the local indigenous community to protect Aboriginal sites while allowing port access and infrastructure to be developed.

Other critical approvals include both state and Federal environmental approvals, including sea dumping permits and native vegetation clearing permits.

According to the 2011 Western Australian Port Report, \$80bn worth of project investments are proposed for Western Australia's ports.

In the far north Kimberley region, a greenfield site at James Price Point is proposed to service Woodside's \$30bn Browse LNG Project.

Despite some local opposition and uncertainty due to the recent sale of shares to Japan, Australia LNG (owned by Mitsubishi and Mitsui and known as Mimi), the state government remains committed to the James Price Point location for the construction of a gas hub to process Browse gas.

In the Pilbara region, three expansion projects and three greenfield projects are currently underway.

Port Hedland is the highest tonnage port in Australia and the largest bulk commodity export port in the world.

It alone handled a combined throughput of 199 mt in 2010/11.

BHP Billiton, with its Japanese partners, is planning an outer harbour expansion and have committed \$917m to increase annual capacity of the port by 100mt and have an option to expand by a further 100mt per year.

The first phase will include construction of a 4km jetty, a fourberth wharf, 32km of dredged departure channel and landside infrastructure.

The final approval decision is expected to be made at the end of 2012 and with start-up due in early 2016.

The two other expansion projects are Rio Tinto's ports at Dampier and Cape Lambert. Rio Tinto is expected to spend another US\$230m on its Parker Point facility at Dampier port to increase its annual capacity by 5mt.

In February this year, Rio Tinto confirmed its commitment of US\$1.2 bn to expand its Cape Lambert port.

The expansion project includes construction of a new 1.8km jetty and a four-berth wharf, which will increase the annual capacity of the port from the current 80mt to 353mt by 2016.

The expansion plan is in the feasibility study stage and a final investment decision will be made in 2012.

Anketell Point, situated 10km west of Rio Tinto's Cape Lambert, is to be built as a multi-user deepwater port which is designed to handle more than 350mt per annum of export capacity, catering for a wide range of mineral commodities, and in particular iron ore.

The development of a multi-user port at Anketell has been sanctioned by the state government. Ashburton North is another project in the pipeline in the Pilbara region. It is planned to be used for Chevron's \$30bn Wheatstone LNG project.

It includes multi-user facilities on the coastal strip and a multi-user infrastructure corridor.

Exxon's Scarborough project and BHP Billiton's Macedon domestic gas project are also interested in utilising this port facility.

Chevron's other project, the \$43bn Gorgon project, will build an LNG shipping facility on Barrow Island, 70km off WA's Pilbara coast.

Open access

The project will have a processing capacity of 15mtpa of liquefied natural gas and 300 terajoules per day of domestic gas.

Meanwhile, the proposed deep-water port Oakajee in the mid-west region has suffered from cost increases and significant delays.

With a State Development Agreement in place, the \$7bn project would deliver an integrated open access, bulk commodity supply chain to transport iron ore from WA's midwest.

The state and Commonwealth governments have already committed \$678m on the common-use port infrastructure, and remain committed to developing the Oakajee project with other partners.

While many of the new ports are intended as multi-user facilities, much of the expansion is to be privately funded by the mining and oil majors.



That then brings back full circle to access issues at new privately funded ports - given the difficulties already being encountered by emerging and junior minors in gaining port access.

For more information, please contact Hazel Brewer, Partner, on +61 (0)8 9422 4702 or hazel.brewer@hfw.com, or your usual HFW contact.

Lawyers for international commerce hfw.com

HOLMAN FENWICK WILLAN Level 13 140 St Georges Terrace Perth 6000 Australia T: +61 (0)8 9422 4700 F: +61 (0)8 9422 4777

© 2012 Holman Fenwick Willan. All rights reserved

Whilst every care has been taken to ensure the accuracy of this information at the time of publication, the information is intended as guidance only. It should not be considered as legal advice.

Holman Fenwick Willan LLP is the Data Controller for any data that it holds about you. To correct your personal details or change your mailing preferences please contact Craig Martin on +44 (0)20 7264 8109 or email craig.martin@hfw.com