

**Submission  
No 35**

**INQUIRY INTO PROTECTION OF PUBLIC SECTOR  
WHISTLEBLOWER EMPLOYEES**

**Organisation:** NSW Maritime  
**Name:** Mr Steve Dunn  
**Position:** Chief Executive Officer  
**Telephone:**  
**Date received:** 21/11/2008

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The Hon Frank Terenzini MP  
Chair  
Committee on the Independent Commission Against Corruption  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000

CEC08/487

Dear Mr Terenzini

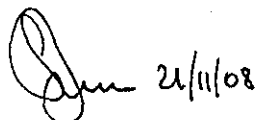
I refer to your correspondence of 14 October 2008 regarding the Inquiry into the protection of public sector whistleblower employees.

Please find attached NSW Maritime's submission to your Inquiry.

I note arrangements have been made for Mr Peter Cribb, NSW Maritime's Acting Principal Solicitor, Contract Information and Audit, to give evidence at the Inquiry on Monday 24 November 2008.

If you require any further information please do not hesitate to contact NSW Maritime's General Counsel, Ms Tonette Kelly

Yours sincerely



Steve Dunn  
Chief Executive

## NSW MARITIME'S SUBMISSION TO THE INQUIRY INTO THE PROTECTION OF PUBLIC SECTOR WHISTLEBLOWER EMPLOYEES

1. NSW Maritime is a **public authority** for the purposes of the *Protected Disclosures Act 1994* (the Act).
2. All persons in the staff establishment of NSW Maritime (NSW Maritime's officers) are **public officials** for the purposes of the Act.
3. It is considered that NSW Maritime's practices and procedures comply with the letter and spirit of the Act in encouraging and facilitating the disclosure (by public officials), in the public interest, of corrupt conduct, maladministration and serious and substantial waste in the public sector (including NSW Maritime) including by providing the protections afforded to public officials who make relevant disclosures<sup>i</sup>.
4. Section 8 of the Act provides that, for the purposes of NSW Maritime's officers making disclosures within NSW Maritime, those disclosures can either be made to the Chief Executive of NSW Maritime<sup>ii</sup> or to another officer of NSW Maritime:

"in accordance with any procedure established by [NSW Maritime] for the reporting of allegations of corrupt conduct, maladministration or serious and substantial waste of public money by [NSW Maritime] or any of its officers ...."<sup>iii</sup>
5. NSW Maritime has such a procedure<sup>iv</sup> which is accessible by all NSW Maritime's officers on NSW Maritime's intranet website<sup>v</sup> (the Procedure).
6. The Procedure consists (apart from an introduction and an appendix) of two parts. The first part of the Procedure is headed *What is Corrupt Conduct?* while the second part of the Procedure is headed *The Internal Reporting System*. The second part of the Procedure is based on the model internal reporting policy set out at Annexure 1 to the NSW Ombudsman's *Protected Disclosure Guidelines (5<sup>th</sup> Edition)*.
7. The staff establishment of NSW Maritime consists of less than 400.
8. Only a very small number of protected disclosures have been made or referred to NSW Maritime under the Act<sup>vi</sup>.
9. NSW Maritime has not experienced any difficulties in complying with the Act.
10. NSW Maritime has not received any complaints regarding its compliance with the Act.
11. NSW Maritime's compliance with the Act has not been the subject of any investigation by the NSW Ombudsman under the *Ombudsman Act 1974*.

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<sup>i</sup> Section 3 (1) of the Act

<sup>ii</sup> Section 8 (1) (b) of the Act

<sup>iii</sup> Section 8 (1) (c) (i) of the Act

<sup>iv</sup> *NSW Maritime – The Internal Reporting System – Guidelines for reporting corrupt conduct within NSW Maritime – August 2006*

<sup>v</sup> <http://intranet/hr/docs/InternalReportingSystemGuidelines.pdf>

<sup>vi</sup> It is noted:

- (i) that the Act does not require a public official to make a declaration at the time of the disclosure that the disclosure is being made under the Act and that the public official is seeking the protection of the Act (compare that situation with the situation under the *Freedom of Information Act 1989* where section 17 of that Act provides that "An application for access to an agency's documents .... (b) shall specify that it is made under this Act"); and
- (ii) that the Act does not require a public authority to maintain a register of protected disclosures.