

Port Botany Landside Improvement Strategy (PBLIS)

1. We understand that PBLIS fees have been collected since 1 July 2010 on all import and export containers yet the Industry is still to see any of the major reforms in place. How is the government accounting for this revenue and reporting back to industry on the use of these funds?
2. We note that industry has lobbied the NSW Government to introduce regulation so that stevedores provide two days of free storage (instead of one as exists today) from the time that the container "Customs border processing hold" is released and the container is physically available for collection.
 - a) Do you see merit in this requirement to allow adequate time to book available transport slots and to co-ordinate delivery with importers?
 - b) Can the Government advise whether regulation has been prepared to address this as a part of the Port Botany Landside Improvement Strategy (PBLIS)?
3. We note that Sydney Ports Corporation claimed that they were to instigate PBLIS regulation to prevent stevedore price increases to rail operators, which they claim are already charged to shipping lines. Patrick commenced this fee increase from 1 September 2010.
4. Is it the intention of the NSW Government to proceed with the regulation?
 - a) If yes, is there any intention to have rail operators and their customers reimbursed for this fee increase?
 - b) If not, why not?
 - c) How many per cent of trains do not arrive at the port on schedule?
 - d) How many per cent of trains do not leave the port on schedule?
 - e) Would the increase in rail operating fees undermine the Government's long-term plan to shift 40 per cent of Port Botany's freight movements to rail?
 - f) What is the Government's plan to make sure that the fee increases will not steer industry towards a greater dependence on road transport?

ANSWERS:

I am advised PBLIS Funds are managed by Sydney Ports', a State Owned Corporation. Sydney Ports has worked closely with industry to develop PBLIS and stakeholders are aware the revenue contributes to necessary infrastructure such as truck marshalling area, technology systems and additional staff.

The NSW Government has a very clear commitment to moving 40 per cent of freight by rail.

The decision by Patrick's to unilaterally increase their rail prices by 67 per cent compromises that commitment.

That's why I have announced the NSW Government will be regulating rail prices in response to this massive increase.

I refer the member to my media statements on 20 September 2010 and to my Hansard statements on 22 September 2010.

The Knuckle- Port Botany

5. The reasons given for the refusal to release the 10 documents in the reply from the Office of State Revenue generally relating to cabinet-in-confidence. Given the public interest test applying to FOI requests, on what reasons did this request fail to meet the public interest?
6. Do you agree that competition in the NSW Stevedoring industry is a significant issue that the NSW public would find important, in particular business owners who import and export goods through Port Botany?
 - a) If yes, on this basis alone, would it not be in the public interest to release these documents?
 - b) b) If no, why not?
7. How long had the NSW Government been negotiating with Patrick Stevedores on the lease arrangement for the "knuckle" land?
8. Were any restrictions contained in the lease that limit the possible uses on how Patrick Stevedores may utilise the "knuckle" land?
9. Is this NSW Government aware of Patrick Stevedores intention to use the "knuckle" land? If yes, what are they?
10. Has Patrick Stevedores made any application with the NSW Government, specifically the Department of Planning, for development on the "knuckle" land? If yes, how many applications have been made and what is the nature of these applications?
11. What are the terms of the lease of the "knuckle" land to Patrick Stevedores – specifically, the length of the lease, and the value of any rental fees and royalties to be paid to the NSW Government?

ANSWERS:

I am advised by OSR the reasons for the exemption were outlined in the determination letter sent to the applicant.

I am advised Sydney Ports is currently negotiating lease of the "knuckle" with Patrick. Details of these negotiations are commercial-in-confidence.

Better Boating Program

12. Under the Better Boating Program (BBP), how much funding is available for the following programs for the current financial year?
- a) Better Boating – Regional Infrastructure Grants?
 - b) What is the funding ratio for this?
 - c) Better Boating – Sharing Sydney Harbour Access Program (SSHAP)?
 - d) What is the funding ratio for this?
 - e) Better Boating – Sydney Harbour Boatramps?
 - f) What is the funding ration for this?
 - g) It is reported that in 2009/10, Better Boating Program provided grants worth a total of \$5.5million. Can you please list all 74 projects and their allocated funding?

ANSWERS:

I refer the member to the NSW Maritime website.

Boat Registration Tax

19. What was the outcome of the consultation process?
20. How many responses to the discussion paper proposal were received?
21. How many responses were supportive of the contribution?
22. How many people were against the contribution?
23. How much additional funding will NSW Marine Rescue receive through the introduction of this new contribution?
24. What accountability measures have been put in place to ensure this additional funding is going to Marine Rescue NSW and not the NSW Maritime as a whole?
25. Will there be an annual report produced with detailed reporting on expenditure?
26. Will there be an annual increase in the funding contribution? If so, how much per year?

ANSWERS:

I am advised the contributions will be distributed in full to Marine Rescue NSW with annual reporting and accountability on the use of funds.

I refer the member to the NSW Maritime website.

NSW Maritime Development Applications

27. How many Water-based development applications has NSW Maritime received in the 2009/2010 financial year?

28. How many of those were granted? Please provide a list of granted applications

29. How many of those were rejected? Please provide a list of rejected applications

ANSWERS:

I am advised:

NSW Maritime received 37 water-based Development Applications (including four section 96 applications) in the 2009/2010 financial year. Of these, 25 were approved and 1 was refused

Port Security

30. What is the total expenditure/budget allocation and forecast for port and maritime security for:

- a) 2008/2009
- b) 2009/2010
- c) 2010/2011
- d) 2011/2012

ANSWER

The NSW Government works with the Commonwealth Government to ensure our ports have the resources and funding they need to protect our economic and security interests. I am advised there is no budget line item called Port and Maritime Security. I am further advised port and maritime security is primarily a Commonwealth Government responsibility.

NSW Maritime Software GLS

31. The SMH reported on 3 September 2010 that workers shut down its workplaces on Friday following months of frustration over flawed licensing software. Is this true?
32. How many of the NSW maritime offices across the state were closed in protest?
33. Is it true that NSW maritime management has refused to acknowledge the failure of the new software?
34. What evidence did the department rely on that this would be most effective licensing software for NSW maritime?
35. Is this new software capable of processing new commercial boat licenses?
36. If not, why not?
37. Is the new computer system quicker than the old system?
38. On average how long (in minutes) does each registration take? How much quicker /slower is this using the old system?
39. Is the new computer system more expensive than the old system? If yes, please provide details of costs.
40. Did NSW Maritime have mechanisms in place to ensure the software was implemented correctly?
41. Can you please explain how staff was trained to work with the new system?
42. Did any problems arise during these training sessions?
43. If so, were they resolved?
44. What was the total expenditure for the training session?
45. Is it true that NSW boat owners may unknowingly be out on the water in unlicensed boats because reminder letters haven't been sent out since the software was adopted in July?
 - a) If yes, how many?
 - b) If not please give evidence to support your claims.
46. Is it true that incorrect letters were sent to boat owners telling them their licenses had expired?
47. How many complaints has the Department received as a result of the troubled new software?
48. We note that a spokesperson for the Dept has said that NSW is working with Department of Services Technology and Administration to resolve the issue? Is this true?
49. When do you anticipate resolving this issue?
50. In the interim, what measures have been put into place to cope with the current situation?
51. How are staffs dealing with customer's anger and frustration?
52. Does the Dept agree with the ASU that the current system is a nightmare?

ANSWERS:

I refer the member to statements made at the Budget Estimates Committee hearing on 13 September 2010. I am advised the lead agency for GLS is the Department of Services Technology and Administration. NSW Maritime will pay a service fee to DSTA. I am further advised since 1 July 2008 to 31 August 2010 NSW Maritime has invested around \$2.2 million into GLS, these costs include training and staffing.

Safety Murray River

53. How many incidents have occurred in the Murray River area in
- a) 2005-2006
 - b) 2006-2007
 - c) 2008-2009
 - d) 2009-2010
54. What measures will be implemented as part of the review into safety on the Murray River?
55. How will NSW Maritime deal with safety issues concerning Victorian registered vessels?

ANSWERS:

I am advised:

- 2005-2006 - 23
- 2006-2007 - 22
- 2008-2009 - 24
- 2009-2010 – 38

I am advised NSW Maritime publicly released the 'Review of boating safety on the Murray River' and called for public comment. Submissions are now under review and a response will be released in due course.

New Patrol Boat – Illawarra

56. In regards to the new patrol boat that was unveiled on 20 August 2010, what is the total cost of the new vessel?
57. What are its operating hours?

ANSWERS:

I am advised \$201,998 which includes the cost of the vessel, electronics including radios, twin 150hp outboard engines and a suitable trailer for towing.

The vessel is on call 24 hours a day with the area Boating Safety Officer undertaking patrols at varying hours dependent on boating activity, weather conditions and staff availability.

The new craft will be used for a range of activities including on-water safety checks, education campaigns, and managing traffic during big events on the waterways.

The added patrol resources will go a long way to raising the bar of marine safety for Illawarra families, and increase community awareness of best safety practice.

Joe Tripodi

58. Why has Joe Tripodi represented the government at least one meeting about the future of landside transport arrangements at Port Botany?
59. Why would Mr Tripodi attend meetings representing the government in a portfolio area from which he is no longer responsible?
60. Does the Minister believe this is appropriate?
61. Will he ask Mr Tripodi to represent him at meetings?
62. Does Mr Tripodi also meet with Sydney Ports officials or transport operators?
63. Is the Government going to regulate road and rail transport at Port Botany, including pricing?
64. Has Mr Tripodi been involved in these considerations?
65. Is Mr Tripodi an advocate for regulating the port's landside operations?

ANSWERS:

I refer the member to my statements in the Legislative Council on 21 and 22 September 2010.

Waterfront Action Group

66. Are you aware of an unanswered letter dated 27 July 2010 from the Waterfront Action Group and addressed to Paul McLeay MP?

67. When do you propose to respond to that letter?

68. The Auditor-General in his report to Parliament of 23 September 2009 was critical of NSW Maritime not having reviewed the rate of return used to calculate NSW Maritime rentals, despite IPART's April 2004 recommendation that "The rate of return will need to be reviewed regularly". The Auditor-General wrote (on page 8 of his report) that NSW Maritime together with the Land and Property Management Authority should "...ensure more effective implementation of the IPART recommendations" by "Jointly reviewing the net rate of return in an open and consultative manner by December 2009. The review should include assessment of the net rate of return from a location and time specific perspective, similar to the approach taken for assessing statutory land value of precincts".

a) Was that review done as specified by the Auditor-General?

b) If so, what was the outcome of this review?

c) If not, why not?

d) Who was consulted?

69. Are you aware that NSW Maritime recently refused a Freedom of Information request to reveal the results of the review of the rate of return?

a) When will the detail and the results of that review be released to interested parties?

b) If not, why not?

70. Attached to the letter of 27 July is a record of a meeting that took place on 6 July 2009 between Steve Dunn, Chief Executive of NSW Maritime, Patrick Low, then General Manager of Policy at NSW Maritime, a representative of Minister Tripodi's office and two committee members of the Waterfront Action Group. Steve Dunn then advised words to the effect "the Rate of Return is set by the Government ... and the Government's revenue needs may influence that decision. On that basis the Government may decide not to reduce the Rate of Return, following the upcoming review".

a) Is that statement by the Chief Executive of NSW Maritime accurate?

b) Is that why the rate of return used by NSW Maritime has not been reduced, despite it having reduced in the rental market, since IPART set it at 3.05% in April 2004?

c) If not, why has the rate of return used by NSW Maritime not been reduced?

71. Also within the letter to Paul McLeay MP is a complaint that NSW Maritime refuses to negotiate the terms of a new lease that it is currently forcing its tenants to sign, under threat of demolition of tenants' structures. One of the clauses (Clause 3.7) locks in the current flawed rental calculation, based on an incorrect rate of return for the next 4 years and then allows for a possible new unspecified formula thereafter. NSW Maritime is clearly abusing its monopoly power in forcing tenants to sign these leases against the advice of the tenants' lawyers.

- a) Will the Minister intervene to ensure that NSW Maritime negotiates a fair and equitable lease?
- b) If yes, can you please provide details of this process?
- c) If not, why not?

ANSWERS:

I am advised the NSW domestic lease template reflects lease terms and conditions as recommended by the Independent Pricing and Regulatory Tribunal in 2004, and amended via a NSW Maritime public consultation process in 2007.

I am further advised the Rate of Return is in accordance with the recommendations of the Independent Pricing and Regulatory Tribunal in 2004. A review of the rate of return has been completed, and the recommendations of this review are under consideration by government.

I am advised submissions were received and incorporated into the review from peak bodies and individual lessees, from both Sydney and regional NSW. Should the rate of return be varied as an outcome of the 2009-10 review, I am advised lessees involved in the current lease update program would be offered a variation to executed lease documents to incorporate that variation.

Legal Branch NSW Maritime

72. On what dates were all section 11 referrals to ICAC made in relation to activities in the Legal Services Branch of NSW Maritime?
73. How many people in the Legal Department of NSW Maritime have either resigned or been terminated by NSW Maritime in 2008/09 and 2009/10? Please list by reason for leaving.
74. Further to the Question immediately proceeding, please provide their names, reason for leaving NSW Maritime and separation date.
75. What steps have NSW Maritime taken to give effect to the ICAC recommendations from the Report, "Investigation into the Misuse of resources by a NSW Maritime Legal Services Officer"?
76. What was the objective for the service delivered by IAB in 2009?
77. How much money was paid to IAB for this contract?
78. Was any employee identified in the IAB investigation? If so, what action was taken against them?
79. Did Steve Dunn consult with the Minister's office at any time regarding answering Questions on Notice from the 2009 Budget Estimates Committee? If so, what was the nature of this consultation and interaction?
80. On 24 August 2009, Mr Dunn granted Ms Kelly ongoing approval for her secondary employment on the basis that she was not to use any NSW Maritime resources. Mr Dunn cancelled that approval in March 2010. Why was approval only revoked in March 2010?
81. On what date did the Crown Solicitor give advice to NSW Maritime that Private Indemnity Insurance was not required for employees in the service of NSW Maritime?
82. Since the time Ms Tonette Kelly begun taking various forms of leave up to and including the date of production of these answers to the Budget Estimates Committee how many days has Ms Tonette Kelly physically been at work undertaking her duties at NSW Maritime?
83. From the time Ms Tonette Kelly begun taking various formed of leave either in 2010 or 2009 up to and including the date of production of these answers to the Budget Estimates Committee, how much money has been expended on her wages and other entitlements?
84. How much money has been expended on legal assistance for Ms Tonette Kelly thus far, broken down into separate matters?

ANSWERS:

The Chief Executive of NSW maritime advises me that Ms Tonette Kelly has not attended for duty since 26 October 2009. Ms Kelly's wages are paid in accordance with public sector guidelines and the NSW Maritime Enterprise Agreement. The NSW Maritime Enterprise Agreement can be found on the NSW Maritime website.

I am further advised NSW Maritime has not expended any funds in relation to legal assistance for the ICAC matter. In relation to the criminal matter NSW Maritime has commenced recovery action for costs incurred for legal assistance following the withdrawal of approval for ex gratia assistance for legal costs by the Director General of the Department of Justice and Attorney General.

For further information I refer the member to the 2010 Budget Estimates hearing transcript.

85. How much did the implementation of the database cost?
86. What problems have been experienced with the implementation of GLS database and with the system itself?

ANSWERS:

I refer the member to my previous answers to questions 31- 52.

87. What public consultation has been conducted in relation to proposed changes to lifejacket laws?

ANSWER:

I refer the member to the NSW Maritime website.

Legal Branch NSW Maritime

88. What representations have been received by the Minister, or his predecessor, Paul McLeay, regarding the administration of the legal branch of NSW Maritime? What actions have been taken in consequence?

89. On what date or dates did NSW Maritime offer to reinstate Mr Tim Lloyd to his former position in the NSW Maritime legal branch?

90. On what date or dates did NSW Maritime invite Mr Paul Bertram to return to his substantive position in the NSW Maritime legal branch?

91. In regards to the preceding 2 questions, if no offers have been made, why not, and are there any plans to make such an offer/s?

92. What action has been taken to investigate Mr Dunn's conduct during 2009 and 2010 in relation to the investigation of matters concerning Ms Kelly, Mr Lloyd, Mr Bertram or any other officer of the NSW Maritime legal branch?

ANSWERS:

The Chief Executive of NSW Maritime advises me:

Staffing matters are addressed at an Agency level. Mr Lloyd resigned from NSW Maritime on 14 May 2009. Mr Bertram sought and was granted a secondment to another government agency. Mr Lloyd resigned and Mr Bertram has been permanently transferred to another government agency, at his request.

I am further advised Mr Dunn's actions in relation to the investigation of matters concerning Ms Kelly are a matter for the Independent Commission Against Corruption.