

UNCORRECTED PROOF

# **GENERAL PURPOSE STANDING COMMITTEE No. 1**

**Monday 14 September 2009**

**Examination of proposed expenditure for the portfolio areas**

## **PORTS, WATERWAYS**

**The Committee met at 11.30 a.m.**

### **MEMBERS**

Reverend the Hon. F. J. Nile (Chair)

The Hon. K. F. Griffin  
The Hon. Trevor Khan  
The Hon.. Charlie Lynn

Ms Lee Rhiannon  
The Hon. P. G. Sharpe  
The Hon. I. W. West

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### **PRESENT**

**The Hon. J. G. Tripodi**, *Minister for Finance, Minister for Infrastructure, Minister for Regulatory Reform, and Minister for Ports and Waterways*

**NSW Maritime**

**Mr S. Dunn**, *Chief Executive*

**Mr T. Middleton**, *Acting Deputy Chief Executive*

## **CORRECTIONS TO TRANSCRIPT OF COMMITTEE PROCEEDINGS**

**Corrections should be marked on a photocopy of the proof and forwarded to:**

**Budget Estimates secretariat  
Room 812  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000**

**CHAIR:** I declare this hearing for the inquiry into the budget estimates 2009-2010 open to the public. I welcome Minister Tripodi. Today the committee will examine the proposed expenditure for the portfolio of Ports and Waterways. Before we commence I will make some comments about procedural matters. In accordance with the Legislative Council guidelines for the broadcast of proceedings, only committee members or witnesses may be filmed or recorded. People in the public gallery should not be the primary focus of any filming or photos. In reporting the proceedings of this committee you must take responsibility for what you publish or what interpretation you place on anything that is said before the committee. The guidelines for the broadcast of the proceedings are available on the table by the door. Any messages from attendees in the public gallery should be delivered through the Chamber and support staff or committee clerks.

Minister, I remind you and the officers accompanying you that you are free to pass notes and refer directly to your advisers while at the table. I remind all persons present to please turn off their mobile phones. The House resolved that answers to questions on notice must be provided within 21 days. The committee has voted to amend that to 35 days. Transcripts of this hearing will be available on the web from tomorrow morning. All witnesses from departments, statutory bodies or corporations will be sworn prior to giving evidence. Minister, I remind you that you do not need to be sworn as you have already sworn an oath to your office as a member of Parliament.

**TONY MIDDLETON**, Deputy Chief Executive, NSW Maritime, and

**STEVE DUNN**, Chief Executive, NSW Maritime, sworn and examined?

**CHAIR:** I declare the proposed expenditure for the portfolio of Ports and Waterways open for examination. Time for questions has been allocated equally between the Opposition and crossbench members. However, due to the Minister's early departure, we will conclude at 12.30 p.m. so that he has time to reach Government House for a swearing in ceremony that he has to attend. As there is no provision for a Minister to make an opening statement before a committee commences questioning, we will begin with questions, unless he wants to make a brief comment?

**Mr JOSEPH TRIPODI:** No.

**The Hon. TREVOR KHAN:** Minister, on or about 22 August 2009, the chief executive of NSW Maritime issued a memo to staff reminding them of the terms of the Code of Conduct with regards to the use of premises or resources for secondary employment. Is that the case?

**Mr JOSEPH TRIPODI:** The chief executive will answer that.

**Mr DUNN:** Yes, that is the case.

**The Hon. TREVOR KHAN:** For how long has there been a restriction on the use of the premises or resources for secondary employment in place?

**Mr DUNN:** I am not certain.

**The Hon. TREVOR KHAN:** Is it a matter of weeks as at 22 August, months or years?

**Mr DUNN:** Some time but I cannot be certain.

**The Hon. TREVOR KHAN:** Was it in place as at the time that Mr Clarke of Counsel undertook his review in 2004?

**Mr DUNN:** I cannot be certain.

**The Hon. TREVOR KHAN:** For how long have you been the chief executive of NSW Maritime?

**Mr DUNN:** Since July last year.

**The Hon. TREVOR KHAN:** As at the time since you have been the chief executive has it been the policy that there are restrictions upon the use of the premises and resources of NSW Maritime with respect to secondary employment?

**Mr DUNN:** I will take that on notice.

**The Hon. TREVOR KHAN:** Surely the issues of matters relating to codes of conduct and employment would be matters of which you would be acutely aware?

**Mr DUNN:** I am acutely aware of all of these issues.

**The Hon. TREVOR KHAN:** For how long have you been aware that there has been a restriction on the use of premises and employment?

**Mr DUNN:** I will give you a commitment that I will go away, find out when the policy came into effect and I will give you that response.

**The Hon. TREVOR KHAN:** That is not the last question I asked: I asked you for how long were you aware of the restriction?

**Mr DUNN:** I think I have already answered that question, thank you.

**Mr JOSEPH TRIPODI:** I understand that the chief executive said he will take it on notice and return to the Committee with an answer.

**The Hon. TREVOR KHAN:** In relation to Ms Kelly, for how long were you aware that she was using the premises and resources of the department to undertake her conveyancing practice?

**Mr DUNN:** Mr Chair, I might ask that I not answer any of these questions. The disclosure of information of this kind may be prejudicial to the privacy or the rights of Ms Kelly or other persons, particularly the parties in potential legal proceedings.

**The Hon. TREVOR KHAN:** My question goes to Mr Dunn's knowledge of what is going on in his area of responsibility; it does not go to Ms Kelly—'

**Mr DUNN:** I might also add that the question raises issues relating to statutory secrecy provisions.

**CHAIR:** The Hon. Trevor Khan, will you rephrase your question so that it is within the correct terms?

**The Hon. TREVOR KHAN:** Is it the case that you are aware that she has been using the department's telephone to run her business?

**Mr DUNN:** I have already responded to that question.

**The Hon. TREVOR KHAN:** Not that I am aware of.

**Mr JOSEPH TRIPODI:** His previous answer.

**Mr DUNN:** My previous answer. Please refer to my previous answer.

**The Hon. TREVOR KHAN:** Is it the case that you are aware that she has been using the fax machine to undertake her business?

**Mr DUNN:** Please refer to my previous answer.

**The Hon. TREVOR KHAN:** Does the department pay for the payment of professional indemnity insurance and a practising certificate?

**Mr DUNN:** Yes, I believe they do.

**The Hon. TREVOR KHAN:** I will be careful in this question because the last one was a double-header. Does the department pay Ms Kelly's professional indemnity insurance?

**Mr DUNN:** Yes, I believe it does.

**The Hon. TREVOR KHAN:** Ms Kelly is a government employee?

**Mr DUNN:** Yes, she is.

**The Hon. TREVOR KHAN:** And in that respect, is covered by insurance applying to any employee of NSW Maritime?

**Mr DUNN:** I would imagine that would be the case, yes.

**The Hon. TREVOR KHAN:** Have you considered whether Ms Kelly actually needed professional indemnity insurance to be registered as a government employed lawyer?

**Mr DUNN:** My understanding is that we pay that insurance for all of our lawyers.

**The Hon. TREVOR KHAN:** Have you considered whether she needed that—

**Mr DUNN:** My understanding is that it is a requirement to hold that insurance.

**The Hon. TREVOR KHAN:** Do you want to go away and check that?

**Mr DUNN:** I am happy to go away and check that.

**CHAIR:** Will you take that question on notice and provide an answer?

**Mr DUNN:** I will take it on notice.

**The Hon. TREVOR KHAN:** Would you check her level of coverage and her professional indemnity insurance as well?

**Mr DUNN:** I will be happy to do that.

**The Hon. TREVOR KHAN:** Would you check whether Ms Kelly disclosed any income being received that was used in the determination of the level of professional indemnity cover that she needed to have?

**Mr DUNN:** I am happy to do that.

**The Hon. TREVOR KHAN:** Are you aware that professional indemnity cover, and the payment that needs to be made to LawCover, is dependent upon the income received in your employment or practise?

**Mr DUNN:** I will take that on notice.

**The Hon. TREVOR KHAN:** If it is the case that there was a declaration of outside income, who would have signed off on the payment of the professional indemnity insurance?

**Mr DUNN:** I will take that on notice.

**The Hon. TREVOR KHAN:** Would it have been you?

**Mr DUNN:** No, it definitely was not me.

**The Hon. TREVOR KHAN:** Would it have been somebody in human resources?

**Mr DUNN:** I will take that on notice.

**The Hon. TREVOR KHAN:** With regard to the issues that have arisen with regard to Mr Bertram, why was he stood aside?

**Mr DUNN:** Mr Bertram was not stood aside.

**The Hon. TREVOR KHAN:** Is he on leave without pay?

**Mr DUNN:** No, Mr Bertram is employed at NSW Maritime.

**The Hon. TREVOR KHAN:** And he is at work?

**Mr DUNN:** Yes, he is.

**The Hon. TREVOR KHAN:** Has he, at all material times since August, been at work?

**Mr DUNN:** Sorry, can you define "material times"?

**The Hon. TREVOR KHAN:** During normal business hours.

**Mr DUNN:** I cannot give you that information off the top of my head.

**The Hon. TREVOR KHAN:** Will you take that on notice as well?

**Mr DUNN:** I am happy to take that on notice.

**The Hon. TREVOR KHAN:** If there were a complaint by his union that he had been in a sense sidelined, would that be incorrect?

**Mr DUNN:** Can you reframe the question, please?

**The Hon. TREVOR KHAN:** If there was an assertion that he had been banned from going to any NSW Maritime workplace, would that be incorrect?

**Mr DUNN:** If there was an assertion that he had been banned?

**The Hon. TREVOR KHAN:** Yes, Mr Bertram had been banned from going to any NSW Maritime workplace?

**Mr DUNN:** That would not be incorrect.

**The Hon. TREVOR KHAN:** That would not be incorrect?

**Mr DUNN:** Correct.

**The Hon. TREVOR KHAN:** So we can remove the double negative and say that it is correct that he was banned from going to any place of his employment?

**Mr DUNN:** Yes, he was.

**The Hon. TREVOR KHAN:** He was stood aside?

**Mr DUNN:** No, he was not.

**The Hon. TREVOR KHAN:** Just banned from going to work.

**Mr DUNN:** I am more than happy to give a detailed response to that question.

**The Hon. PENNY SHARPE:** He said he would take it on notice and he would answer the question.

**The Hon. TREVOR KHAN:** For how long was he banned from going to any NSW Maritime workplace?

**Mr DUNN:** It was just a few days, but I will give you that detail in my response.

**The Hon. TREVOR KHAN:** Why did you feel it necessary to reissue the code of conduct with respect to the use of premises and resources by employees?

**Mr DUNN:** It is not unusual to give reminders to staff about their obligations. We do that routinely as part of an ongoing reminder or training, making sure that people understand their obligations.

**The Hon. TREVOR KHAN:** Do I take it that your answer under oath is that it was, in a sense, just a regular reissue of a reminder? Is that what you are saying?

**Mr DUNN:** No, that is not what I am saying. What I am saying is that it is not unusual to issue reminders, particularly when certain events have occurred that would suggest that such a reminder is warranted.

**The Hon. TREVOR KHAN:** Was there any change in Ms Tonette Kelly's work practices after the undertaking of the investigation in 2004 by Mr Clark?

**Mr DUNN:** No.

**The Hon. TREVOR KHAN:** You are aware of newspaper reports that she was conducting her conveyancing practice from her place of work for some five years?

**Mr DUNN:** I am aware of those newspaper reports.

**The Hon. TREVOR KHAN:** And that is the case, is it not, that she was conducting her conveyancing practice from NSW Maritime's premises for some five years?

**Mr DUNN:** Ms Kelly has approval to undertake secondary employment and she has had that for a long time. That approval was given to her three chief executives ago, and she has maintained that approval and still has that approval.

**The Hon. TREVOR KHAN:** Is it not the case that an investigation was undertaken in about 2004 because there was an allegation that she was undertaking that work from work?

**Mr DUNN:** Yes, that is true.

**The Hon. TREVOR KHAN:** That report, whether it is right or wrong, concluded that she was not doing it at work. Is that right?

**Mr DUNN:** In that report there were some interesting conclusions, one of which was a fairly lengthy discussion about what constituted a business. My recollection of that report was that she was not conducting a business. What she does is occasional conveyancing work.

**The Hon. TREVOR KHAN:** From NSW Maritime premises?

**Mr DUNN:** She conducts the majority of her work from home, but occasionally takes a telephone call or has had the practice of using a fax machine at NSW Maritime—very occasional practice.

**The Hon. TREVOR KHAN:** Are you aware whether any of the clients for whom she undertook work were employees of NSW Maritime?

**Mr DUNN:** I do not know the details of any of her clients.

**The Hon. TREVOR KHAN:** Do you know whether any of them may have been senior employees of NSW Maritime?

**Mr DUNN:** I have already answered that question.

**The Hon. TREVOR KHAN:** The answer is that you are not aware?

**Mr DUNN:** I do not know the name of any person. I have never sought the name of any person who is one of her clients.

**The Hon. TREVOR KHAN:** Do you not envisage the possibility of a conflict of interest arising if she were to act for senior employees of NSW Maritime by doing their conveyancing work?

**Mr DUNN:** That would depend entirely upon the individual circumstances involved—not automatically. I do not accept that automatically there is a conflict of interest.

**The Hon. TREVOR KHAN:** You have issued no restrictions with regard to who she could do work for?

**Mr DUNN:** No. I have reminded her of the potential for conflict of interest, but I have not given her any specific directions about for whom she can do conveyancing work.

**The Hon. TREVOR KHAN:** Did you record in some way the caution, or the like, that you issued to her with regard to conflict of interest? Did you put it in writing—a memo, briefing note or the like?

**Mr DUNN:** I would have to check.



**The Hon. TREVOR KHAN:** If such a memo is available, would you be prepared to provide it to us?

**Mr DUNN:** I would take that on advice.

**The Hon. TREVOR KHAN:** Yes, maybe?

**Mr DUNN:** I will take that on advice.

**The Hon. TREVOR KHAN:** Would you agree that such a direction should be in writing?

**Mr DUNN:** It would depend upon the circumstances. The conditions of her secondary employment are quite clear and adequate. The provision that did allow her to use a nominal amount of maritime resources has been withdrawn, so she will not use maritime resources at all for the conduct of her secondary employment.

**The Hon. TREVOR KHAN:** It is the position that that really should always have been the case, is it not, that is her secondary employment should not have involved the use of the premises or resources of NSW Maritime?

**Mr DUNN:** In my opinion, yes, but she did have approval.

**The Hon. TREVOR KHAN:** You sought to act on this issue, do I take it, only after the matter was reported in the *Sydney Morning Herald*. Would that be the case?

**Mr DUNN:** I amended her conditions of secondary employment as soon as I became aware of that situation.

**The Hon. TREVOR KHAN:** Do I take it that was immediately upon reading the *Sydney Morning Herald* in August of 2009?

**Mr DUNN:** I honestly cannot tell you whether it was before—I make a habit of not reading the *Sydney Morning Herald*.

**The Hon. TREVOR KHAN:** Is that right? Did you hear it on the ABC news or some other credible news source?

**Mr DUNN:** Maybe that—maybe I drank too much green cordial that day.

**The Hon. TREVOR KHAN:** Or perhaps you received advice from somebody else who happens to read the *Sydney Morning Herald*?

**Mr DUNN:** Certainly plenty of people gave me advice that there was something in the *Sydney Morning Herald*.

**The Hon. TREVOR KHAN:** Did that include the Minister or his staff?

**Mr DUNN:** I have had no discussion with the Minister or his staff on this issue.

**The Hon. TREVOR KHAN:** Is that fair dink?

**Mr DUNN:** Absolutely fair dink.

**The Hon. TREVOR KHAN:** No discussion at all?

**Mr DUNN:** Not that I recall.

**The Hon. TREVOR KHAN:** Well, think about it—did you have discussions with the Minister or his staff with regard to the articles that were appearing in the *Sydney Morning Herald* identifying senior counsel for NSW Maritime doing work on the side?

**Mr DUNN:** I would have prepared a briefing note and a house folder note on the issue. I do not recall whether I had any specific discussions with the Minister or any of his staff on that issue, but there is no reason for me to have.

**The Hon. TREVOR KHAN:** The newspaper reports that you do not read in the *Sydney Morning Herald* refer to an ongoing issue in the legal department of NSW Maritime.

**Mr DUNN:** I am aware of the reports.

**The Hon. TREVOR KHAN:** From somebody reading them to you in the background. Is that right?

**Mr DUNN:** I get copies of extracts from the *Sydney Morning Herald* delivered to me.

**The Hon. TREVOR KHAN:** So you do not read the paper in its entirety, but you read bits of it?

**Mr DUNN:** That is correct.

**The Hon. TREVOR KHAN:** So you are fully aware of the articles to which I refer?

**Mr DUNN:** I am fully aware of those articles.

**The Hon. TREVOR KHAN:** And in fact you have read them?

**Mr DUNN:** Yes, I have read them.

**The Hon. TREVOR KHAN:** Mr Dunn, could I suggest it is like pulling hen's teeth? You clearly have been aware at all material times about what the *Sydney Morning Herald* was writing about you and your department.

**Mr DUNN:** Feel free to ask me any direct questions about the issue. Perhaps you might like to get to the punch line, or isn't there one?

**The Hon. TREVOR KHAN:** I am. Let us go to it. There have been issues in the legal department for some time. Is that correct?

**Mr DUNN:** What kind of issues would you be referring to?

**The Hon. TREVOR KHAN:** Issues of staff dissent. Is that right?

**Mr DUNN:** For at least five years that I am aware of there has been an anonymous, vexatious and malicious campaign by one or more individuals aimed at undermining the management team in legal branch. Those investigations have at all times been properly investigated, as far as I can see, and never have those investigations led to any action at all. The most recent round of complaints against legal branch, which were the subject of the *Sydney Morning Herald* investigations, were just more vexatious, malicious, anonymous allegations. They have no substance and I am completely satisfied that they are the same tired allegations.

**The Hon. TREVOR KHAN:** Have you reviewed the analysis undertaken by Mr Clark in 2004 and considered whether there are any discrepancies between what was contained in Mr Clark's advice and what you now discover to be the circumstances involving Ms Kelly?

**Mr DUNN:** One of the things I do recall from right at the end of Mr Clark's report was that he said that as far as he was concerned Ms Kelly's reputation remains untainted by these allegations. I have received nothing and been told nothing that would lead me to believe that the situation has changed at all.

**The Hon. TREVOR KHAN:** Do you know whether any of the conveyancing work undertaken by Ms Kelly related to property that was owned by NSW Maritime?

**Mr JOSEPH TRIPODI:** We have already answered that question.

**Mr DUNN:** I do not know the names of any of Ms Kelly's clients or the details of any properties that were the subject of Ms Kelly's conveyancing.

**The Hon. TREVOR KHAN:** Do you not envisage the possibility of a conflict if senior counsel for NSW Maritime was involved in undertaking conveyances relating to property owned by NSW Maritime?

**Mr DUNN:** There has never been an allegation that Ms Kelly has operated inappropriately in her conveyancing proceedings. I accept there is potential for conflict of interest but she is quite capable of assessing those potential conflicts of interest and resolving them herself. No-one has ever made an allegation that I am aware of specifically stating concerns about potential conflict of interest.

**The Hon. TREVOR KHAN:** I raise again that you are the employer of Ms Kelly, or your department is the employer of Ms Kelly. Is that right?

**Mr DUNN:** Correct.

**The Hon. TREVOR KHAN:** Do you not identify that you have an obligation as the employer of Ms Kelly to ensure that no conflict of interest arises?

**Mr DUNN:** We have the obligation to ensure that Ms Kelly is aware that there is a potential conflict of interest. If she were to do something that led to a conflict of interest then she would be brought to account for it. As it is, there have been no conflicts of interest brought to our attention and every time anybody—internal, external or independent—has looked at this matter there have never been any findings against Ms Kelly. It is just the same tired, vexatious and malicious claims by disgruntled current and past NSW Maritime employees.

**The Hon. TREVOR KHAN:** Minister, in the time you have been Minister have you met with or had discussions with Graham Richardson?

**Mr JOSEPH TRIPODI:** Graham Richardson?

**The Hon. TREVOR KHAN:** Yes, former senator.

**Mr JOSEPH TRIPODI:** Have I ever met Graham Richardson, is that what you are asking?

**The Hon. TREVOR KHAN:** That is not what my question was.

**Mr JOSEPH TRIPODI:** Restate your question.

**The Hon. TREVOR KHAN:** Minister, in the time that you have been Minister have you met with or had telephone discussions with Graham Richardson?

**Mr JOSEPH TRIPODI:** I have met many people and had lots of discussions with lots of people.

**The Hon. TREVOR KHAN:** I am not asking about many people or lots of people. I am asking about Graham Richardson.

**Mr JOSEPH TRIPODI:** Yes, I have met Graham Richardson.

**The Hon. TREVOR KHAN:** Have you met with him in his role as lobbyist?

**Mr JOSEPH TRIPODI:** He has never lobbied me on issues to the best of my recollection.

**The Hon. TREVOR KHAN:** Have you met with him in his role as lobbyist?

**Mr JOSEPH TRIPODI:** No.

**The Hon. TREVOR KHAN:** Are you aware of other Ministers who have met with him in his role as lobbyist?

**Mr JOSEPH TRIPODI:** You would have to ask other Ministers. I would not know whom he meets with.

**The Hon. TREVOR KHAN:** When was the last time you had a discussion with Graham Richardson?

**Mr JOSEPH TRIPODI:** I do not remember a specific event. It was a fleeting conversation—hello, goodbye. I cannot remember when that occurred.

**The Hon. TREVOR KHAN:** When was the last time you had a telephone conversation with him?

**Mr JOSEPH TRIPODI:** A very long time.

**The Hon. TREVOR KHAN:** Have you met with or had a telephone conversation with Michael McGurk?

**Mr JOSEPH TRIPODI:** No.

**The Hon. TREVOR KHAN:** At no time have you met—

**Mr JOSEPH TRIPODI:** To the best of my recollection I have never met Michael McGurk nor have I ever had a discussion with him.

**The Hon. TREVOR KHAN:** Have you met with or had a telephone conversation with Mr Ron Medich?

**Mr JOSEPH TRIPODI:** I have known Ron Medich and the Medich family for quite a while and whenever I see him, we exchange pleasantries. That could be at charity functions, political functions, social events, yes.

**The Hon. TREVOR KHAN:** Have you met with anyone acting as a lobbyist on behalf of Mr Ron Medich?

**Mr JOSEPH TRIPODI:** No.

**The Hon. TREVOR KHAN:** When was the last time you had—

**Mr JOSEPH TRIPODI:** Sorry, I have met Graham Richardson. I have said that to you. To the best of my recollection he never raised any issues with me relating to Mr Medich.

**The Hon. TREVOR KHAN:** Have you met with Mr Richardson in your offices?

**Mr JOSEPH TRIPODI:** No. Not that I can recall for quite a long time. It would have been years ago if I had.

**The Hon. IAN WEST:** Mr Chairman, are we talking about this portfolio or are we talking about the world at large? Can this be a bit relevant to the portfolio?

**The Hon. TREVOR KHAN:** Have you met with Mr Richardson in Parliament House?

**Mr JOSEPH TRIPODI:** If I have it has not been for many years.

**The Hon. TREVOR KHAN:** For many years? How do you term "many years"? Is that one year, two years or three?

**Mr JOSEPH TRIPODI:** It is definitely more than one, so it would be at least two or three years. As I say, not within recent memory.

**The Hon. TREVOR KHAN:** In the last 12 months, how many times have you either spoken with or met with Mr Graham Richardson?

**Mr JOSEPH TRIPODI:** In the last how long?

**The Hon. TREVOR KHAN:** Twelve months.

**Mr JOSEPH TRIPODI:** Once or twice. It was hello and goodbye, crossing paths. Never had an organised meeting.

**The Hon. TREVOR KHAN:** Does that include telephone conversations as well?

**Mr JOSEPH TRIPODI:** Yes. I have not had a telephone conversation with him for quite a long time.

**The Hon. TREVOR KHAN:** Have you been lobbied by anyone with respect to matters associated with any of Mr Ron Medich's affairs?

**Mr JOSEPH TRIPODI:** Not that I can recall, no.

**The Hon. TREVOR KHAN:** In the period of time since the reports of Mr McGurk's untimely death, have you spoken to anyone with respect to the circumstances surrounding his death?

**Mr JOSEPH TRIPODI:** You are not serious, are you?

**The Hon. TREVOR KHAN:** I am.

**Mr JOSEPH TRIPODI:** I think everyone in Sydney has spoken about the circumstances that they read in the newspaper. I would have discussed things I have read in the newspaper with many people.

**CHAIR:** Questions should be about the Minister's role as Minister for Ports and Waterways.

**Mr JOSEPH TRIPODI:** I am happy to put it on the record. Mr Khan wants to waste everyone's time, so go ahead. I would like to focus on questions of substance in relation to Ports and Waterways.

**Ms LEE RHIANNON:** Minister, have you met or corresponded with Paul Signorelli—the owner of Doltone House, which operates function centres at the St George Sailing Club on Botany Bay, Sylvania Waters, and Jones Bay Wharf in Pyrmont—or anyone else, about the St George Sailing Club?

**Mr JOSEPH TRIPODI:** Have I corresponded with him?

**Ms LEE RHIANNON:** Have you met or corresponded with Paul Signorelli or anyone else?

**Mr JOSEPH TRIPODI:** Dealings with the St George Sailing Club, including any subleases such as with Doltone House, are a matter for NSW Maritime as part of its routine commercial property activities. I am advised that NSW Maritime's involvement in the proposed development approval process by the St George Sailing Club is limited to providing permission to lodge the development application with council through its 2007 policy entitled "obtain permission to lodge a development application", or PTL, as published on NSW Maritime's website. When deciding whether to grant this permission under the policy, NSW Maritime considers factors including navigation and commercial leasing policies.

Permission to lodge is not a development application, nor does it imply NSW Maritime's support for development consent. The PTL granted to St George Sailing Club on 23 November 2007 for alterations and additions to the club has expired. I am advised that NSW Maritime has a lease with St George Sailing Club and that all these discussions and negotiations occurred in accordance with NSW Maritime's 2007 commercial leasing policy, which is also available on NSW Maritime's website.

**Ms LEE RHIANNON:** Thank you for that information. Could you also answer this question: Have you met or corresponded with Mr Signorelli or anyone else about this development?

**Mr JOSEPH TRIPODI:** To the best of my knowledge, when I last saw Mr Signorelli, he mentioned to me that he was in dispute with the leaseholder. I told him that he would need to raise the issue with NSW Maritime.

**Ms LEE RHIANNON:** When was that meeting held?

**Mr JOSEPH TRIPODI:** I cannot recall.

**Ms LEE RHIANNON:** This year?

**Mr JOSEPH TRIPODI:** It would have been at a function somewhere. It might have been this year, or it could have been last year.

**Ms LEE RHIANNON:** Could you take that question on notice, check your diary and provide that information?

**Mr JOSEPH TRIPODI:** As I said, I have not had a formal meeting with him on this matter. It would have been at some stage when I met him at a function or something like that.

**Ms LEE RHIANNON:** Minister, I have a report that reveals that a meeting was held on 6 January this year at 11.30 p.m. between Paul Signorelli, Steven Cesarano and John Michael Hilton, Operations Manager, at Doltone House, Sylvania Waters. Doltone House is attempting to push the St George Sailing Club into bankruptcy and it has been reported that you supported this attempt to bankrupt the St George Sailing Club. Could you comment on that report?

**Mr JOSEPH TRIPODI:** Are you claiming that this meeting occurred at 11.30 p.m.?

**Ms LEE RHIANNON:** I was not at the meeting but I have been given a report that that meeting occurred.

**Mr JOSEPH TRIPODI:** Could you restate the question?

**Ms LEE RHIANNON:** A meeting was held on 6 January this year at 11.30 p.m. at Doltone House. At that meeting the attempts to push the St George Sailing Club into bankruptcy were discussed and it was revealed that you supported that attempt?

**Mr JOSEPH TRIPODI:** I do not have any recollection of any meeting at 11.30 p.m.

**Ms LEE RHIANNON:** I did not say that you were at the meeting; I was asking you to comment on the report that you supported the attempt to bankrupt the St George Sailing Club, as part of the development process in that area.

**Mr JOSEPH TRIPODI:** My view is that this is a commercial matter between the leaseholder and the tenant. They should resolve the matter themselves. I would not be able to comment about that meeting.

**Ms LEE RHIANNON:** Will you comment on the report that you supported the attempt to bankrupt the St George Sailing Club?

**Mr JOSEPH TRIPODI:** I do not have a view about the commercial dispute that is occurring.

**Ms LEE RHIANNON:** In 2004 did Mr Signorelli give you a large discount for your wedding reception at Doltone House?

**Mr JOSEPH TRIPODI:** This is just offensive; it is absolutely offensive. We dealt with this matter last year. It is disgraceful that you are using parliamentary privilege in this way. I remind you that back in 2004 I was not even a Minister. Your suggestion is absolutely and utterly offensive.

**Ms LEE RHIANNON:** Minister, this is an opportunity to clear up your relationship with Doltone House.

**Mr JOSEPH TRIPODI:** No, this is your chance to abuse parliamentary privilege.

**Ms LEE RHIANNON:** No, it is your opportunity to clear up your relationship and you are not doing that.

**Mr JOSEPH TRIPODI:** This is your chance to abuse parliamentary privilege. It is disgraceful that you are doing it in this way.

**Ms LEE RHIANNON:** I have received information that Doltone House holds functions for members of the Australian Labor Party and the Liberal Party without charging them the full rate, and that you have attended those events. Have you advised Doltone House that it is obliged to report money as gifts in kind to the Election Funding Authority?

**Mr JOSEPH TRIPODI:** No, I have not.

**Ms LEE RHIANNON:** Why not?

**Mr JOSEPH TRIPODI:** I am not obliged to do that. I have never discussed it with Doltone House.

**Ms LEE RHIANNON:** As Doltone House is involved in a development that comes under your responsibility and there is a clear relationship with your personal and political activities, this issue must be clarified and cleared up. Minister, this is your opportunity to do that.

**Mr JOSEPH TRIPODI:** I have made very clear what is my answer to that question. I find it absolutely offensive that you got into the gutter, as you normally do, and attacked my personal life in that way, knowing that I was not a Minister at the time.

**CHAIR:** Order! I ask Ms Lee Rhiannon to move on to another area.

**Ms LEE RHIANNON:** Clearly I have not attacked the Minister's personal life. These issues go to the heart of his responsibility as a Minister.

**The Hon. PENNY SHARPE:** Witnesses are allowed to object to matters that are outside the terms of reference of this Committee.

**CHAIR:** Order! The member's reference to a wedding was a reference to the Minister's personal life.

**Mr JOSEPH TRIPODI:** At the time I was not even the portfolio Minister.

**Ms LEE RHIANNON:** It should be remembered that this all relates to Doltone House. Minister, could you provide the Committee with details of the proposed \$10 million development at the St George Sailing Club? If not, perhaps some of your colleagues could provide those details.

**Mr JOSEPH TRIPODI:** Details of a proposal?

**Ms LEE RHIANNON:** Yes. I understood that in answer to my earlier question you were referring to the proposed development at St George Sailing Club.

**Mr JOSEPH TRIPODI:** I have clearly said to you that I know there is a dispute between the leaseholder and the tenant. There is a commercial dispute between them that in my view does not involve me.

**Ms LEE RHIANNON:** Could either of the people present provide more details about this development?

**Mr DUNN:** What would you like to know?

**Ms LEE RHIANNON:** What is that development? Are there any problems involved in that development and what stage has it reached?

**Mr DUNN:** The St George Sailing Club, which is a NSW Maritime leaseholder, has a contractual arrangement with Doltone House to provide function, restaurant and catering facilities for the club. Doltone House proposed some renovations to the club that would involve an expensive refurbishment of certain parts of the club and the creation of a modern convention and function centre. The negotiations and discussions between the club and St George fell on some stony ground. In July I attended a meeting with Doltone House and

St George in a kind of mediation role. The meeting was held in a room at the bottom of the St George club which, to be quite frank, could have done with a bit of Laura Ashley wallpaper, as it was a pretty damp and dark place. I advised them that they had to be quite ruthless about not allowing scope creep to get into their project.

**Ms LEE RHIANNON:** When you refer to scope creep, do you mean that they were expanding the project?

**Mr DUNN:** There was potential for this project to be expanded.

**Ms LEE RHIANNON:** Could you explain that in more detail?

**Mr DUNN:** At various time the project had varied, and the ambitions of the club and of St George had become a bit complex. There is a difficult relationship between the club and Doltone House. I was there as the landlord trying to offer better mediation to try to drive the project forward. This was ahead of a proposal that Doltone House was preparing with St George to take to its annual general meeting, which was a couple of weekends ago. I have not had a formal report back on how that went, but at the time the plan was to try to find a way forward.

**Ms LEE RHIANNON:** Are you aware of what was put to the annual general meeting?

**Mr DUNN:** No, I am not. I do not know the exact details but from what I heard I think that the annual general meeting had some reasonably frank discussions about the relationship and about the problems with the project.

**Ms LEE RHIANNON:** Could you inform the Committee of what you are aware? What was put to the annual general meeting and what did those frank discussions involve?

**Mr DUNN:** No, I do not have those details to hand, but I can say what was reported to me, and I asked for a report afterwards. I got a very brief summary, which said that there had been some fairly frank discussions about the relationship between Doltone and St George and that they were not that good and that they were still trying to find a way forward one way or another.

**Ms LEE RHIANNON:** Who reports to you? Is it Doltone or the club?

**Mr DUNN:** No, a staff member of mine would have reported to me.

**Ms LEE RHIANNON:** Who would have attended the AGM?

**Mr DUNN:** No. I offered to attend the AGM myself. That offer was declined. No representative of New South Wales Maritime was at the AGM.

**Ms LEE RHIANNON:** To ask again, who from the AGM reported to you?

**Mr DUNN:** It would have been the manager who would have reported to one of my staff.

**Ms LEE RHIANNON:** The manager of the club?

**Mr DUNN:** The manager of the club, yes.

**Ms LEE RHIANNON:** Considering that you describe yourself as the landlord and this is a complex issue, when do you expect to receive a full report from the AGM?

**Mr DUNN:** I am not necessarily expecting a full report from the AGM. Our relationship is with St George. The only reason I went along to a meeting between St George and Doltone was offering in a mediation role to try to help them through their problems, and that was at the request of St George.

**Ms LEE RHIANNON:** At the moment you have no involvement in the difficulty? What are you waiting for from St George?



**Mr DUNN:** St George is our tenant. If they decide to proceed with their arrangement with Doltone, St George will eventually have to come to us for an agreement to lease. That agreement to lease would include a sublease to Doltone.

**Ms LEE RHIANNON:** Is there any time limit within which they have to come to you?

**Mr DUNN:** None. They have a long-term lease. They could do it now, they could do it in 5 years, or they could do it in 10 years. It is entirely a matter for St George.

**Ms LEE RHIANNON:** Minister, are you aware that within this conflicting relationship is the suggestion that you are under pressure to resolve it considering that you are most likely to be out of Government and Doltone House is keen to gain the advantage while you are still the Minister?

**Mr JOSEPH TRIPODI:** That has never, ever been suggested to me.

**Ms LEE RHIANNON:** It has not?

**Mr JOSEPH TRIPODI:** It has never, ever been suggested to me. The fact that you actually ask those questions using parliamentary privilege is a disgrace.

**Ms LEE RHIANNON:** In March this year a ship carrying ammonium nitrate was detained at Newcastle port as being unseaworthy, but was allowed to leave the port before repairs were undertaken. I understand there was some issue that the repairs would be undertaken in Indonesia. Another ship also carrying the same substance, ammonium nitrate—

**The Hon. Trevor Khan:** Fertiliser?

**Ms LEE RHIANNON:** Yes. This ship went aground off Queensland, resulting in a massive oil spill. Could you explain why the ship was not required to be repaired before it left Newcastle port? Is there a problem with ships of convenience going through ports in New South Wales considering the potential problems for oil spills as we saw off the Queensland coast?

**The Hon. Ian West:** They are multinational companies and ships of convenience are a real problem.

**Ms LEE RHIANNON:** Yes, it is a serious problem. They are going through Newcastle port and are being allowed to move through without repairs.

**The Hon. Ian West:** For many, many years.

**CHAIR:** Members will allow the Minister to answer the question.

**Mr JOSEPH TRIPODI:** I will take that question on notice.

**Ms LEE RHIANNON:** You do not have anything to tell us? Do either of your staff members have anything to tell us? I would have thought you would have a briefing to share with the Committee?

**Mr JOSEPH TRIPODI:** The reason I am taking the question on notice is that there is a fine distinction between where the Commonwealth's responsibility starts and finishes and the State's. So, I will get advice on that and come back to you.

**Ms LEE RHIANNON:** Thank you, Minister. I thought you would have that demarcation at your fingertips. Bass and Flinders Cruises has been accused of dumping sewage into the Georges River. I understand that NSW Maritime has investigated these complaints against this charter operator. Could you inform the Committee about the complaints and what recommendations have been made to ensure that this does not occur again? Was the company fined?

**Mr JOSEPH TRIPODI:** I will take that on notice. It is not an issue that has been elevated to my attention.

**Ms LEE RHIANNON:** Good heavens! Can anybody answer it? There are six people with you, Minister. Surely something as extraordinary as dumping sewage into the Georges River in 2008 would be known to somebody who could inform the Committee?

**Mr JOSEPH TRIPODI:** While the Department of Environment and Climate Change is the lead agency for environmental protection, NSW Maritime has an important role when it comes to environmental impacts of boating. Issues include seagrass protection, funding and encouragement for additional pump-out facilities, action to minimise the effect of vessel wake on riverbanks, and work to develop an Australian standard on grey water treatment systems. The seagrass beds provide food and shelter for a wide variety of fish and invertebrates, and help bind the sea floor and improve water quality. The seagrass habitat is limited and can be affected by water torpidity or disturbance from vessels or mooring chains. To help preserve our seagrass habitat New South Wales Maritime has been trialling seagrass friendly mooring designs. We have trialled moorings installed in Port Hacking, Botany Bay, Pittwater and Brisbane Water. Initial trial moorings are expensive to maintain, but in 2005 a new design was produced that substantially reduced the time and expense involved. NSW Maritime is now trialling this new design in Port Stephens.

Anchoring in seagrass areas is prohibited and boaters are discouraged also from driving aircraft across shallow weedy areas. NSW Maritime routinely considers the location of seagrass beds in assessing development applications for which it has responsibility and refers applications that may impact on seagrass beds to New South Wales Fisheries for expert comment on potential consent conditions. Maps of seagrass beds are publicly available from NSW Maritime for the assistance of boaters. NSW Maritime also has responsibilities under the Protection of the Environment Administration Act, which makes it an offence to pollute any waters unless permitted under a licence issued by the Environment Protection Authority. Boating safety officers can issue on-the-spot infringement notices of \$750 to an individual or \$1,500 to a corporation where cases of pollution from vessels are detected.

Offences associated with oil pollution include penalties of up to \$10 million, reflecting the impacts of oil pollution on marine flora and fauna, and the challenges of removing substantial oil pollution from waterways. NSW Maritime also maintains a number of free public pump-out services and requires pump-out facilities to be available to all craft berthed at marinas in Sydney Harbour. Funding is available under the Better Boating Program for additional pump-out facilities where demand can be demonstrated. Lastly, NSW Maritime is working with a national committee of experts to develop an Australian standard for on-board grey water treatment systems to assist in the management of waste water from cooking and cleaning aboard recreational and hire-and-drive craft.

On-board treatment systems would be of particular benefit on the Murray and Hawkesbury rivers, which are home to thriving houseboat industries but have limited pump-out facilities along the less-polluted reaches of the waterway. The development of an Australian standard will be of value to manufacturers in designing acceptable on-board treatment systems and ensuring vessel wastes are properly processed. These are just some of the environmental protection activities undertaken by NSW Maritime. I refer the member to the website for any additional information she may seek.

**CHAIR:** Moving on to some general questions, last year there were reports of congestion in Port Botany, particularly with vehicle-carrying containers and where they were going to anchor whilst awaiting access to the wharves. What is the current situation at Port Botany? Have those delays been rectified and space provided?

**Mr JOSEPH TRIPODI:** One of the few benefits of the global financial crisis and the slow down in the economy is that there has been an amelioration or substantial reduction in the congestion at Port Botany. It does not mean that in any way the Government has reduced its resolve to try to address the congestion issues at the port.

Obviously, the economy will be recovering and, as a consequence, will be possibly confronting those challengers again. As you would be aware, part of the infrastructure solution to that is to progress Enfield so that we can move closer to achieving our target of 40 per cent by rail movement of boxes. That is progressing quite well. Also there is T3, the third terminal, which will help to address the land sites congestion issues also—having almost the same number of trucks being spread over three terminals as opposed to two.

I am advised that the environmental impact assessment determined that, by 2021, the contribution of the expanded Port Botany facilities to total forecast peak hourly traffic flow in the subregional study area would

be less than 2 per cent. Traffic effects have been mitigated by a number of initiatives. The first one is of course the development of the 40 per cent target of containers by rail. Also the Port Botany land site improvement strategy is in the process of being implemented. It will encourage the improved utilisation of truck capacity through an off-peak incentives scheme. This will spread the demand for access to the stevedore terminals throughout the night and day, and will reduce unnecessary truck movements.

Also the Australian Rail Track Corporation [ARTC] is undertaking a \$27 million investment in works to improve the Port Botany yard and a further \$309 million on the southern Sydney freight line to provide dedicated rail freight access to Port Botany from the south-west of Sydney. This includes \$13.5 million for the construction of noise walls along the corridor.

**CHAIR:** What is the timetable for the completion or upgrade of the freight line itself?

**Mr JOSEPH TRIPODI:** That is an ARTC project. From memory—and I am only going from memory and I will come back to you if it is incorrect—2020 is the date. I understand that construction is well underway now. That will actually make rail more competitive vis-à-vis road, and as a consequence hopefully will attract more boxes onto rail and reduce the amount of truck movements around the port.

**CHAIR:** You have been able to progress the amalgamation of the volunteer rescue organisations into one body and you have provided funding for that. Has that amalgamation worked successfully?

**Mr JOSEPH TRIPODI:** There is no doubt that it is a very emotional challenge for a lot of the volunteers in the three prospective volunteer marine rescue groups, but I have to say that the level of engagement, particularly at both the leadership level and among the volunteers themselves, has been a remarkable level of engagement in relation to the reform. Marine Rescue New South Wales recently has been formed. Several thousand members have expressed interest in joining and now the process of joining is under way.

The Rees Government established the new volunteer marine rescue organisation called Marine Rescue New South Wales, which will bring together the efforts of many hundreds of wonderful volunteers to deliver this vital service. Three voluntary marine rescue organisations—the Australian Volunteer Coast Guard Association, the Royal Volunteer Coastal Patrol and the Volunteer Rescue Association—have been invited to join Marine Rescue New South Wales. The formation of the new body was the main conclusion of an independent inquiry into the issue, the report of which was released in 2008. Ninety-three per cent of almost 800 submissions to the inquiry supported the creation of a new marine rescue group.

On 1 July 2009 the constitution was formally adopted and Marine Rescue New South Wales was registered. At the Sydney International Boat Show, the Premier announced the appointment of Inspector Glen Finniss from the Police Marine Area Command as the interim chief executive of Marine Rescue New South Wales. The Government has provided \$3 million towards establishing the new organisation in addition to its regular annual funding, which is for 2009-10 at \$1.39 million.

**CHAIR:** Thank you. Your budget paper reports refer to the development of the Rozelle Bay maritime precinct. Could you outline that and how it fits in with the Government's policy of trying to remove freight ships from the harbour?

**Mr JOSEPH TRIPODI:** The development of the Rozelle Bay maritime precinct has been going on for quite a while. There is a range of different tenants at different stages of undertaking their investment. In essence, in terms of the impact on commercial shipping or major commercial boating, we try to assist businesses in that area by earmarking an area for a new wharf for major commercial-type activities—for example, assisting industry that might be involved in getting access to the water to undertake infrastructure investment, such as the major upgrade of wharves around Sydney Harbour.

**CHAIR:** Good. You also state in the budget papers provision of \$89 million for improvements to wharves over the next 12 years. What impact has the number of accidents involving Sydney Ferries vessels had that have damaged wharves as a result of problems with steering or speed? What cost factor is involved, on top of normal maintenance, to rectify the damage?

**Mr JOSEPH TRIPODI:** In terms of the processes underway, New South Wales Maritime has been involved in the transfer of wharf infrastructure from local councils to the State Government. We have done that

because of our commitment to making sure that commuters have good quality infrastructure that they can use to access ferries. In March 2006 the Government announced that Maritime would take control of all those commuter wharves along Sydney Harbour, along with responsibility for their maintenance. Ownership and responsibility for maintenance of Sydney's commuter wharves previously had been shared among various bodies, including councils, government agencies and Sydney Ferries.

The commitment ensures that an integrated approach is taken to the upgrade and maintenance of commuter wharves. Following the 2006 announcement, New South Wales Maritime audited the wharves and developed an upgrade and maintenance program. As part of the plan, over \$36 million has been spent since the announcement on upgraded maintenance works to the wharves. This includes Taronga Zoo wharf's refurbishment, which was completed in December 2008 at a cost of approximately \$2.5 million, and Manly wharf, where major upgrade works were completed in June 2007 at a cost of \$15.7 million.

As you know, New South Wales Maritime is a non-budget dependent agency. It is a self-funding agency. Upgrade and maintenance works are funded from the revenue that New South Wales Maritime generates. In August 2008 I announced our long-term plan to spend \$89 million over 12 years to progressively upgrade the wharves, including providing disability access.

I am advised that New South Wales Maritime plans to spend approximately \$12.7 million in 2009-10 on Sydney Harbour wharves, focusing first and foremost on safety and also improving berthing efficiency and public amenities. The Rees Government's commitment, strategies and actions will secure continuing access and amenity for ferry commuters and will support improvements to transport on the State's waterways.

**CHAIR:** Is the damage caused by Sydney Ferries finally billed against Sydney Ferries? How do you handle any damage to the wharves?

**Mr JOSEPH TRIPODI:** Traditionally, as I touched on in my first answer, that was a cost-spend experience by the previous owners. I will ask the chief executive to cover the arrangements that we have put in place since then.

**Mr MIDDLETON:** Where the damage is known to be done by Sydney Ferries, it is dealt with either through their insurance or it is billed to them directly. But it does not impact on the ferry wharf maintenance budget.

**CHAIR:** Then does Sydney Ferries have to reimburse Maritime New South Wales?

**Mr MIDDLETON:** Yes, either from their insurance or through their own budget, if it is a small amount.

**CHAIR:** That brings us to the conclusion of examination of the Minister's Ports and Waterways estimates. Government members have forgone their questions because of the arrangements for swearing in of Ministers at Government House. I wish you all the best. Thank you for your attendance, Minister, and for the attendance of your staff.

**(The witnesses withdrew)**

**The Committee proceeded to deliberate.**