

## **PORTS AND WATERWAYS**

### **QUESTIONS TAKEN ON NOTICE DURING THE HEARING**

#### **Question 1**

*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.

#### **Answer**

At July 2008 there was a policy concerning use of NSW Maritime resources. The Department of Premier and Cabinet's model code of conduct which states "Official facilities and equipment should only be used for private purposes when official permission has been given. This may include short private local telephone calls and limited private use of facsimile equipment that does not disrupt official work".

Ms Kelly had official permission from a previous Chief Executive.

NSW Maritime's policies now state:

For staff engaging in secondary employment or volunteer work, the use of NSW Maritime resources is prohibited. The policy states "Staff with approval for secondary employment are not permitted to use NSW Maritime's premises or resources, including telephones, stationery, fax, mobile phone or computer equipment or services". These changes were made on 18 August 2009.

#### **Question 2**

*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.

#### **Answer**

I refer the Committee to my answer to Question 1.

#### **Question 3**

*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.

**Answer**

I am advised NSW Maritime assists with Professional Indemnity Insurance for Legal Branch staff if it is reasonably required as part of their official duties.

**Question 4**

*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.

**Answer**

I am advised the level of coverage is a standard cover of up to \$1.5million per occurrence.

**Question 5**

*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.

**Answer**

I am advised NSW Maritime staff who hold Professional Indemnity Insurance as part of their official duties, are required to declare income from all sources relative to their practising certificate.

**Question 6**

*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.

**Answer**

Approval for the holding of Professional Indemnity Insurance by relevant staff as a requirement of her official duties, was granted by NSW Maritime's then General Manager, Corporate Services, in 1999.

### **Question 7**

*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.

### **Answer**

I am advised Mr Bertram was directed not to attend NSW Maritime premises for 7 days.

### **Question 8**

**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.

On 24 August 2009 I issued a letter to Ms Kelly regarding her secondary employment and reminding her of her obligation to ensure that secondary employment was not to result in any potential conflict of interest.

Please find attached the letter issued to Ms Kelly.

### **Question 8**

*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.

### **Answer**

I am advised the Commonwealth Australian Maritime Safety Authority (AMSA) conducts safety inspections of vessels in Australian ports and exercises powers such as detaining vessels or giving them limited authority to sail. Newcastle Port Corporation (NPC) also has safety responsibilities and may report concerns to AMSA. AMSA may make a determination and notify NPC accordingly. NPC will then make necessary arrangements.

Both vessels carrying ammonium nitrate through Newcastle in March were managed according to the usual safety procedures.

The MV Megah Tiga, was detained by AMSA at Newcastle for safety related deficiencies. Following repairs carried out under the direction of the vessel's Class Surveyor and AMSA, the vessel was cleared by AMSA to leave the port without cargo and proceed to dry dock in Asia for further repairs. No problems eventuated from this vessel. Nevertheless, NPC then conducted its own risk assessment and introduced new pre-loading safety check requirements for all vessels carrying ammonium nitrate.

The MV Pacific Adventurer was cleared to leave Newcastle carrying ammonium nitrate. No safety concerns were identified at the Port. During transit, the vessel ran into heavy seas off Qld and as a result lost 31 containers. During the incident, containers holed the vessel's fuel tank and caused the vessel to spill oil. The vessel did not run aground.

AMSA and Maritime Safety Queensland undertook their own investigations of this incident. As the incident did not involve the Port of Newcastle, NPC was not involved in the investigations. However, NPC, as part of the National Response Team, provided resources to assist the oil spill clean up.

#### **Question 9**

*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.

#### **Answer**

I refer the member to the answer given in response to Question on Notice 3341 Bass Flinders Cruises published in the Legislative Council paper 109.

#### **Question 10**

**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—2011 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.

**Answer**

I am advised the correct date is 2010.

**ADDITIONAL QUESTIONS RECEIVED ON NOTICE****Questions from Mr Khan**

1. The proposed closure of the Port Jackson Pilot Boarding area from position three miles east of North Head and relocation, ten miles to the south, to a single boarding area at Port Botany will compel all vessels intending to call at Port Jackson to divert to Port Botany in order to embark and disembark pilots:
  - a) What is the estimate cost to the cruise industry and the other port users of the twenty mile diversion that will be involved in order to embark a pilot off Port Botany?
  - b) What will the increase in port turnaround times for the vessels?
  - c) What will be the reduction in costs to the SPC associated with the closure of the Pilot Boat service in Port Jackson?
  - d) How many Pilot Boat crew are employed in Port Jackson?
  - e) How many Pilot Boat crew are employed in Port Botany?
  - f) What is the age of the present Pilot Boat Fleet?
  - g) Will the cost of upgrading the Pilot Boat fleet be passed on to port users by way of an increased boarding fee?

**Answer:**

1. I am advised:
  - a,c) With 80% of all vessel movements now into and out of Port Botany it has become increasingly uneconomic to provide a dedicated pilot transfer operation based within Sydney Harbour. The introduction of a Single Pilot Boarding ground will result in operational efficiencies. Pilotage is only one component of bringing a ship into the Harbour. Among other things, costs also depend on the direction a ship enters the port.

- b) There will be no increase in port 'turn around times' with the introduction of the new single point boarding arrangements.
- d-e) Currently Sydney Ports has four crews of two men primarily based at Botany and four crews of two men primarily based at Sydney, with one crew of two men acting in a relieving capacity at both locations.
- f) The current fleet of four pilot boats is aged between 22 years and 30 years.
- g) No.

2. The proposed closure of the Port Operations Control Centre at Millers Point will have a significant impact on the safety of marine operations in the Darling Harbour/Sydney Cove areas.

- a) What is the cost of relocating the POCC from Millers Point to Port Botany?
- b) How will the proposed VTS centre in Port Botany enhance the safety of vessel operations in Darling harbour and Sydney Cove?
- c) What is the cost of the installation of the VTS Centre in Port Botany?
- d) How many extra staff will be employed to man the VTS Centre?
- e) What is the cost of training the staff of the VTS Centre?
- f) Will the costs of the VTS Centre be passed on to Port Users through increases in the Navigation Services fee?

**Answer:**

2. I am advised:

- a) The budget for the new combined operations centre/ offices at Port Botany is \$13M.
- b) The increased functionality and capability of a compliant modern VTS centre will allow for continued safety, efficiency and environmental protection improvements.
- c) A provisional project budget of \$11 M has been allocated for a fully IALA (International Association of Marine Aids to Navigation and Lighthouse Authorities) compliant VTS system.
- d) Staffing levels will be determined in line with the operation of an IALA compliant VTS system.
- e) Staff will be trained in accordance with IALA recommendations.
- f) No.

3. What is the cost of relocating the Sydney Port Corporation corporate headquarters from Kent Street to Millers Point?

**Answer:**

3. I am advised:

Sydney Ports Corporation's new Corporate Office is located at 20 Bond One, Windmill Street Walsh Bay, opposite Sydney Ports Corporation's existing port operations facility at Moore's Wharf. The Kent Street office had insufficient space to meet longer term business requirements.

A business case demonstrated the benefits of a move to Bond One.

The total cost of relocating the Sydney Ports Corporation from Kent Street to Millers Point is \$3.9M.

4.

- a) Has the Government and BHP Billiton agreed on the outstanding issues that BHP Billiton had regarding the access arrangements at Newcastle Port?
- b) If yes, why have you not signed the agreement with the industry given that you were saying that BHP Billiton was the last outstanding company to agree to the arrangement?
- c) Are there any other companies who are now saying they have a problem and have not signed up?
- d) If there are others who have an issue why did the Government tell the public that 13 of the 14 were not happy with what you agreed to?
- e) If you have not agreed on your outstanding issues, why not and what is outstanding?

**Answer:**

4. I am advised:

- a- e) All outstanding issues have been resolved and all parties have signed the necessary documentation to give effect to the industry agreement that includes access arrangements at Newcastle Port.