

GENERAL PURPOSE STANDING COMMITTEE No. 1

Monday 17 November 2008

Examination of proposed expenditure for the portfolio areas

PORTS, WATERWAYS

The Committee met at 11.15 a.m.

MEMBERS

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

The Hon. M. A. Ficarra
The Hon. D. J. Gay
The Hon. K. F. Griffin

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

PRESENT

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 2008-09 open to the public. I thank the witnesses, who have returned for this supplementary hearing into the proposed expenditure for the portfolio of Ports and Waterways. I refer to my statement earlier today about procedural matters, such as the broadcasting of proceedings. All witnesses will be sworn prior to giving evidence. As Mr Dunn and Mr Middleton made an affirmation at the initial budget estimates hearing, they are not required to be reaffirmed today. I declare the hearing into the proposed expenditure for the portfolio of Ports and Waterways open for examination.

STEVE DUNN, Chief Executive, NSW Maritime, and

TONY MIDDLETON, Acting Deputy Chief Executive, NSW Maritime, on former oath:

The Hon. DUNCAN GAY: Mr Dunn, my first question is to you. The issue of life raft inspections for vessels travelling up to 20 miles out to sea is of increasing concern to many operators. Inspections now have to occur every 12 months, as opposed to the previous arrangement of every two years. The cost to operators for the annual life raft inspection is \$2,500 per life raft. Can you state why these inspections are now required to be carried out annually and, although a price cannot be put on safety, can you detail the reasons for the change, given the procedure is of considerable expense to the marine charter operators? Will you consider going back to an inspection every two years, if possible?

Mr DUNN: I am happy to look at that. I do not have the answer to hand.

The Hon. MARIE FICARRA: Is there a designated point in New South Wales for the disposal of marine flares that have passed their expiry date?

Mr DUNN: I can tell you that there is not.

The Hon. MARIE FICARRA: What is the department doing about it?

Mr DUNN: This is primarily a matter for the Environment Protection Authority [EPA], as this is a product that is obviously potentially explosive. We have been working with the EPA, but at the moment there is no designated disposal point.

The Hon. MARIE FICARRA: What about interstate procedures? Are there any plans to bring New South Wales into line with the other States where, I believe, they do provide areas to drop off flares for safe destruction? Have you been looking at the situation interstate and trying to form a national approach?

Mr DUNN: Yes, we have been looking at what they have been doing interstate. I do not think the other States have found a solution. There are obviously a lot of things that we have in our possession that have expiry dates and have to be disposed of safely. It is not just an issue that is related to boating flares. There is no one central point. It is the individual's responsibility to dispose of them.

The Hon. MARIE FICARRA: At the moment the New South Wales Police Force, which was the only civil agency that was allowed to handle explosives, now refuses to accept flares. How long has this situation been going on? Does that mean that there are all these expired flares out there and nobody is doing anything about them? Is that not dangerous?

Mr DUNN: It is an individual responsibility to dispose of flares. It is no good having fireworks in your cupboard—

The Hon. DUNCAN GAY: Dispose of them where?

Mr DUNN: It is a matter for the EPA, not a matter for NSW Maritime. NSW Maritime is a safety regulator. Flare disposal is not a matter for NSW Maritime.

The Hon. MARIE FICARRA: Surely your department would keep in contact with the EPA?

Mr DUNN: Yes, we have been talking with the EPA.

The Hon. MARIE FICARRA: Do you have a time frame? Has there been an update?

Mr DUNN: Not at this stage.

The Hon. DUNCAN GAY: Strong letter following?

The Hon. MARIE FICARRA: What about boaters? Are they given any information? They are probably carrying these expired flares on board. Do you give them any information about the danger of the situation?

Mr DUNN: I do not think these are explosives. I do not think they are categorised as explosives.

The Hon. MARIE FICARRA: How long can they be kept there? Do you have any idea about the safety issues? It seems to me that nobody cares. The EPA has the responsibility, but the EPA has so many things to do that really no-one cares. I trust that you will keep in contact with the EPA?

Mr DUNN: We certainly will do.

The Hon. MARIE FICARRA: On 1 February overseas authorities will cut the satellite receiver that picks up distress signals of Australian boat users caught at sea. Given that thousands of Australian boat users could hit the water this summer carrying emergency beacons that do not work, what steps has your department to adequately warn boat owners of the need to have their beacons switched over to this new frequency?

Mr DUNN: We have been undertaking an extensive media campaign since earlier this year. I think there was a public press conference on the issue. We have been advertising in all the major boating magazines. You can find information on our website. We have been advising everybody when their registration is due for renewal that if they have an electronically position indicating radio beacon, they are required to update it.

The Hon. MARIE FICARRA: That will be occurring with every boat owner every year? Is everyone getting that?

Mr DUNN: Everybody who needs to know is being told.

The Hon. MARIE FICARRA: Good. Thank you.

The Hon. DUNCAN GAY: Mr Dunn, you would probably recall that in our last budget estimates hearing, the Minister said that night-time patrols on Sydney Harbour had increased 100 per cent, and would increase a further 100 per cent at the start of the boating season. What the Minister did not tell us, probably because he forgot, was the base figure of the controls that was increased by 100 per cent. Can you give us what that figure is?

Mr DUNN: The number of night patrols that New South Wales Maritime is doing now will be greater than eight per month between October and January. That has increased. I will just qualify that: New South Wales Maritime obviously does an awful lot of patrol work on Sydney Harbour. Traditionally that has been done during periods of the highest boating activity. Night-time activity has become a focus in recent times because of a number of night-time incidents. That is why we have increased the number of patrols or dedicated the number of patrols on Sydney Harbour to a minimum of eight per month between October and January.

The Hon. DUNCAN GAY: What does eight per month mean?

Mr DUNN: That is eight night patrols per month.

The Hon. DUNCAN GAY: About one every four days, on average?

Mr DUNN: More than two a week, on average.

The Hon. DUNCAN GAY: If you do more than two a week and the Minister said he had increased by 100 per cent, and then a further 100 per cent, what did you start at?

Mr DUNN: Two a month.

The Hon. DUNCAN GAY: You should have had six a month.

Mr DUNN: I am happy to clarify this.

The Hon. DUNCAN GAY: Please do.

Mr DUNN: The number of night patrols that Maritime used to do was fairly random and fairly ad hoc. It was not a high priority or assessed as a high-risk area for patrol activity. That has been revised. New South Wales Maritime and the New South Wales Water Police undertake extensive patrols of Sydney Harbour. The Water Police have a lot more resources on Sydney Harbour and are responsible for a range of water-compliance activities. Our primary goal is boating safety. Our goal is to educate regular boating users about the requirements at night that are not required during the day.

We have changed our patrol inspections during the day to include lighting checks, so we are checking lights during the day as well as that night. Night-time the patrols are stratified so that we do post-dawn, spanning midnight, and pre-dawn, and we vary the days so that we capture all of the regular recreational boating users on Sydney Harbour over a period of time. What we will be doing is reviewing the compliance statistics on navigation lighting early in the New Year. Then we will revise our patrol plan again to make sure that we catch all.

The Hon. DUNCAN GAY: Just so that I am clear, it is six coming into the summer season per month at night.

Mr DUNN: It is eight per month. It is a minimum of eight per month.

The Hon. DUNCAN GAY: What is it outside the summer season?

Mr DUNN: We do not have a target. Our patrol plans are aimed at periods of the highest risk and the highest use of boating activity on Sydney Harbour.

The Hon. DUNCAN GAY: So it is none outside the summer period?

Mr DUNN: We can run night patrols at any time during the year.

The Hon. DUNCAN GAY: You can, but do you? How many?

Mr DUNN: Our patrol plans are set prior to the beginning of every month, four weeks in advance.

The Hon. DUNCAN GAY: How is the Minister able to tell Parliament and budget estimates hearings that he had increased it by 100 per cent and a further 100 per cent?

Mr DUNN: Because that was the information we gave him, which is based on the patrol plan we were delivering.

The Hon. DUNCAN GAY: But that is not what you are telling me.

Mr DUNN: Perhaps it would be better if I can get the question properly documented. I will give you a written answer. I can guarantee you that the statistics the Minister quoted were spot-on.

The Hon. MARIE FICARRA: Provide the document. We want to have a look at it.

The Hon. DUNCAN GAY: I nearly said that. Mr Dunn, were some of the staff taken from that day-time shift to put on the night-time shift?

Mr DUNN: I am sorry, could I ask you to clarify that?

The Hon. DUNCAN GAY: You increased the night-time patrols. Did you lower the numbers operating in the daytime to be able to get the increased numbers that night?

Mr DUNN: To the best of my knowledge, we have not reduced daytime patrols. If I can explain that: We have boating safety officers that are dedicated to Sydney Harbour, and we have another squad of boating safety officers that operate more broadly in the Sydney region that we are able to call upon to fill any holes in the patrol roster. To the best of my knowledge, we have not reduced daytime patrols in order to increase night-time patrols.

The Hon. DUNCAN GAY: But you will check and clarify that?

Mr DUNN: I will indeed.

The Hon. DUNCAN GAY: Was there a 4 per cent cut to New South Wales Maritime in the budget?

Mr DUNN: There was no cut in budget.

The Hon. DUNCAN GAY: In the mini-budget?

The Hon. MARIE FICARRA: You are lucky you escaped.

Mr DUNN: No cut. I must have missed that line item. New South Wales Maritime is self-funding. We are non-budget dependent. We generate our own revenue from licence sales, property revenue and port fees.

The Hon. DUNCAN GAY: I will come back to that. Given that Sydney has only two berthing spaces for cruise ships and that from next year for cruise ships, like the *Millennium* and *Rhapsody of the Seas*, will have to anchor at the Athol Bay Buoy, what is the state of mooring buoys at Athol and at Point Piper? What is the current state of repair, et cetera? Has there been a report done on them recently? What is the situation with that?

Mr DUNN: We will get clarification from the Ports Corporation for you and report back to you on that.

The Hon. DUNCAN GAY: And a copy of the last inspection and when it was?

Mr DUNN: We will get the information from the Ports Corporation for you.

The Hon. DUNCAN GAY: Why do the ships have to anchor at these buoys, and when was the last time these buoys were serviced?

Mr DUNN: We will seek clarification from the Ports Corporation for you.

The Hon. DUNCAN GAY: Is the cruise ship *Aurora* going to anchor at Point Piper early next year?

Mr DUNN: We will seek clarification from the Ports Corporation for you.

The Hon. DUNCAN GAY: Why are not representatives from the Ports Corporation here?

Mr DUNN: We are more than happy to get information from the Ports Corporation for you.

The Hon. DUNCAN GAY: This is budget estimates. The Minister is not here. I would have expected the appropriate people from the departments to be here. Why is not someone from the Ports Corporation who can give us answers included in this group?

Mr DUNN: We can get that information for you. It is really not a problem. I could not possibly have every member of New South Wales Maritime here to answer every possible question.

The Hon. DUNCAN GAY: Nor would we find it acceptable for you to do that. But, given the areas that cross over in this, I would have hoped that they were here. Mr Dunn, given that there is no facility for repairing ships at Botany Bay, where do ships that need repairs go and why is there not a facility at Port Botany to do this?

Mr DUNN: What kind of ships are we talking about?

The Hon. DUNCAN GAY: Any ship that enters the harbour that may need repairs.

Mr DUNN: Port Botany is a port, not a shipyard. Clearly, it would not be practical to have the capacity to repair any possible ship in Port Botany.

The Hon. DUNCAN GAY: Are there any repair facilities in Port Botany?

Mr DUNN: Depending on what kind of ship we are talking about. There are some modest repair facilities further up, in Botany Bay and in the Georges River, but not for large-scale commercial shipping.

The Hon. DUNCAN GAY: To what extent are hydrographic surveys being conducted on New South Wales ports to ensure they are kept in safe standards, and how many have been done in the last 10 years?

Mr DUNN: There are regular hydrographic surveys of all channels. I could not tell you the exact number, but I can get you some further information.

The Hon. DUNCAN GAY: Would it surprise you if my information indicated that these surveys are not regular but quite infrequent?

Mr DUNN: I do not know how you would describe "infrequent". Obviously, we would believe that they are adequate to ensure safety.

The Hon. DUNCAN GAY: Does your department have an idea of how much money each cruise ship contributes to the New South Wales economy, and what planning do we have in place to accommodate these ships in the future?

Mr DUNN: I will take that on notice.

The Hon. DUNCAN GAY: Given the lack of berths in Sydney Harbour, has New South Wales Maritime or your department held talks with the Federal Government about the Navy's future at Garden Island?

Mr DUNN: I am aware that the previous Chief Executive Officer of New South Wales Maritime was having discussions with the Navy, and those discussions led to his belief that there would be ad hoc arrangements at Garden Island on an ongoing basis but that the Navy would retain the right to be able to operate that, primarily as a naval facility.

The Hon. DUNCAN GAY: Were you aware that there was a double booking in Sydney and that at least one ship had to be berthed at Athol Buoy?

Mr DUNN: I was aware of that, yes.

The Hon. DUNCAN GAY: How did you become aware of that?

Mr DUNN: I do not recall.

The Hon. DUNCAN GAY: Do you remember when you became aware of that?

Mr DUNN: No. It was quite recently.

The Hon. DUNCAN GAY: It was not when I asked the question in budget estimates?

Mr DUNN: I honestly do not call. We certainly sought clarification of the situation after the last estimates hearing, but I cannot recall—

The Hon. DUNCAN GAY: Was I correct?

Mr DUNN: What was your question?

The Hon. DUNCAN GAY: That the Minister seemed unaware that because of a double booking a ship had to be moored that Athol Buoy?

Mr DUNN: I do not think it was a double booking technically; it was a late booking—which is a very different situation.

The Hon. DUNCAN GAY: That is not what the industry says, but we will let that go. With regard to Port Waratah, the industry is concerned about the failure to sign off on the Greiner report. I quote from an article written by Matthew Stevens in the *Australian* on 13 November:

Greiner says this is a 10th order problem. He is right. The next most likely Hunter producer is China's Shenhua, which has offered a staggering \$600 million for the licence to the Watermark exploration area in the Gunnedah basin.

Watermark could hold up to 1 billion tonnes of high-quality steaming coal, but Shenhua is unlikely to deliver coal anywhere until 2016. All things being equal, even the Australian coal industry could deliver new port capacity by then.

That is the coal industry's point in its, so far fruitless, discussions with Tripodi.

The point here is that there are known producers, and Mr Stevens in his article indicates that the only new producers will be coming in in about 2016. Is there information beyond that that is delaying the Minister's decision in signing off on this?

Mr DUNN: Not that I am aware of.

The Hon. DUNCAN GAY: The Australian Consumer and Competition Council has now announced that it will ban the current CBS allocation scheme from 1 January because it breaches trade practices rules. As I indicated, the Minister has refused to sign off on the Greiner plan for sharing capacity because of the so-called new investors. What concerns does your department have with the Greiner plan?

Mr DUNN: I might take that on notice.

Ms LEE RHIANNON: Could you tell me what involvement your department has with the Wollongong harbour redevelopment plans?

Mr DUNN: Are you talking about the port?

Ms LEE RHIANNON: No, I am talking about the harbour.

Mr DUNN: Nothing. It is a matter for Lands.

Ms LEE RHIANNON: What is your involvement with the Rose Bay mariner?

Mr DUNN: Rose Bay mariner is a tenant of ours.

Ms LEE RHIANNON: Therefore, have you had any discussions with them about their latest development application proposal?

Mr DUNN: Yes, we have.

Ms LEE RHIANNON: What have those discussions involved?

Mr DUNN: They sought permission from New South Wales Maritime to lodge a development application with Woollahra council, and that has been granted.

Ms LEE RHIANNON: Is it as simple as that? Do you look at aspects of the proposal before you sign off on allowing them to go ahead?

Mr DUNN: Primarily whether the proposal would present any navigation issues for other users, and that the mariner could be operated safely from a navigation perspective.

Ms LEE RHIANNON: What about the public interest? You have not included public interest.

Mr DUNN: That is not a matter for us, that is a matter for the determining authority.

Ms LEE RHIANNON: What about public interest in terms of the number of boat users, considering some of these marinas are reducing the number of boats that are able to use the marina? Do you look at that or do you put that under public interest so you do not look at it?

Mr DUNN: Our role at this stage of the development is to consider whether or not the marina falls within our land use—the things that we would approve as the landowner. That is the only interest we have at this stage. The next stages when the matter is considered by Woollahra Council, and obviously we are a stakeholder in that, and if we had concerns of those kind we would raise them through the planning process in the same way that any other stakeholder can.

Ms LEE RHIANNON: Have you done that in the past where you have raised concerns at that stage?

Mr DUNN: Certainly NSW Maritime has a strong history of having input into marina developments, yes.

Ms LEE RHIANNON: But that is not actually an answer to the question. The question was: Have you had an input at that development application stage when it is before a council?

Mr DUNN: Certainly the previous consideration of Rose Bay marina we put an extensive submission into that process.

Ms LEE RHIANNON: With regard to this current development, considering the total number of Sydney moorings is reduced from 172 to 102 and the total capacity of both marinas of 219 vessels is lower than at present, is that a matter that you will take up?

Mr DUNN: We would be supportive of our proposal in this instance.

Ms LEE RHIANNON: So you would be supportive of the new marina proposal even though it reduces the number of boats that will have access to that area?

Mr DUNN: I will take the specifics on notice, if you do not mind.

Ms LEE RHIANNON: I must admit that I am surprised that you just signed off on that, considering that this proposal is reducing public access to the harbour in that area, if you are taking public access in terms of the number of boats that can use that area.

Mr DUNN: That is a fairly narrow view of public access.

Ms LEE RHIANNON: How would you define "public access"?

Mr DUNN: I think that is a fairly narrow view. I am not sure I am in a position to give you a detailed definition of "public access", but we have seven or eight different levels of public access that we look at in terms of assessing the various kinds of boat access—everything from trailers through to private moorings, commercial moorings, jetties, slipways, marinas.

Ms LEE RHIANNON: Could you take on notice what your seven definitions are of public access?

Mr DUNN: I am more than happy to provide that to you. I think I just quoted them actually, did I not?

Ms LEE RHIANNON: I do not think so, not in detail. I am sure you are aware this is where the question is going. There is a rising concern around many of these marina developments that these proposals are locking up smaller budget boating enthusiasts and catering to the high-end boaters while at the same time reducing the amenity of the foreshore for the general public.

Mr DUNN: Can I just clarify it? My understanding, and I will check this and come back to you if I am wrong, is that the change in the number of moorings associated with the Rose Bay marina proposal relates to commercial moorings not private moorings and that those moorings are an amalgamation by the marinas of their commercial moorings into marina berth space. This is not public access.

Ms LEE RHIANNON: So you are saying the public is not losing out?

Mr DUNN: That is my understanding. I will check, but that is my understanding.

Ms LEE RHIANNON: How many community meetings have your representatives participated in over these two marina proposals associated with Rose Bay?

Mr DUNN: I am not sure.

Ms LEE RHIANNON: Could you take that on notice please?

Mr DUNN: Of course.

Ms LEE RHIANNON: With regard to the Port Macquarie marina proposal, is that yours or is that Lands?

Mr DUNN: That is Lands.

Ms LEE RHIANNON: When we were at estimates last time I asked Mr Tripodi about the contract for Port Botany. I asked if it was a fixed-price contract and he said he understood it is but then stated, "but obviously there are some issues where the risk may be borne by Sydney Ports Corporation". A further question he took on notice. I must admit I did not find his answer that informative and I was wondering if you could expand on it. The answer that came back from the question on notice states, "I am advised that this contract mitigates the exposure to risk for Sydney Ports Corporation and includes standard provisions regarding costs for variations and contingencies". Could you explain in detail how the contract mitigates the exposure to risk for Sydney Ports Corporation, because there is a clear interpretation that can be taken from that statement that Sydney Ports Corporation still bears the risk?

Mr DUNN: I will take that on notice.

Ms LEE RHIANNON: Can you also either answer this now or take it on notice: On the second aspect of that response, which is about the standard provisions regarding costs for variations and contingencies, could you provide details of what those variations and contingencies are?

Mr DUNN: I will take it on notice.

Ms LEE RHIANNON: Going back to marinas, I am trying to understand the process. With regard to marina development, is it correct that the Department of Ports and Waterways is the consent authority for marina proposals for harbourside land and that the Department of Lands is a consent authority for marinas in estuaries and rivers?

Mr DUNN: No.

Ms LEE RHIANNON: Could you explain the division between Lands and Ports and Waterways please?

Mr DUNN: It is complicated. I will give you a written answer to that. But the statement that you made was wrong. The arrangement is complicated, so rather than risk making an error I will give it to you in a written response.

Ms LEE RHIANNON: What land that the Department of Ports and Waterways is the consent authority for is earmarked for marina development?

Mr DUNN: Maritime is not the consent authority for marinas. It will either be council—

Ms LEE RHIANNON: No, I said the Department of Ports and Waterways.

Mr DUNN: There is no Department of Ports and Waterways; there is the NSW Maritime Authority.

Ms LEE RHIANNON: I apologise. Who are you the consent authority for? You have some involvement with marinas?

Mr DUNN: We do.

Ms LEE RHIANNON: You are going to take it on notice and explain that involvement but I am trying to find out also which bits of land you cover.

Mr DUNN: NSW Maritime owns the bed of Sydney Harbour.

Ms LEE RHIANNON: Where does the bed come up to? The high-tide mark?

Mr DUNN: The high-water mark. But a marina that is built over the bed of Sydney Harbour we give permission to lodge, as the landowner, but the consent authority would generally be the local council. Generally it would be the council and in some cases it can be NSW Planning.

Ms LEE RHIANNON: I will have a look at your answer and try and understand this. Does your department ever carry out any studies or investigations into land use that you are the landowner consent holder for?

Mr DUNN: We look at the land that we own and how best it might be used and we generally reserve that for maritime precinct development; for example, at Rozelle where we have a maritime precinct under development at the moment.

Ms LEE RHIANNON: You acknowledge that sometimes these studies and investigations are carried out. Have they ever identified land that you believe would be, in your judgement, best used as marinas?

Mr DUNN: Not that I am aware of. I will go away and check.

Ms LEE RHIANNON: Can you take that on notice?

Mr DUNN: Yes, I will.

CHAIR: I note that there have been some reports of changes in the operation of the pilot system in Sydney Harbour. Could you just explain what that change involves and what facilities will still be operating for ships coming into Sydney Harbour?

Mr MIDDLETON: The change that has been reported has been the closure of the Watsons Bay pilot station, which is operated by Sydney Pilot Service on behalf of Sydney Ports Corporation. What they have done is relocate that service so it is going to be provided from their site down at Millers Point elsewhere in Sydney Harbour. The reason they have done it is primarily because of the relocation of the car trade from Port Jackson to Port Kembla, so there is a reduction of ships coming into the harbour and it is intended at some stage that the pilot service will eventually provide all their services from Botany Bay.

CHAIR: What about the large tourist ships coming into the harbour? Does that mean that they will not have a pilot?

Mr MIDDLETON: They will continue to have a pilot. The only difference is that, instead of the pilot launch going out from Watsons Bay to meet those vessels, they will go out from Millers Point. They will still meet those ships at the same point, at the pilot boarding grounds off Sydney Harbour, and they will continue to bring those ships in.

CHAIR: A moment ago you said that you will shift it all to Botany Bay.

Mr MIDDLETON: Should the service be relocated there, they will go out from Botany Bay and they will continue to meet the ships at the recognised pilot boarding grounds off Port Jackson and bring the ships in. At the moment Sydney Ports Corporation provides the same pilot service but they go out from both Botany Bay and Port Jackson. They have been looking at rationalising that and eventually providing that service from one pilot station. It has no impact at all on the shipping industry.

CHAIR: So it is reducing the staff and the number of boats.

Mr MIDDLETON: As far as I am aware, it does not have an impact on staff. It is literally just relocating where the pilot launch leaves from, from Watsons Bay to somewhere else in the harbour.

CHAIR: You think it would take a lot longer for the operation if it is coming out of Botany Bay for a ship coming into Port Jackson.

Mr MIDDLETON: I am not across all the details. I am aware that Sydney pilot service has had a good look at it and that is a decision it has made.

CHAIR: I am assuming that what they are planning will be less expensive.

Mr DUNN: I think presumably there are some efficiencies in what they are planning to do, eventually running it from a single location.

CHAIR: I was trying to establish how it could be more efficient operating from Botany Bay. That is something we can follow up when we see the actual operation of it. I note as part of this mini-budget that the jet service from Circular Quay to Manly has been cancelled. Are you involved in any questions about—

Mr DUNN: That is a matter for the Ministry of Transport.

CHAIR: So you do not make any recommendations, saying that you think it is important to keep that availability for passengers?

Mr DUNN: No.

The Hon. DUNCAN GAY: Just the wharves that fall into the harbour.

Mr DUNN: That is the Ministry of Transport.

CHAIR: The same would apply to the 50 per cent increase, although that is shown as being under the Maritime services authority?

Mr DUNN: It is. It is our responsibility.

CHAIR: Earlier you said that you are a self-funding department so you have to raise your own revenue. Is the increase solely a revenue-raising measure?

Mr DUNN: I think that falls into the category of a policy issue and should be referred to the Government. I will not comment on the relative merits of the Government's policy.

CHAIR: So basically the decision was made by the Minister, not by NSW Maritime.

Mr DUNN: It is not a decision that NSW Maritime has made.

CHAIR: What action do you take about it then? Do you implement it?

Mr DUNN: Yes, we implement it. We will hold discussions with Sydney Ferries about collecting the 50¢ levy and that money all goes into the \$89 million ferry wharf maintenance program.

CHAIR: The fees for Sydney Harbour moorings have increased. How was that established? Was that based on a percentage increase of all the charges or does it vary from place to place?

Mr DUNN: We looked at all the mooring fees. The area that we increased was the high-rate area with the greatest demand and the longest waiting lists. The principal of the mooring fee charging system has been a supply and demand model that has been in place for a number of years. I do not think it has been reviewed for more than 10 years. The decision was made that we would increase mooring fees by 25 per cent in the high-rate area east of the Harbour Bridge but not including Middle Harbour. As I said, we have very long waiting lists—many years worth of waiting lists.

CHAIR: So it is just a flat rate increase of 25 per cent.

Mr DUNN: A flat rate increase and that increases the average by about \$2.70 a week per mooring.

CHAIR: And those moorings are not connected with marinas.

Mr DUNN: They are private moorings.

CHAIR: Will that apply to moorings that are connected with a residence where they have their own mooring in front of the house?

Mr DUNN: No, it does not. Private moorings are the subject of a separate charging scheme based on statutory land values that are adjacent to those areas. They lease the bed of the harbour from us. It is a very different arrangement from the licence arrangement that exists for a private mooring, which is an annual licence.

CHAIR: So there has been no change to the fee for private home moorings.

Mr DUNN: There has been no change to that, no.

CHAIR: In the mini-budget papers, as part of the Government's reduction of expenditure, it has deferred the dredging around Mayfield berths 5, 6 and 7. This is Newcastle Port Corporation. I assume that the dredging would have been urgent and necessary. What is the impact of deferring it?

Mr DUNN: My understanding is that there is no impact. This was planned dredging. It being deferred has no impact at all.

CHAIR: There must be a point where the build-up will continue and become a problem.

Mr DUNN: Yes, but my understanding is that this has no impact and they will reschedule that in forward years.

CHAIR: In four years?

Mr DUNN: In forward years. In the future.

CHAIR: How long do you anticipate that being?

Mr DUNN: Newcastle Port Corporation did not share that with me.

CHAIR: There have been some problems where dredging has been urgently required to clear the channels and so on?

Mr DUNN: Yes. This was not one of those instances.

CHAIR: Dredging at the Walsh Point berths has also been deferred?

Mr DUNN: Yes, it is the same situation.

CHAIR: Newcastle Port Corporation has also deferred the channel improvement. What effect will that have on the safety of the operation of ships coming in?

Mr DUNN: None. There was no deferral of any projects that have any impact on safety.

CHAIR: There must be a timetable where you will have to say at some point that it must be done. You cannot say it is not required.

Mr DUNN: No. That is true. Some of these dredging works were to allow for future anticipated changes in shipping with larger vessels. At the moment Newcastle Port Corporation is completely comfortable that these changes do not affect development and safety.

CHAIR: And they know the new ships that are coming in will be larger. What is suddenly one of these large ships turns up and the channel is too shallow?

Mr DUNN: Newcastle Port Corporation is completely comfortable that nothing it has deferred will impact on either port development or safety.

CHAIR: The Stockton coastal processors project has been deferred. What exactly is that project?

Mr DUNN: I will take that on notice if that is okay.

CHAIR: It sounds as if it is referring to the actual coast itself, some improvement but you are not sure.

Mr DUNN: I am not sure. I will take it on notice.

CHAIR: If you could find out what it is and what impact that deferral could have. With all those deferrals, can you advise the Committee when it is anticipated that those actions will be reinstated?

Mr DUNN: Yes.

The Hon. DUNCAN GAY: To return to Port Waratah coal, you indicated that you were trying to get for me any departmental concerns with the Greiner plan, is that correct? That is where we were. We were talking about the current CBS allocation, which the ACCC said will not be renewed and finishes on 1 January because it breaches trade practice rules. What plans has your department been developing to cover that situation?

Mr DUNN: I can tell you there have been ongoing discussions with industry and they will continue until the matter is resolved.

The Hon. DUNCAN GAY: What are your alternate plans? The ACCC is now adamant that this will not continue and the Minister is adamant that he will not sign off on the Greiner plan—the plan that will fix it—and you indicated earlier there are no other plans that we are holding out for. Surely the department must be developing alternates to cover the loss of the CBS allocation scheme?

Mr DUNN: I can tell you that discussions are ongoing with industry and they will continue to try to find a resolution.

The Hon. DUNCAN GAY: I heard that. My question is: have you been developing plans to cover the situation? Yes or no?

Mr DUNN: Have we been development plans?

The Hon. MARIE FICARRA: Contingents.

The Hon. DUNCAN GAY: Contingency plans to cover the situation?

Mr DUNN: Obviously we have been active in trying to find a solution to the problem. Obviously those discussions with industry need to continue so that we can find a practicable, workable solution for the industry.

The Hon. DUNCAN GAY: We are at five to midnight.

CHAIR: Would you phrase that as a question?

Mr DUNN: Thank you, Chair.

The Hon. DUNCAN GAY: We are at five to midnight with the Greiner plan ready to go, with which industry is happy, ACCC indicates that we cannot exist with the current situation, and I ask: is there an alternate plan? I think you are telling me there is not.

Mr DUNN: What I am telling you is that discussions are ongoing with industry to develop a solution. We will continue to work with industry to achieve a solution.

The Hon. MARIE FICARRA: I heard your answer about supply and demand for mooring fee increases east of Sydney Harbour. However, a boat owner in Birchgrove is currently being charged three times as much for a shore-side mooring than another person at Birchgrove with a swing mooring for boats of similar length in similar locations. Is that fair considering that the swing mooring actually takes up more space than a shore-side mooring? How has that developed?

Mr DUNN: They are not comparable. A foreshore lease for vessel birthing is not the same as an annual licence for a swing mooring. They are just not comparable.

The Hon. MARIE FICARRA: Yet the boats are of similar length, one mooring taking up far more length than the other, but being charged one-third less? Do you believe that is equitable? Will you maintain that pricing structure?

Mr DUNN: A private mooring adjacent to your property is a vastly better access arrangement than a private mooring in a bay where you have to drive your vehicle there, get into a dinghy and access the mooring. One is a walk-on arrangement from your own property. Bear in mind as a lessee you can apply for a 20-year lease for that area which gives you a lot of certainty and a lot of security. You can only ever get a one-year licence for a private mooring. The rental arrangements for those private leased areas are based on an IPART investigation four years ago, I think, which recommended that the lease rate should be charged based on the statutory land value of the adjacent land. So it has been a matter that has been under fairly constant review. So in answer to your question, yes, I do think it is fair.

The Hon. MARIE FICARRA: Apart from controlling the use of the water space you virtually have an authority to charge on land rates and apply taxes, really?

Mr DUNN: I would also point out that the area that is excluded from public use from a fixed mooring adjacent to a private property is greater than the area that is excluded from public use by a private mooring. The only area that is excluded from private use by a private mooring is the area that the boat is actually sitting in. Apart from that you have got public navigation right the way around the boat. The area that is excluded by a private mooring is defined generally by four timber pylons, which is a larger area anyway.

The Hon. MARIE FICARRA: Are any of the large number of vessels of your department used for staff relations?

Mr DUNN: Staff relations?

The Hon. MARIE FICARRA: Staff relations—any staff activities that are not the primary activity of NSW Maritime?

Mr DUNN: If you are asking me whether staff are allowed to use boats for private purposes, the answer is no.

The Hon. MARIE FICARRA: There is no usage of those vessels other than for the primary activities of NSW Maritime?

Mr DUNN: Staff are not allowed to use boats for private purposes.

The Hon. DUNCAN GAY: Are you aware of the significant delays, as recently as last Friday, being experienced by truck drivers, who are waiting an average of four hours at Port Botany? The performance figures for the week ending 2 November show the maximum wait at terminal A, Penrhyn Road, was six hours 45 minutes whereas at terminal B, Friendship Road, the maximum wait was three hours 15 minutes. Why is there such a significant difference between the two terminals?

Mr DUNN: The answer is, yes, we are aware but it is a matter for the terminal operators. We can contact them for you and ask them for an explanation.

The Hon. DUNCAN GAY: Terminal A was six hours 45 minutes which is double terminal B at three hours 15 minutes. Will you provide an explanation of why such delays are occurring? Will you provide a detailed explanation as to the steps needed to overcome such ongoing delays? The queue extends as far back as

Botany Road, as it often does, when trucks are forced to break the law and run the risk of incurring a \$189 fine and because of regulations get problems with their logbooks.

Mr DUNN: We will take that on notice.

The Hon. DUNCAN GAY: What action is being taken to prevent the dangers associated with that? A spokesman for one of the large transport companies has counted 25 significant disruptions at Port Botany in the 60 days from the middle of September until now. By "significant" they mean a delay of more than two hours for their vehicles. Do you believe that is acceptable?

Mr DUNN: No, obviously it is not acceptable. I will take the detail of the question on notice and also give you advice on what steps are being taken to resolve the issue.

The Hon. DUNCAN GAY: I am sure we are all aware of the view of Paul Keating that the overseas passenger terminal at Circular Quay has become infested with bog-standard Sydney restaurateurs and should be partially demolished to open up views of the historic buildings on George Street. Leaving those silly comments to one side, what plans are there to cover the inability of providores to service ships that berth at the overseas passenger terminal because of the large number of restaurants now inhabiting that building?

Mr DUNN: I will take that on notice and provide an answer.

The Hon. DUNCAN GAY: On the weekend the last car carrier to visit Sydney Harbour delivered its cargo at Glebe Island. Minister Tripodi said:

Although this is the last car carrier to visit, Sydney Harbour will remain a working port.

Apart from the cruise line ships, how else is Sydney Harbour still going to be a working port?

Mr MIDDLETON: You still have the oil tankers coming in and of Gore Cove and there are also still the regular dry bulk and gypsum cement coming in out of White Bay. They are the two other primary forms of commercial shipping using Sydney Harbour. Of course, civil and Navy, which frequently use the harbour as well.

The Hon. DUNCAN GAY: How many jobs, including stevedoring jobs, were lost as a result of moving these carriers to Port Kembla?

Mr DUNN: I can take that on notice and supply an answer.

The Hon. DUNCAN GAY: Also, what alternative employment was arranged for them? It has been estimated the relocation would add up to 50,000 truck movements a year to the roads linking Sydney to Wollongong. Has your department been working on a plan to ease the impact on the road system?

Mr DUNN: I will look at that for you.

The Hon. DUNCAN GAY: You aware that there is a plan to cover this? You not only have the coal trucks on Mount Ousley, we now have the car carriers as well, and a large disparity in the weight and speed of those vehicles plus this large number of movements coming up that corridor through the F6. When this decision was made, surely that was taken into consideration?

Mr MIDDLETON: I am aware that certainly when the planning was being done to relocate the car carriers to Port Kembla, the Port Kembla Port Corporation undertook studies to assess the impact of vehicle traffic coming from Port Kembla back to Sydney. I cannot remember what the percentage was, but I think it was an extremely small impact on the overall traffic flows.

The Hon. DUNCAN GAY: Returning to a question I asked the Minister, when you employ people—and I am referring to the hiring of Joe Scimone—it is my understanding that your department would have an extensive media research and clipping service. Were you aware of the incidents relating to him, like the details that were in the *Illawarra Mercury*, that he still had questions to answer? Did that come to light during that process or before that process?

Mr DUNN: No, it did not.

The Hon. DUNCAN GAY: Why would it not? I did a Google search and that sort of material came straight up.

Mr DUNN: Googling does not form part of the public sector recruitment process.

The Hon. DUNCAN GAY: Can I indicate that at the time New South Wales Maritime said it did a standard background check or Google search on Mr Scimone before hiring him?

Mr DUNN: After the recruitment process had been completed, immediately after the recruitment process had been completed, a staff member who was not directly involved—we discussed the proposed appointment, and he Googled him.

The Hon. DUNCAN GAY: New South Wales Maritime described at the time, and I have the exact words here in front of me, "as a standard background check or Google search." This is from two articles, one from the *Sydney Morning Herald* of 22 February, from your predecessor, Mr Oxenbould. The source said that bureaucrats had no knowledge of Mr Scimone's connections when he was interviewed but admitted that after Mr Scimone was googled during standard background checks a Labor connection was found.

Mr DUNN: I am not quite sure I understand what the question is?

The Hon. DUNCAN GAY: Would you take it on notice?

Mr DUNN: Well, what question do you ask?

The Hon. DUNCAN GAY: Were you aware, first of all, from your clipping service of the background—we go back through the whole thing, we do not leave just the last bit—of Mr Scimone in Wollongong?

Mr DUNN: There would be absolutely no reason for NSW Maritime to have clippings relating to Wollongong City Council. We only get clippings relating to maritime activities.

The Hon. DUNCAN GAY: That is the answer to that part.

Mr DUNN: I can guarantee you that NSW Maritime had no idea of any of the background issues relating to Mr Scimone until after the substantial part of the recruitment process had been completed.

The Hon. DUNCAN GAY: But you still appointed him, despite the material that was in the *Illawarra Mercury*?

Mr DUNN: First of all, the recruitment process was undertaken by the previous chief executive, Chris Oxenbould.

The Hon. DUNCAN GAY: But you were the deputy.

Mr DUNN: I was on the interview panel. The only information we had from background checks was that there had been allegations made and that the matter had been settled. Now, from our perspective that is it, the matter was settled. There was no court action; there was no sanction against Mr Scimone. It was a settled matter. Those kinds of issues can occur at any time, and the background to it, it was a settled matter and no further information was available to us. It was a confidential agreement. There was nothing there for us to look at. At the time there was nothing for us to look at.

Ms LEE RHIANNON: I would like to go back to some earlier questions about dredging in Newcastle Harbour. I am interested in how this fits in with the coal loader development, considering dredging is such an integral part of that project. Is the dredging that has now been cancelled in the mini-budget in any way impacting on that third coal loader?

Mr DUNN: No.

Ms LEE RHIANNON: So, BHP Billiton's requirements that they move and treat the contaminated river sediment are going ahead as originally planned?

Mr DUNN: Yes.

Ms LEE RHIANNON: With regard to BHP Billiton's requirements, it is listed on your web site that they will be undertaking a public consultation process. Will you tell me what that involves?

Mr DUNN: I will take that on notice.

Ms LEE RHIANNON: I am still surprised how you are saying the cancellation of these dredging operations will not only not have an impact on the coal loader, but in response to earlier questions I got the impression it is not going to have an impact on anything. You are left with the question why were you doing it in the first place?

Mr DUNN: There was planned dredging to deal with future development activities associated with the port but not associated with the coal loaders. Dredging associated with the coal loaders is being undertaken directly by those companies.

Ms LEE RHIANNON: With regard to the dredging that has been cancelled, then—

Mr DUNN: Deferred.

Ms LEE RHIANNON: —deferred, how long is it deferred for?

Mr DUNN: We have already been through that.

The Hon. DUNCAN GAY: One year, according to the budget papers.

Ms LEE RHIANNON: I apologise. What developments is that dredging into?

Mr DUNN: Just future potential developments of the port. I do not think there is any specific development.

Ms LEE RHIANNON: No specific development?

Mr DUNN: That is my understanding. I can clarify that for you.

Ms LEE RHIANNON: You will take that on notice?

Mr DUNN: I will take that on notice.

Ms LEE RHIANNON: Moving to the new legislation that has been passed, the Ports and Marine Administration Amendment (Port Competition and Co-ordination) Bill, the supply chain charges that there has been some controversy around, could you explain how they work and how a decision on what those charges will be will be made?

Mr DUNN: Can you clarify that?

Ms LEE RHIANNON: From what I understand the Ports and Maritime Administration Amendment (Port Competition and Co-ordination) Act allows the Minister to determine various standards and also charges for the operators within the industry. So you can enforce fines for non-compliance and also a range of charges for operators at the ports. Does that not come under you?

Mr DUNN: Yes, it does.

Ms LEE RHIANNON: Can you explain it?

Mr DUNN: I think the Minister has said that these are measures that are there to be used if necessary and hopefully they will not have to be used. If a measure were to be introduced to encourage efficiencies at a

port then there would be a standard regulatory impact assessment process and anything that was introduced would be subject to the Subordinate Legislation Act.

Ms LEE RHIANNON: Can you explain what those measures are?

Mr MIDDLETON: At this stage there are no measures planned. The legislation allows for regulations to be made and Sydney Ports are working with the industry through two separate task forces. There is a rail working group and a road working group and they are working with industry at the moment to put in place what the Minister has termed phase 1 of the IPART implementation, which is putting in place voluntary arrangements, and regulations would be introduced only if it is proven at some time in the future that in fact the phase 1 voluntary arrangements would not work.

Ms LEE RHIANNON: So you have two different bodies, one looking at road and one looking at rail?

Mr MIDDLETON: That is right.

Ms LEE RHIANNON: Who is on those bodies?

Mr MIDDLETON: The Sydney Ports Corporation has convened both bodies. The rail group is chaired by somebody from the Office of the Coordinator General and has representatives from Sydney Ports and other industry players, but I do not have those details in front of me. The road group is chaired by an executive from Sydney Ports Corporation and there are representatives from the road industry and from the terminals on that group as well.

Ms LEE RHIANNON: Could you take on notice who are the representatives on those two bodies and what are the terms of reference for those two committees?

Mr MIDDLETON: Yes.

Ms LEE RHIANNON: I have asked for the terms of reference, but they will be determining where charges should be laid and what those charges should be and, if that is not agreed to by the stakeholders, then the Minister comes in and that is when his mandatory power kicks in. Is that how it works?

Mr MIDDLETON: In relation to road charges, in the Government's response to the IPART report it was explained that there would be a peak charge that would be applied to roadside access to Port Botany and that that charge would be determined by Sydney Ports Corporation in consultation with the industry, and that is part of what that roadside group is doing.

Ms LEE RHIANNON: If there is not agreement at that point, that is when the Minister's power kicks in and the Minister can decide. Is that how it works?

Mr MIDDLETON: If there is no agreement or if it is shown that that particular mechanism does not work in trying to alleviate some of the congestion around the port, the legislation allows for a regulation to be prepared and that would be subject to regulatory impact processes, which may then introduce another regime, and certainly one of the things that is being considered is maybe some auction process.

Ms LEE RHIANNON: How does the rail group work?

Mr MIDDLETON: It is exactly the same thing. The aim is to get a voluntary arrangement with charges that are put in place using a market-based approach discussed between the operators, rail operators and terminal operators. If that does not work for any reason then again the Minister can only apply charges through a regulatory process.

CHAIR: I note the budget paper on page 4-9 has reference to the 1999 lease of the Sydney Harbour Foreshore Authority commercial assets. Are you involved in any way with that item?

Mr DUNN: No.

CHAIR: I was going to ask what are the assets?

Mr DUNN: I am sorry, I do not know. That is a matter for the Minister for Planning.

CHAIR: To clarify an earlier question, the ships that transport cars are going to be relocated from Port Jackson to Port Kembla?

Mr DUNN: Yes.

CHAIR: I think Mr Middleton said there was an assessment made that this would have no impact on road traffic?

Mr MIDDLETON: I think what I said was that when planning was taking place Port Kembla Port Corporation commissioned some work and identified that there was minimal impact.

CHAIR: It seems to me strange to say minimal impact because the majority of the vehicles would have to be transported to car dealers in Sydney. There are a huge number of car dealers located in Sydney. Would that not involve a large number of transport vehicles transporting cars to Sydney?

Mr MIDDLETON: A comparison was done based on current usage of the road going up Mount Ousley and the advice we have been given is that there is only a very small percentage increase of traffic resulting from the relocation of the cars.

CHAIR: Could you on notice provide some background material from the assessment that was made and how that conclusion was arrived at?

Mr MIDDLETON: Yes.

The Hon. DUNCAN GAY: Mr Middleton, you mentioned with Port Botany some sort of auction process. What do you mean by that?

Mr MIDDLETON: I think the Minister has said that if phase 1 does not work his preference is that the prices for roadside access at the port should be determined by a market-based mechanism, but he has also said that one of the options that could be considered is a capped auction type process again with congestion for the peak hour period—

The Hon. DUNCAN GAY: But not a Dutch auction?

Mr MIDDLETON: No.

The Hon. DUNCAN GAY: This month the chief executive officer of Port Kembla Port Corporation said:

It will be inevitable that there will be more traffic on the road, but we are working very closely with one particular proponent to look at the movement of cars by rail in the medium term. There is a fair bit of work underway, but unfortunately that won't be ready for a couple of years.

What alternatives are available during that time?

Mr DUNN: I am not familiar with those comments. Would you like us to follow up on that for you?

The Hon. DUNCAN GAY: Yes, thank you.

CHAIR: Adding to that what consideration has been given to the rail option. I think that is the key issue.

Mr DUNN: Yes.

The Hon. MARIE FICARRA: Returning to questions on Walsh Bay that never seem to be answered, in May my colleague Jonathan O'Dea put to the Minister a series of questions in regard to Walsh Bay and was told to consult the NSW Maritime annual report. He asked a second time and again the Minister referred Jonathan O'Dea to the annual report. During the estimates hearings in October I put the member's questions and Minister Tripodi responded by saying:

NSW Maritime's profit share from the Walsh Bay project was agreed when final project costs and income were quantified in 2006, subject to goods and services tax and associated costs. The profit share paid to NSW Maritime was made in accordance with that agreement.

I asked further questions and he said:

Apart from the elements of that agreement that are commercial in confidence, I am advised there is nothing unusual about that settlement, to the best of my knowledge.

I ask questions again to get a more detailed answer—and you can answer verbally or take the questions on notice—in relation to the Walsh Bay development. First, what was the original estimated amount of profit share to be received by the Government relating to the major redevelopment of Walsh Bay over the past decade? Second, how much was ultimately paid to the Government to settle the profit share arrangements? Third, what were the components of this payment? Fourth, on what dates was payment made and how was it made? Fifth, exactly how was the revenue accounted for in NSW Maritime accounts? Sixth, did the accounting process followed involve special or unusual arrangements and, if so, what were they? Seventh, were any amounts of the original agreed profit share to be paid forgiven or reduced by either NSW Maritime or the New South Wales Government? I know they are detailed and I do not expect you—

Mr DUNN: I am more than happy to give you answers to those questions but I can tell you that the answer to the final question is no.

The Hon. MARIE FICARRA: That is good. If you could answer questions 1 to 6—

Mr DUNN: I can tell you in answer to the final part of the question that nothing was forgiven, either by Maritime or the Government.

The Hon. MARIE FICARRA: There should not be any problems then in answering questions 1 to 6.

Mr DUNN: I will take those on notice.

The Hon. DUNCAN GAY: In relation to the Rozelle Bay Superyacht Marina that Ms Lee Rhiannon referred to earlier, the Minister said in May this year that NSW Maritime was considering options for the future operation of the marina. These may be questions you wish to take on notice as well. What is the outcome of that and is it planned to privatise the marina? If not, what are your plans for it?

Mr DUNN: The advertisement for the superyacht marina expression of interest was in the paper today.

The Hon. DUNCAN GAY: I have not had a chance to read the paper.

Mr DUNN: It was in the *Australian Financial Review*.

The Hon. DUNCAN GAY: What did it say in relation to my questions?

Mr DUNN: Seeking expressions of interest for a private operator to take on a long-term lease of the superyacht marina.

The Hon. DUNCAN GAY: Have the staff been told that they could lose their jobs?

Mr DUNN: The staff have been fully informed of the process.

The Hon. DUNCAN GAY: Okay.

CHAIR: That brings us to the conclusion of our hearing. We thank you very much for your attendance.

(The witnesses withdrew)

The Committee proceeded to deliberate.