

# CORRECTED VERSION

## PORT OF MELBOURNE SELECT COMMITTEE

### Inquiry into the proposed lease of the port of Melbourne

Melbourne — 8 September 2015

#### Members

Mr Gordon Rich-Phillips — Chair

Mr Daniel Mulino — Deputy Chair

Mr Greg Barber

Mr Damian Drum

Mr Craig Ondarchie

Mr James Purcell

Ms Harriet Shing

Ms Gayle Tierney

#### Staff

Secretary: Mr Keir Delaney

Research officer: Mr Anthony Walsh

#### Witness

Mr Nick Easy, chief executive officer, Port of Melbourne Corporation.

**The CHAIR** — I resume the hearing, and I welcome Mr Nick Easy, the chief executive officer of the Port of Melbourne Corporation. As indicated previously, all evidence taken at this hearing is protected by parliamentary privilege, subject to the Constitution Act 1975 and further subject to the provisions of the standing orders of the Legislative Council, therefore any information you give today is protected by law; however, any comments made outside the precincts of this hearing may not be so protected. The committee does not require witnesses to be sworn, but questions must be answered fully, accurately and truthfully. Witnesses found to be giving false or misleading evidence may be in contempt of Parliament and subject to penalty. Proceedings are being recorded, and you will be provided with a proof version of the transcript in the next couple of days. We have 1 hour for this hearing, and I invite you to make a brief opening statement before the committee proceeds to questions.

**Mr EASY** — Thank you, Chair, and thank you for the opportunity to present before the committee. You have a presentation before you, and I would like to just briefly take you through the key points of the presentation. The port of Melbourne lease transaction is being managed by the Department of Treasury and Finance on behalf of the state, so the role of the corporation is to provide assistance and cooperation to the shareholder and in particular the provision of information so there is a good understanding of the corporation's activities and its functions.

The DTF has engaged with the corporation on elements attached to the transaction, and certainly in terms of the separation of the business activities that will support the residual functions that will rest with the state entity, the Victorian Ports Corporation (Melbourne), and those functions that will be transferred to the private operator. In this process, the corporation has engaged with staff to ensure they understand what is expected as a result of the transaction, subject to the passage of the legislation, and that clearly includes the employment protection provisions that exist within the bill.

The corporation was established in 2003, and that was a result of a joining together of the Victorian Channels Authority and the Melbourne Port Corporation. It is a successor entity to a number of changes in the port structure that have occurred over time, and they stem back to 1877 with the creation of the Melbourne Harbor Trust at that time. It is a government business enterprise. It is what is referred to as a 'transport body' under the Transport Integration Act. It does operate under other key acts, such as the Port Management Act and also the Marine Safety Act.

The Port of Melbourne Corporation is responsible for the strategic management and the development of the port of Melbourne, and in doing so it does engage with industry and it engages with local government, the community and stakeholders. The operations in the port are largely undertaken by private operators, and that includes the stevedoring that occurs at the terminals. The tugs and the pilots are examples of third parties that operate their businesses within the port of Melbourne.

The corporation has a board of nine directors, including the chair, and a permanent staff complement of 221 people as at 30 June 2015.

The port of Melbourne is Australia's largest container and automotive port and services 36 per cent of the nation's container trade, with 3000 ship visits annually to the port of Melbourne. It is ranked 60th internationally based on the 2014 calendar year and sourced from the journal *Container Management*. For the information of the committee, Sydney is ranked at 71 and Brisbane is ranked at 110. It is also within the top five ports within the Southern Hemisphere.

Port of Melbourne Corporation is a self-funded business model. It operates as a landlord model. There are three primary sources of revenue for the corporation. The first is wharfage, the second is shipping channel fees, and the third is rent from tenants in terms of leases and licences within the Port of Melbourne Corporation. Revenue in 2013–14 was 368 million and the corporation pays a dividend to the shareholder.

The access and facilities of the port extend across 510 hectares of land. There are 36 commercial berths that service the activities in the port of Melbourne across the range of cargo types, not only containers but also liquid bulk, dry bulk, break bulk, motor vehicles and also passenger facilities that exist at Station Pier. There are 7 kilometres of wharf that service those facilities in the port of Melbourne, and the port of Melbourne waters under the direct management of the corporation are approximately 100 000 hectares.

Safe navigation is a priority of the corporation and a key part of the operations, and is run by our port operation control centre. We have vessel traffic services that are accredited to commonwealth standards. We have modern communication facilities that exist in the port of Melbourne in Lorimer Street and at Point Lonsdale. We manage the channels that service the port of Melbourne and also the entry to the port of Geelong, and we regulate towage via a regulation towage determination.

The Essential Services Commission has oversight of pricing in the port of Melbourne. It is a light-handed regime that regulates prescribed services. There are three prescribed services currently under that regime. The first is the channel fees, the second is wharfage on containers and the third area is wharfage on motor vehicles. The corporation publishes a reference tariff schedule annually. It is produced following engagement with customers and the users of the port of Melbourne and we have a pricing policy statement, which is all published on our website. In the 2015–16 financial year, the corporation increased its charges by the Victorian government's CPI forecast. It also put a price freeze on the international loaded export containers through the port of Melbourne. The corporation in addition to that made a decision for a further reduction for international export containers of 2.5 per cent per year for the next four years.

The trade catchment of the port does extend across the south-eastern border of Australia. We have around 25 weekly direct shipping services to Asia, North America and Europe. We have regular Bass Strait shipping services that occur on a daily basis. Currently with the trade volumes that occur through the port of Melbourne there is sufficient and adequate capacity on the vessels that call the port today. The majority of ship sizes that call the port and berth in our facilities today are in the range of 4000 to 5000 TEU. In terms of changes in those vessel sizes and growth in vessels moving forward, there are quite a few elements that will influence and dictate that moving forward. They include the configuration of the channels and the facilities that exist in the port today. What also occurs in other ports in Australia, so the geography of Australia, is such that shipping lines that call Melbourne and Australia call multiple ports, so the decision in terms of vessels and what occurs in Melbourne is also related to what occurs across Australia at the south-eastern ports.

The other thing of course is the shipping trends that influence the size of ships calling the port of Melbourne.

There has been some discussion on capacity. The corporation as part of its charter produces port development plans that have a look at the expectations and the assumptions around the growth in trade through the port of Melbourne. Again there are a number of elements that determine growth and capacity. There are two plans that are published and available on the corporation's website. One is the *Port Development Plan 2006–2035* that was put together in 2006, and a further plan in 2009, the *Port Development Strategy 2035 Vision*, which also articulated conceptually a framework for capacity for the types of cargoes that will be serviced through the port of Melbourne. They clearly had a look at trade forecasts. Trade forecasts do vary and they are influenced by a range of considerations. Clearly population and population growth is important. That influences consumption and the level of imports that come into the port of Melbourne.

Climate conditions such as rainfall are very important in terms of the level of exports through the port of Melbourne, because clearly they drive agricultural production and therefore the volume of goods that can be exported through the port of Melbourne. The third key area that influences capacity is the investment in the facilities by the stevedores in the terminals themselves and the level of productivity that occurs within those terminals. Each of those are quite important in terms of what will ultimately drive capacity through the port of Melbourne. Those plans indicate a conceptual framework that would deliver between 7 and 8 million containers, 7 million international containers and 1 million Bass Strait containers, over a period of time in response to trade growth and trade demand.

The other thing is the port capacity project. There was an investment decision around the port capacity project in 2012. In terms of the decision supporting that, a capacity was projected at 5.3 million TEUs through the port of Melbourne. The difference at that time was the policy settings that were in place, whereby it was a clear position of the government that the port of Hastings would be the next location for international container capacity and therefore there was a policy constraint on what might be the natural capacity achievable through the port of Melbourne.

The port capacity project is a project that is currently under way. It is a \$1.6 billion investment which includes both public and private investment in the port of Melbourne. It is focusing on delivering additional container capacity and automotive capacity within the port of Melbourne. The terminal under construction for containers will provide at least 1 million additional TEU capacity in the port of Melbourne, and again an additional

1 million automotive capacity will be provided as part of that development. The project currently is certainly on schedule and under budget. The expectation is that the capability of the international container terminal will be able to service vessels from late 2016, with a second stage to be completed approximately 12 months later. The other component of that development is pre-delivery inspection facilities that will support the automotive facilities that are also under construction.

My last slide is in reference to the channel-deepening project that was conducted and successfully delivered in 2009. That was a project that involved the removal of over 20 million cubic metres of material from both the northern and the southern sections of Port Phillip Bay, the first time that the heads had been dredged using a methodology that was developed and undertaken by an alliance between the Port of Melbourne Corporation and Royal Boskalis Westminster. That dredging technology was low-impact technology that was able to manage what was identified as the risks and to ensure that there were no long-term consequences to the environment.

It was a very robust approvals process. A stringent EMP was put in place and it was able to be delivered successfully with no long-term environmental impacts and in a sustainable way. That framework has set the scene in terms of any dredging undertaken in the port in terms of the controls, the approval requirements and the oversight that is in place for dredging within the port of Melbourne. That concludes my presentation, Chair.

**The CHAIR** — Thank you, Mr Easy. On behalf of the committee I thank you for facilitating the committee's tour of the port several weeks ago. It was very useful for the committee to understand the asset that is the subject of this inquiry. I will now open to questions. We have approximately 50 minutes for questions.

**Ms SHING** — Thank you very much for your contribution and for the slides you have taken us through today. I would like to pick up almost where you left off in relation to dredging. A number of concerns have been raised about the possibility of increasing the throughput, and given the size of vessels that will be required to deliver on the increased capacity, there may be a need for blasting the heads of Port Phillip Bay. On that basis I would like to get your views on how likely you see that as being in relation to blasting during the term of the lease, as it stands within the bill, so within the next 50 years.

**Mr EASY** — Thank you for the question. I think there are a number of things that should be referred to there. Clearly the channel-deepening project gave the confidence to the corporation, the state and regulators that there is a dredging methodology that can remove the hard material at the entrance. There was a significant amount of investigation to demonstrate that. It was validated through a trial process initially and then ultimately through the removal of material.

The channel-deepening project removed around 500 cubic metres of material from the entrance. It was a significant amount, and the corporation was very conscious of any impacts in what was referred to as the canyon and the ecosystem that exists in that environment. The environmental management plan was constructed to minimise those impacts and to ensure that there were no long-term impacts. The corporation has conducted a number of monitoring programs since the completion of the works, and in fact we are still undertaking some monitoring today, which was a requirement of the project and the approvals. That has indicated and it has been validated by the Office of the Environmental Monitor and the regulators, that there are no long-term impacts. I think we have a dredging methodology that has been utilised and put in place previously, that I suspect would clearly be part of any further works, if that was necessary.

Clearly approvals would be required for any further works. The corporation has not done any investigations around further dredging at the entrance. We think the system and the configuration of the channels is sufficient to accommodate growth in vessels, and the growth in vessels that will service this port in the time frame of the lease.

**Ms SHING** — Just one supplementary to that. In your view, would the position that you have just taken in relation to any future need vary between a 40-year lease and a 50-year lease?

**Mr EASY** — No, I do not think so.

**Mr DRUM** — Thank you, Nick. There is a fair bit of confusion around what the full capacity of the port is likely to be — productivity and so forth — and what it is actually going to look like. We have 3200 ships coming through there at the moment and there is congestion around the port. What is your idea of capacity? Where do you think it will be and when do you think we might reach that?

**Mr EASY** — As I referred to, the corporation has produced various plans over time, and there are plans that have been produced both by the corporation and the state under different governments that have looked at capacity, so there are many inputs that would drive the capacity and the volumes ultimately through the port of Melbourne. Certainly it is important that it is reviewed constantly because the environment changes. Some of the key drivers to, ultimately, the capacity as I have indicated will be consumption as a result of population growth, climate conditions and investment in terminals and facilities.

The work the corporation has done in the past under plans that have previously been produced have looked at trade volumes and have looked at what we think are levels of investment and reasonable levels of productivity that can occur in a port environment. There are key things around both berth length and yard capacity and then a range of detailed inputs within that that will support any analysis for capacity. The work the corporation has done under those previous plans supported volumes of around 7 to 8 million TEUs. They are published plans. They were a result of engagement with industry and customers. Clearly to support that growth it is not only about investment in the terminal facilities, it is not only about investment on internal roads and infrastructure within the port, but it assumes that the operator, and like the port does today, will work with the state and the agencies to ensure the access is appropriate into the port.

The level of trucks on the external road network attached to the port is actually quite a low proportion of the total level of trucks on the external road network. Not every truck you see on the road is a port truck. Some of them are domestic trucks; they are not necessarily attached to the operations of the port. Clearly we are a part of and a contributor to the road network that operates externally to the port gate and the port environment. The port has been very responsible in working with agencies and the state to ensure the policy drivers are in place to support new infrastructure, and that provides appropriate access to the port of Melbourne.

If we look at Webb Dock as an example, the corporation as part of that investment has constructed and is completing new roads that will provide appropriate access to the M1 system. That involved the closure of the Todd Road, Williamstown intersection, because there was concern from the community around impacts on local environments. Part of our responsibility in undertaking those works, and also associated with the approvals attached to that development, was to build appropriate internal road infrastructure within the port environment that provided access to the external system. We are confident that will work today, and we are also confident that there will be further upgrades to that infrastructure over time that will improve that access and that flow in that area.

**Mr DRUM** — But what is your time line in relation to the port reaching 7 to 8 million TEU?

**Mr EASY** — With the work around the port capacity project, which will drive capacity to around the 5 to 5.5 million, we think that will reach that capacity in the 2035–2045 time frame. Again, I do not think it is useful to be precise regarding timing, because we need to have regard to some of the variable parameters attached to that decision. I think 2035–2045 is reasonable for the port capacity project and what will be provided there, together with some enhancements and further investment in the Swanson Dock area. Beyond that, I suspect it is certainly beyond the 2045 period and possibly a decade-plus.

**Mr DRUM** — If you were to try to paint a picture for what you think the ships of the future will look like that will want to visit Melbourne, how would you paint that picture in relation to the size of the ships, the draught of the ships and their capacity, frequency and number? How do you think that will look in the future?

**Mr EASY** — That is another very important and very interesting question, because again there are lots of views about what will happen with the ships and the growth in the ships that service the port of Melbourne. I indicated earlier that the majority of the ships today are in the 4000 to 5000 TEU range. That will certainly increase, and the decisions around ships will be guided — —

**Mr DRUM** — An increase in the size, Nick?

**Mr EASY** — They will increase in size, and that will be influenced by, firstly, the cascading of vessels from the east–west shipping routes, the type of infrastructure and what we are seeing around the world — as an example, the widening of the Panama Canal will enable the further cascading of vessels onto Australian routes. Australia's population and overall geography will also be an influence on the exact size of vessels. As an example, there has been some reference to 18 000 to 20 000 vessels which we know are either under construction or in service around the world that will call Melbourne. I think it is highly unlikely that we will

ever see that occur, purely as a factor of our population, Australia's geography and the level of consumption — and the infrastructure and facilities around Australia, not just the port of Melbourne, will not accommodate that. So there are not really any drivers that will support that type of outcome in the port of Melbourne.

I do think it is reasonable to assume in regard to vessels in the 5000 to 8000-size class that there will be vessels in that category that will call Melbourne. It may not be all vessels, because the elements that will make up those decisions for access will be around not just the class but the length of the vessel, the beam or the width of the vessel and the draught and the tonnage. All those things make this quite complex when a question is asked around what sized vessels will access the port of Melbourne, but I think they will drive and influence the type and the size of the vessels that will call the port, and a capacity of around 8 million TEUs will be able to be serviced by vessels in that class.

**Ms TIERNEY** — Thank you, Mr Easy, for your presentation, particularly around the issues of capacity, which has added to the information that the committee is gathering. My question is more in relation to the environment, and in particular the environmental approvals and controls that currently exist with the port of Melbourne and how, with the proposed new transaction, these will affect the regime.

**Mr EASY** — Clearly any development or expansions of the port require the requisite approvals. I think it is fair to say from my own experience that the port has had its fair share of developments that have been subject to the regime that operates in the state today and that has been very vigorously applied. There will be no change to that regime moving forward, so the legislation, be it at a state or commonwealth level, will continue. The design of the transaction does not in any way change that.

I think the framework around approvals, development, expansion and appropriate consideration of environmental and other factors on local communities in the state will be exactly as it is today. I certainly take comfort from those processes, that they are very robust, and clearly controls are being imposed on the port for any development that is undertaken, and that includes investment in facilities, investment in supporting infrastructure and investments in amenity. I will give you one example.

With the port capacity project, clearly that is an area that has an interface with the local community. It was subject to approvals, it was subject to conditions and requirements from the state. The corporation has invested, as part of that project, \$20 million in works that are about supporting an ongoing level of amenity that is appropriate for the residential area. So noise walls are being constructed, there is landscaping and there are bike paths. There is a significant improvement in the local amenity attached to that project which the corporation is very proud to say will be an ongoing legacy for the state.

**The CHAIR** — Mr Easy, as a port operator what do you see are the risks of this transaction to the port and its supply chain that it supports?

**Mr EASY** — From my point of view, I think the best test of success will be that the operations will continue in a seamless and appropriate fashion and the trade requirements of this state will continue. I do not see anything in the transaction that will not enable that to occur. There are sufficient and appropriate safeguards built into the transaction around as either approvals for development, environmental management. The corporation today produces a safety and environmental management plan. The port operator in the future will be required to produce a safety and environmental management plan. The corporation today produces asset management plans and has put in programs around maintaining the assets. The new operator moving forward will be required to do the same.

The pricing regime will be strengthened and enhanced from what it is today, so I suppose in terms of some of the points that have been raised around prices and increases and how that will be managed, there will be a strengthened economic regulatory regime in place. Through the transaction, while we are not responsible, my observation is that a number of those things have been identified. An attempt has been made to put the risks on the table and have appropriate mechanisms built into the transaction to manage that through either safeguards or contractual mechanisms under the lease.

**The CHAIR** — Would there be a risk to the port of Melbourne's operations, for example, if the lease was acquired by the same operator as for the ports of Botany and Brisbane — if there was a common operator for the three ports?

**Mr EASY** — Obviously any competition factors will be considered as part of any transaction process or by the regulators in that space if that is a matter for consideration.

**The CHAIR** — I would like to also take you back to the issue I raised with Mr Martine around the DP World negotiations. Can you talk the committee through those negotiations, the process of going from the current rents for DP World to what was proposed at \$120 per square metre and where you ultimately landed?

**Mr EASY** — It is probably useful first, Chair, to just talk about the provisions that exist within the leases today. Obviously we have around 65 leases that exist within the corporation today. Each of those has the terms and conditions for the tenure, the occupation and the rights to conduct their business on land and in the port. It is quite common and very standard within each of those leases to have a market rent review provision, and that involves the issuing of a rent review notice and consideration of valuer inputs, because clearly valuation is about market inputs and market indicators, and that becomes important in the consideration of any valuation.

Following the issuing of a rent notice, in the event there is not an ability to either agree or negotiate an outcome, there are dispute mechanism provisions under the lease, and that includes the appointment of an independent valuer who will undertake a process. They will listen, they will consider submissions from both the parties, and they will make a decision which generally under the provisions of the lease is final and binding. They are contractual standard mechanisms that exist within the leases in the port of Melbourne. They exist within the leases in other ports around Australia and indeed probably exist in any type of tenure arrangements for real estate across this state. They are the mechanisms that exist today. It is a contract, and it is a contract where the parties have full knowledge and understanding of those provisions. The DP World lease, like other leases, has a fixed cycle and a period that nominates when rent reviews occur, so the corporation commenced that process and exercised what were the contractual obligations under the lease.

**The CHAIR** — Was the dispute resolution mechanism triggered in those negotiations?

**Mr EASY** — There were two things that occurred. A rent notice was issued. An independent valuer was appointed by the parties, but in the course of that process a negotiated outcome was reached, and I can point you to the press release that was released by both DP World and the Port of Melbourne Corporation which clearly said a negotiated outcome was reached which was agreed between the parties.

**The CHAIR** — How do you get a negotiated outcome from a position of — and I will take what Mr Webster said — \$120 per square metre being the baseline established by the Webb Dock East lease with what has been reported at a landing of around \$20 per square metre?

**Mr EASY** — I think what is important is that there is a lot of discussion around rent. This was not just a rent issue. What started off being a rent dispute became a new set of arrangements on tenure. The conclusion and the outcome of the negotiations was a new tenure arrangement which is omnibus in terms of the detailed arrangements between the corporation as the landlord and DP World as the tenant in the port of Melbourne. Market rent is one component of the lease. I think that is quite important.

There are other terms in the lease. There is a tenure that was obviously extended as a result of that outcome. There are provisions, given the lease was two decades old, that will now be in a position where they are more modern and reflect contemporary practices around leases within the port of Melbourne. There was also the inclusion of key performance indicators in the lease, which are all very important outcomes, not only for the corporation but for the state of Victoria. I think we need to move this discussion away from it being just a rent matter to one that is about a lease regarding tenure and overall arrangements for the site.

**The CHAIR** — The proposal on rent, the \$120 per square metre, was that an ambit claim to achieve those other lease changes that you spoke about?

**Mr EASY** — I think there is one very significant thing that has occurred and that is different in the context of the discussions on rent and the lease provisions with DP World, and that is the procurement at Webb Dock. Clearly the corporation went through a process for procurement of a third operator within the port of Melbourne, which is around investment, provision of new facilities and competition within the port of Melbourne and introducing a third operator. That procurement process had not occurred before; it had not occurred for decades; and there is no market information to inform any market rent review in the port of

Melbourne, so that became a new market input. Based on valuation advice, and based on the provisions under the lease, that is the basis for the commencement of discussions on rent with DP World.

**The CHAIR** — In terms of the negotiations Mr Webster said Treasury was in the room for those negotiations. Has that been the practice with previous major negotiations with the other two — with ICT and Patrick's?

**Mr EASY** — Any long-term commitment within the port of Melbourne around lease arrangements would involve engagement with the state. It is a long-term commitment with a significant lease term, so there is a requirement and an obligation for the corporation to engage with the state on those matters. That is certainly not uncommon, and I would call that a very normal practice. We are not in a normal environment, though, obviously given the transaction. The corporation is conducting its business activities in a business-as-usual manner, but there is a state of transition which reflects the proposed transaction. Clearly from a corporation's perspective, when we are having discussions that deal with potential commitments and material commitments over what will be the term of the transaction, it is only appropriate that we have the involvement and the engagement with DTF.

This is not common to just leases. This is the same if we are entering into a maintenance contract or making an investment in capital. You could understand, Chair, that as part of the transaction part of our role is to ensure that the due diligence includes all the necessary information to understand the port in terms of its investments, its liabilities and what commitments contractually or otherwise it has moving forward. It is incumbent on us to ensure that the state has full knowledge of that, and therefore that is fully visible and available to those that participate in the market process. It is not normal, and it certainly reflects a transition environment attached to the transaction.

**The CHAIR** — What position was put by Treasury in its involvement and participation in those negotiations on DP World?

**Mr EASY** — The corporation led the negotiations. Clearly Department of Treasury and Finance were at the table. As I said, they need to understand any commitments or obligations that have been placed on a new port operator, subject to the transaction. They were provided any comments or views around the negotiations, but the directions were led by the corporation in its entirety.

**The CHAIR** — Did Treasury bring a view to the table as to where that particular lease should land? You have said the lease was not just about rents, but obviously the rent negotiation was a high-profile aspect of that lease negotiation. Did Treasury bring a view to the table?

**Mr EASY** — The decision on the outcome was the Port of Melbourne Corporation's, and there was no direction or dictating of those terms from Treasury and Finance to the Port of Melbourne Corporation.

**The CHAIR** — Was the decision reached by the Port of Melbourne Corporation consistent with the views of Treasury?

**Mr EASY** — Treasury understood the views and the outcomes. They were at the table. There was no objection to the outcome, but the decision was made by the Port of Melbourne Corporation.

**The CHAIR** — You said obviously this is not a normal environment, given the transaction is being contemplated. Was that a factor in the corporation shifting from the proposed \$120 per square metre to the final \$20 per square metre?

**Mr EASY** — I do not think I would regard it as a shift. As I said, what was a rent dispute moved to an open negotiation on a lease and its terms, which included many things beyond just rent. The discussion was a total outcome that was a decision of the Port of Melbourne Corporation.

**The CHAIR** — Thank you, Mr Easy.

**Mr MULINO** — I wanted to ask a couple of questions around the proposed post-lease pricing arrangements. Is it fair to say that the proposed economic regulatory regime is going to have broader application than is currently in place, in terms of prescribed services?



**Mr EASY** — Yes, it is. The prescribed services today are confined to the channel fees and the wharfage on containers and motor vehicles. Those prescribed services will be broadened to cover all of the charges and the pricings of the corporation, with the exception, as has already been indicated, of rents, which are not part of the regulatory regime. But everything else will be covered under the framework that will be strengthened as attached to the transaction.

**Mr MULINO** — We will be seeing more detail, as I understand it, of the pricing order, in a redacted form down the track, but our understanding is that the approach will be a building block regulatory asset-based approach. Is it fair to say that that approach is going to be more rigorous, you might say, and transparent?

**Mr EASY** — It is certainly enhanced and strengthened from where it is today. Clearly it is a broader regime. It is strengthened. It covers a broader basket of fees and charges for the corporation, so that can only be seen as a strengthened regime.

**Mr MULINO** — How would you compare the proposed regime to what applies at other ports that have recently been leased to the private sector?

**Mr EASY** — I am not aware of any other regime similar to this that exists in the other ports. This will be a stronger regime. It will be a strengthened regime and more rigorous than what exists in other ports around Australia.

**Mr MULINO** — I have a question in relation to the transmission of the business on terms and conditions for employees that are no less favourable. Could you set out for us how that will work?

**Mr EASY** — Yes. With the separation of the business, clearly, in terms of the staff, which are very important to both the corporation and the state in this process, there will be staff that will be retained with the state, consistent with the functions and activities that will rest with the state entity. Their terms and conditions will not change and they will continue their employment with the state entity. With the functions and the activities that will be transferred to the new leaseholder, staff in those positions will be offered employment. Their conditions will be unchanged and no less favourable, and that is prescribed in the bill. Those staff under enterprise agreements will also be offered a two-year employment guarantee. The outcome of the separation is that staff that are employed with the organisation to date will either continue their employment with the state entity or be offered employment, and they can accept that on a voluntary basis with the new private leaseholder. Their terms and conditions will be unchanged, and there is the opportunity for ongoing employment in the port environment.

**Mr MULINO** — One final question: under the proposed economic regulatory regime, could you explain if there are any particular arrangements proposed for user charges on exporters and how that would compare to other ports?

**Mr EASY** — The prices of the corporation today, as I said, for loading international exports have been frozen on the same prices as the previous year. They will be transferred ultimately into the pricing order, so they will be the starting base for the new leaseholder moving forward, and also built into that pricing order will be the decision and the mandate that there be a further reduction of 2.5 per cent per year for the next four years. The decisions that have been around today, and the further decrease of those prices over another four years will be built into the pricing order. The status quo will be unchanged, and the new operator will have to follow and issue prices on that basis moving forward.

In terms of the other ports, clearly export prices are important. For the port of Melbourne, that is the first time we have had differential pricing between imports and exports. That is quite new, and I think reflects the importance of exports through the state of Victoria. What that will do is bridge, if you like, the gap between Melbourne and other interstate ports and make our prices more comparable. Again, that will be dictated by any price increases that might apply, say, at Botany or in Brisbane, but we think it will be comparable and maintain our competitive advantage.

**Mr BARBER** — In terms of the proposed port rail shuttle project, what is your understanding of why that has not gone ahead yet?

**Mr EASY** — The port rail shuttle project is a project being managed by the department. There were funds that were secured from the commonwealth and provided by the state for the provision of that project. There has been some initial preparatory work around that process and market sounding. The decision has been made by the department that this is a matter that will be considered, ultimately, as part of the transaction in terms of rail mode share and the operation of rail in the port of Melbourne. It is not a decision or a matter that the corporation is responsible for.

**Mr BARBER** — But I asked you what is your understanding as to why it has not gone ahead? Have you not asked them the same question I am asking you?

**Mr EASY** — That is a question you should ask the department.

**Mr BARBER** — Okay. You refer here to the port development plan 2006. The version that is on the port website is called the consultation draft 2006, but I understand that it is also the final port development plan?

**Mr EASY** — There is a subsequent plan to that — 2009. There are two plans, so you are correct in referring to that as a consultation draft. The 2009 plan reflects the output of the engagement through that process.

**Mr BARBER** — I was confused by the 2006 thing in your document, but in that document there is a bit of stuff about rail in there and it is talking about the Webb Dock development now. It says:

... the optimum time for reopening this rail connection is sometime before 2017. However, reopening this link is likely to be a prerequisite for any development of Webb Dock for international container operations irrespective of timing.

Is it fair to say that plan is out the window now?

**Mr EASY** — In the passage of time obviously the environment changes, and the considerations around any investment have to have regard to the need. Obviously with rail consideration was given as part of the port capacity project, and the decision was that the 1 million container terminal at Webb Dock was not sufficient to support the investment in rail. It is a significant investment in rail, which at the right time will be appropriate, because any investment in that infrastructure will result in further charges to users. We do not wish to do that prematurely. We do not wish to increase prices unnecessarily, and the volume and capacity of the development at Webb Dock at this stage does not warrant provision of rail and that type of investment.

**Mr BARBER** — But you just told me the other decision was not your decision, so is what you just told me the government's view now?

**Mr EASY** — You are referring to two different projects. One is rail to Webb Dock and the container terminal facilities, the other one is an intermodal terminal which is in addition to the three facilities that exist today. The port of Melbourne does have rail facilities. It is important to note that there are three areas where rail comes into the port today. One is at Victoria Dock, one is at both the Asciano and the DP World terminal. Rail represents somewhere between 10 and 12 per cent of containers that come into the port today. That largely, and in fact almost in its totality, is long-haul regional rail, so regional rail is very successful in the port of Melbourne.

The challenge around metropolitan short-haul rail is always the price differential between the cost of moving boxes on road versus the cost of moving boxes on rail, so the success of metropolitan rail moving forward will be largely influenced by levels of congestion on the road network. We have a good road network system that supports the port of Melbourne today, and the cost of moving containers on road is ultimately cheaper. I think in time with growth — and the corporation has always supported that rail will play a bigger role in time — it is the timing and ensuring the level of investment is appropriate to respond to the state's requirements and the port's needs.

**Mr BARBER** — Just a couple of quick ones, Chair. You told us earlier in relation to dredging at the heads how many tonnes of material you took away. Can you remind me how many tonnes of material ended up in the canyon and how did that relate to your EMS?

**Mr EASY** — I cannot recall the exact amount of material that moved into the canyon. I mean, I am happy for you to remind me, but clearly when we undertook the dredging and assessment of the project one of the risks was when you break up the material there will be material that will be left behind that will not be collected

by the trailing suction hopper dredge for disposal to the dredge material ground. It was an identified risk, and on that basis there was a methodology put in place to dredge away from the canyon to minimise and reduce the amount of material. There was always going to be some material that would move into the canyon.

The canyon is at places around 100 metres deep. It supports an ecosystem and, from our point of view, we identified that risk. We did make predictions. There may have been some changes to the predictions, but in the long-term monitoring we do undertake deep-reef surveys at the canyon, at the entrance. We have undertaken a number of those; they have clearly shown regrowth. They have clearly shown that any material that was placed in the canyon following the dredge is now covered with either sponges or seaweed, and the natural environment has pretty much returned to what it was prior to the dredging.

It was identified risk. There was some movement of material into the canyon. I think our predictions and the controls put in place attached to the project have now been validated in terms of a sustainable outcome that has not resulted in long-term consequences.

**Mr BARBER** — I would love to get the survey information to back up that if it is available.

**The CHAIR** — Are you able to provide that, Mr Easy?

**Mr EASY** — Yes, the surveys we have done are probably published on our website, so I am more than happy to make that available.

**The CHAIR** — Thank you.

**Mr BARBER** — Thank you. A new topic. You said the pricing order that would be brought in as part of this deal would be stronger than the current regime, but there is no suggestion that you guys are currently operating as any kind of monopolistic entity. You are not making any fancy rate of return down there at the moment, is that correct?

**Mr EASY** — No, we have a prescribed WACC attached to our investment and our expenditure across the port of Melbourne. I think the ESC undertakes a five-yearly review today. It has recently completed a review. The committee may wish to refer itself to that, and I think what it does say is that the corporation has a monopoly on setting charges within the port of Melbourne but has not exercised those rights in setting the charges, so you are welcome to look at that report.

**Mr PURCELL** — I understand that the state will retain, or the Port of Melbourne retain — I am not exactly sure — some of the aspects that you currently do, like some of the safety aspects, the stevedoring. Do you know the cost of those or have any indication of the approximate cost of those that will remain or be retained by the state?

**Mr EASY** — I am not sure of your question, so could you help me with the question?

**Mr PURCELL** — I understand with the lease that not everything is going to be transferred to the person who takes over the lease. There will be certain costs that you currently incur that will be retained.

**Mr EASY** — Yes, so in terms of the residual state entity, the functions around the harbour master, the vessel traffic services, emergency management, et cetera, around the marine side will be retained by the state. That is correct.

**Mr PURCELL** — Do you know what the costs of providing those services are?

**Mr EASY** — The costs of providing those services, if we were to separate them from the total costs of the business, are in the order of about \$20 million per annum.

**Mr PURCELL** — Yes. I am just having a bit of difficulty in trying to calculate the anticipated revenue from the lease. The way I do the calculations, if you look at amortising that over a 50-year period, you would look at the current profit of the port, which is about \$72 million and you would bring that up to \$92 million if you include those others. If you talk about amortising and a return, the figures do not add up, so what would you believe that a private operator would do differently to what is currently being done in the port to achieve the sorts of returns that they would need?

**Mr EASY** — It is very hard to speak on behalf of what the private new operator might do within the port environment. I would expect that a new operator would continue to invest in facilities in the port of Melbourne, leverage off its own balance sheet in terms of investment in facilities, potentially enter into partnerships and alliances outside the port gate which might improve modal share or flow of containers and movement of cargo in and out of the port of Melbourne. As I said, it is very difficult to speak on behalf of a new entity that does not exist today, but I would expect them to continue to invest and support the ongoing operations of the port.

**Mr PURCELL** — And still amortise their investment and get a return on it as well?

**Mr EASY** — I am sure that is quite achievable, yes.

**Mr ONDARCHIE** — Nick, I remember being at a luncheon you were speaking at some time ago, and you were quite effusive about how proud you were of the Port of Melbourne Corporation. They are a proud organisation with great people who are very experienced in what they do. Clearly, you and your team know your business and you are experts. Given that, and the fact that this transaction is going to disaggregate your business and send your staff in many directions, what are you and your board worried about through this? What are you talking about around the water cooler with this transaction?

**Mr EASY** — I think, as I mentioned earlier, the focus of the corporation is to ensure that the activities of the business continue during this time leading up to the transaction. We are a very proud organisation; we are a very professional organisation. We like to think we do things as best we can. I am sure that this transaction, given that the people who work in the port today will continue to work in the port, that that type of professionalism and ongoing activity will continue. Our job is to ensure that the information is provided to our shareholders for this transaction and to do what is required to ensure that the business is well understood, and that a new operator takes on and continues with what we do today.

**Mr ONDARCHIE** — Given that, given the experience of you and your team, there must be some discussions around the organisation about what is likely to happen post the transaction?

**Mr EASY** — Look, our focus is on, as I said, delivering the services that are supporting the transaction. I think that discussion will occur post the transaction, subject to being completed.

**Mr ONDARCHIE** — So nobody is worried about it at the port, is that what you are telling me? Nobody is worried about what is going to happen.

**Mr EASY** — As I said, our role is to support the decision of the shareholders — —

**Mr ONDARCHIE** — Mate, I am the politician here, not you.

**Mr EASY** — I have given you my answer.

**The CHAIR** — Mr Easy, can I take you back to something you said in your opening statement with respect to the capacity of the port — —

**Mr MULINO** — Chair, should the questioning go back to the government?

**The CHAIR** — Would you like a question, Mr Mulino?

**Mr MULINO** — I think Ms Shing is next in the order.

**The CHAIR** — I am just conscious that we have got a couple of minutes left for this one. I was just going to wrap up the last few minutes, but if Ms Shing like to ask Mr Easy a question?

**Ms SHING** — Yes. Thank you very much for that, and again I will be extremely brief. In terms of the presentation that you have given around assets and facilities, what level of confidence can you have based on the information that you have gathered to date that there will not be a compromise to the quality and standards of those facilities and that infrastructure as a consequence of the transaction?

**Mr EASY** — Again, I think in terms of the transaction there are safeguards built into the documentation on maintenance of the assets and the facilities. Clearly, that would be very important in terms of supporting the trade and the growth through the port. I think a new operator will be incentivised to ensure that the assets are

maintained appropriately to service the growth and the volume, because that ultimately will determine their success.

**Ms SHING** — Including as they are enhanced and they grow in accordance with projections on capacity?

**Mr EASY** — Absolutely.

**The CHAIR** — With the remaining minutes, I would like to follow up on a point you made about capacity projections and the reference you made to productivity being achieved by the stevedore operators. What levers or capacity does the port corporation and ultimately the new leaseholder have to drive that productivity on the subleased wharves that are operated by stevedores? How can you ensure that DP World, for example, maximises productivity on its wharf to get the 8 million?

**Mr EASY** — The only contractual lever that the corporation has around, I suppose mandating those sorts of outcomes, is through the lease mechanisms.

**The CHAIR** — Do they provide for that? Do they give you the capacity to do that?

**Mr EASY** — Most of the leases we have today are of some age. Some of them may have been entered into decades ago, so clearly they may not reflect those types of provisions.

If we are having a discussion on leases, generally you will find there is a discussion around investment, what will be achieved, what type of development plans will be put in place from the terminals, because again, it is about understanding the total system and the environment in supporting trade through the port of Melbourne. The contractual mechanism is the key area for the corporation and that the port operator can use regarding any requirements on stevedores' investments and the productivity through their terminals.

There are a number of external reporting mechanisms that are in place around productivity through the port of Melbourne. The port of Melbourne is a very efficient port. If you look at some of the Waterline reports that are produced around port of Melbourne versus other ports, there are benchmarks that are produced and published, and port of Melbourne operates at a very high level of productivity. Clearly, with further investment — investment in their facilities, investment in the way they operate their terminals — there is opportunity for further capacity through those terminals.

**The CHAIR** — But that is not something the port operator has direct control over that is continued on third-party investment?

**Mr EASY** — The port operator would have the same mechanism as the corporation has today in terms of lease arrangements. You would expect over time that leases will come to their natural expiry, like they do today, and there will be opportunities for discussions with tenants in the port around their leases, their arrangements and what is contained within those leases. I think the opportunity for that type of discussion exists today and will continue to exist in the future.

**The CHAIR** — What is the time frame on those leases?

**Mr EASY** — They all vary. There is no one fixed term in terms of leases.

**The CHAIR** — But the major three. You have obviously just done DP.

**Mr EASY** — Yes.

**The CHAIR** — You have got the new lease at Webb Dock East.

**Mr EASY** — The concession at Webb Dock runs until 2040, and the other major international container terminal operator has a lease into the 2030s.

**Mr BARBER** — With reviews along the way in those leases?

**Mr EASY** — For market rents, yes.

**The CHAIR** — Thank you, Mr Easy. The committee appreciates your evidence this morning. Obviously there are matters that we will follow up, and a couple of matters you took on notice that we will seek a written response from you on. As with DTF, it was the committee's view that we would seek further evidence from the port corporation towards the end of the inquiry, having heard from third parties. But we appreciate your input today and, again, your facilitating the committee's visit to the port in recent weeks.

**Mr EASY** — Thank you. I am happy to assist.

**Witness withdrew.**