



Report

of the

Special Commission of Inquiry

into

Sydney Ferries Corporation

31 October 2007

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GLOSSARY

AAR	Average Annual Remuneration
AIMPE	Australian Institute of Marine and Power Engineers
AIRC	Australian Industrial Relations Commission
AJA	Anglo Japanese American Registrars Limited
AMOU	Australian Maritime Officers Union
AMS	Australian Maritime Services Pty Limited
AMSA	Australian Maritime Safety Authority
AMWU	Australian Manufacturers Workers Union
ARBTU	Australian Rail Bus and Train Union
ASU	Australian Services Union
AWA	Australian Workplace Agreement
BC Ferries	British Columbia Ferries
CBD	Central Business District
CCF/CRM	Critical Control Failure/Crew Resource Management
CCTV	Closed Circuit Television
CEPU	Communication Electrical Plumbing Union
CFMEU	Construction, Forestry, Mining and Energy Union
<i>Code, the</i>	<i>Uniform Shipping Laws Code</i>
CPI	Consumer Price Index
CSO	Community Service Obligations
EBA	Enterprise Bargaining Agreement
Farebox	Revenue derived from ticket sales
Final Parry Report, the	Parry, T, <i>Ministerial Inquiry into Sustainable Transport in New South Wales, A Framework for the Future, Final Report</i> , December 2003

GPH	General Purpose Hand
GTE	Government Trading Enterprise
ICT	Information Communication and Technology
IMS	Integrated Management System
Inquiry, the	The Special Commission of Inquiry into Sydney Ferries Corporation
Interim Parry Report	Parry, T, <i>Ministerial Inquiry into Sustainable Transport in New South Wales, Options for the Future, Interim Report, August 2003</i>
IOE	Instrument of Exemption
IPART	Independent Pricing and Regulatory Tribunal of New South Wales
<i>IPART Act</i>	<i>Independent Pricing and Regulatory Tribunal Act 1992</i>
IRC	Industrial Relations Commission of NSW
ISM Code	International Safety Management Code
ISO Standard	International Standards Organisation
IT	Information Technology
ITSRR	Independent Transport Safety and Reliability Regulator
KPI	Key Performance Indicator
Medlock Report	Fellows Medlock and Associates, <i>Implementation of the Taylor Report: A Follow-up Review, 2004</i>
MIMS	Maintenance Management System / the Shipyard Information System
Ministerial Review of Buses in NSW	<i>Review of Bus Services in New South Wales, (Interim Report, November 2003), NSW Government, chaired by the Hon Barrie Unsworth</i>
MOU	Memorandum of Understanding
<i>MS Act</i>	<i>Marine Safety Act 1998</i>
MUA	Maritime Union Australia

NCR	Non-conformity Reports
NSCV	National Standard for Commercial Vessels
NSW Maritime	the Maritime Authority of NSW
OH&S	Occupational Health and Safety
OTSI	Office of Transport and Safety Investigations
PEO	Public Employment Office
<i>PT Act</i>	<i>Passenger Transport Act 1990</i>
QMS	Quality Management System
QSEMS	Quality, Safety and Environmental Management System
SCAS	Student Course Administration System
SCI	Statement of Corporate Intent
SFC	Sydney Ferries Corporation
SMS	Safety Management System
SOC	State Owned Corporation under the <i>State Owned Corporations Act 1989</i>
<i>SOC Act</i>	<i>State Owned Corporations Act 1989</i>
SSTS	School Student Transport Scheme
STA	State Transit Authority
Sydney Ferries	Sydney Ferries prior to incorporation in July 2004
<i>TA Act</i>	<i>Transport Administration Act 1988</i>
Taylor Report	Taylor, M, <i>Review of Operations of Sydney Ferries</i> , commissioned by the then Waterways Authority, 2001
TMP	Technical Maintenance Plan
USL	<i>Uniform Shipping Laws Code</i> (AKA 'the code' or 'the USL code')

SUMMARY

Sydney Ferries Corporation does not have a contract with Government which sets out the terms by which it should operate.

With or without a contract, as a State Owned Corporation, SFC cannot be subject to any meaningful penalties for non performance or poor performance nor are there any real financial incentives to perform well.

Governments generally do not and should not sue another agency of Government to enforce good performance or sanction performance.

There is little doubt that, overall, SFC's performance has been less than satisfactory. It has consistently spent more than it has earned or received, it has not achieved much by way of productivity gains from its workforce, it is beset by cultural problems and it does not yet have in place all the management tools needed to efficiently run its operations.

There is an urgent need for an entirely new fleet of ferries for Sydney. The replacement of the fleet is an opportunity to reinvigorate ferry services, provide better services that customers want and permit expansion.

There should be a service contract but there are clear disadvantages of a State Owned Corporation meaningfully contracting with the Government in circumstances where the public interest requires bonuses for good performance and penalties for non-observance.

Processes should be started as soon as possible to offer a comprehensive service contract, including fleet replacement responsibilities, to the market. If bids from the market compare favourably with the financial and quality performance of SFC as a State Owned Corporation providing the same service, the best (and not necessarily the cheapest) bid should be accepted by Government. If bids from the market do not compare sufficiently favourably with the

prospects offered by SFC, SFC should continue to provide the service subject to a statutory contract.

Note: This is only a summary by way of very general guidance to the conclusions reached in this Report. The text of the Chapters is the proper place to find the outcomes and reasoning of this Inquiry.

CHAPTER ONE

OVERVIEW AND OUTCOME

INTRODUCTION

- 1 The dominant strand of this Inquiry has been the requirement, under the Terms of Reference reproduced in Appendix A, to report on action which should be taken to improve the ability of the Sydney Ferries Corporation (“SFC”) to provide safe, efficient and customer-focussed ferry services. This involves inquiry into the present state of SFC’s provision of ferry services, so as to advise on a better future.
- 2 The Terms of Reference do not require separate investigation of the fatal accidents of 5 January and 28 March 2007. There are no Coroner’s findings about either of these accidents. The Office of Transport Safety Investigations (“OTSI”) has reported on the former but not the latter accident. (There is brief consideration of the OTSI Report in Chapter 10.) Nothing else in this Report should be taken to reflect in any way on those occurrences or any of their implications.
- 3 The method followed by me and the Inquiry’s staff is described in Appendices B, D and E. A mass of documentary material, not completely consistent throughout all its items, has been gathered and considered. Much more history than necessary for inclusion in the Report has also been learned. Most evidence from witnesses was gathered in private recorded sessions of the Commission, and nearly all by me as Commissioner personally questioning the witnesses. There were also two public forums to consider certain general as well as local aspects of the questions.
- 4 The quality and quantity of public responses were most helpful to the Inquiry, although formidable in the task presented of taking them all into account.

- 5 The contributions by a number of experts in various areas, both volunteered and approached, has been of great value.
- 6 Above all, at the outset of my Report I wish to acknowledge the unstinting co-operation the Inquiry has received from SFC's board, management, staff and consultants. This Inquiry unavoidably imposed very considerable burdens on all of them. It came after many more recent inquiries into SFC than one would have expected for an enterprise of its scale. Conscious of the burden of repeated scrutiny, and the great detail as well as volume of responses and material this Inquiry has demanded from SFC, I wish clearly to thank and commend all those at SFC, and advising it, who contributed to the information and submissions I have considered.
- 7 As Commissioner, I could not have made this Report without the skilled and diligent assistance of the Inquiry's staff. I am grateful to them all. In all the Inquiry's activities, and especially writing, Caroline Spruce, the Solicitor Assisting, Jan McClelland and Kathryn Freytag, as consultants, have been exemplary. The work, leadership and advice of Gail Furness as Counsel Assisting cannot be over-praised.
- 8 Notoriously, this Inquiry followed tragic fatalities in accidents involving SFC vessels in collision with private vessels on the Harbour. Some of the understandable concern expressed publicly at the time of this Special Commission of Inquiry being initiated suggested or assumed that SFC was in a very bad way as an organization providing a public transport service. It is only fair, at the outset of this Report, to record my opinion that the state of affairs is somewhat different from that description.
- 9 The balance of this Report contains description of important aspects of SFC's activities which fall considerably short of what the Government should, in my opinion, expect in the public interest. However, the Report tries as well to note the substantial and continuing efforts by SFC to remedy these shortcomings – well before this Inquiry started its work.

As noted above, SFC has been the subject of, and subjected to, more inquiries than would be ideal in order to focus full corporate attention on necessary improvements. The inquiries have all been useful, and in that sense aided improvement. There is much to be said for the view that now SFC should be allowed time and resources to continue working through planned programmes of improvement.

- 10 Avoiding accidents, and all kinds of collisions, are critical aims of safety planning, training and culture within SFC. Chapters 9 and 10 address these matters. As a topic, safety is both broader and more detailed than collision avoidance. It necessarily intersects with management, industrial practices and maintenance, to which Chapters 6, 7, 8 and 11 are devoted.
- 11 It may be plainly stated that the present position is not systemically unsatisfactory with respect to safety. Safety reasons are clearly not part of the justification (such as it is) for the preferred option which I have chosen. The two accidents involving fatalities cannot be diminished in their tragedy. But their occurrence is by no means shown to be typical.
- 12 Many public submissions evocatively conveyed pride, satisfaction and affection on the part of passengers for the ferry service. It is true that more than a few submissions were opposite in character. But on balance the place of the ferry service in Sydney appears secure, judging from its practical contribution to public transport, its inestimable contribution to tourist facilities and the repeated references to its (and its boats') iconic qualities.
- 13 It would be difficult to justify as much money as non-passenger taxpayers pay for SFC, or even the fares paid to SFC by passengers, solely for these iconic qualities. Without disrespect to the repeated and sympathetic praise of the ferry service in such terms in many submissions in this Inquiry, I have proceeded to consider options for the future without much allowance for this attitude – in the sense that I do

not believe that standards of performance and accountability should be relaxed on its account.

GOVERNMENTAL FRAMEWORK

- 14 From 1788, travel by boat in Sydney Harbour and along the Parramatta River has played a part in transporting people and goods. Obviously, from the nature of a penal colony, at first such activities were governmental. Later, particularly in the century from the mid 19th to the mid 20th centuries, private enterprise provided the bulk of these Sydney waterborne services. Since then, the varying formal structures for providing public transport in New South Wales have seen Sydney ferries as a mix of largely public-service provision as well as supplementary routes by private companies.
- 15 As with the provision of many goods and services regarded as essential for a modern society with a very high urban concentration, like New South Wales, government can be involved in a range of functions, not all of which are consistent with the others. In relation to a service such as public transport by ferries which is rarely, if ever, reasonably to be seen as profit-making, government's paramount role is to provide the money. That includes annual shortfalls between farebox revenue and operating costs, as well as the critical capital sums necessary to maintain and replace boats and shore facilities.
- 16 But government is not providing money from some private source of funds, nor does it do so with a view to making money from its investment as if it were a capitalist entity. In the main, the money comes from taxes and charges paid into consolidated revenue. Then, either directly, or indirectly by means of the borrowing made possible or sensible by reason of the credit-rating supplied by generations (past, present and future) of taxpayers, governments decide how to spend those raised funds.
- 17 Competing priorities for government funding are the essence of responsible government in a parliamentary democracy. They affect or

even determine the level and incidence of taxes to be imposed by Parliament, as well as the budgets for allocation of available funds (including borrowings) by the Government – approved by Parliament. Parliamentary and other (eg by the Auditor-General) scrutiny of government spending and administration has historically focussed on the governmental value obtained for the public money allocated and spent on the activities in question.

- 18 These matters are the core of electoral and parliamentary politics, and as such go well beyond the competence or proper part for this Inquiry to adjudicate. Although ferry services in Sydney are scarcely the heaviest governmental responsibility debated in the Houses of Parliament or discussed in public, they are manifestly and properly the object of differing, sometimes conflicting and even adversarial views between Government, Opposition, interest groups and lobbyists, current affairs pundits, self-appointed experts, real experts and individual passengers, taxpayers and workers. The legitimacy of competing views does not detract from what, in my opinion, presents as an urgent need for choices to be made by the Government. But, given the legitimacy of competing views, there is also, in my opinion, a need for those choices to be made following a continuing process of consultation with stakeholders as well as by the ordinary public participation in politics.
- 19 The present position of Sydney ferry services is, in formal governmental terms, their provision by a State Owned Corporation (“SOC”), namely SFC. The implications and drawbacks of that fairly recent stage of evolution are addressed in Chapter 4. It should be emphasized that criticism in this Report of the SOC model for SFC derives from my concern with its near and medium term future. It could well be that the decision to corporatize SFC was a very useful step to have taken, given the greater visibility of problems and opportunities once it became a separate corporation.
- 20 The most obvious different function of government, compared with funding, is that of regulation. Contemporary regulation embraces safety

of workers, passengers and other users of the waterways – above all. But it also extends to fiscal and commercial accountability and control – eg multifarious reporting on the expenditure of public money, and fare-setting. In a marine environment, regulation commonly includes a deal of detailed and explicit complementarity with international standards. Finally, there is the large and often complex topic of employment regulation, including all aspects of industrial relations.

- 21 In all of these areas, there is potential for at least tension and sometimes outright conflict between possible governmental perceptions of value for money, and governmental responsibility for detection of shortcomings and improvement or maintenance of standards. The righteous demands of one arm of government as the regulator may well require more money to be spent by another arm of government as funder or proprietor.
- 22 Finally, these inherent structural tensions in relation to the governmental framework for the provision of ferry services in Sydney may be seen to converge on the concept of a service contract. This fundamental notion which happens also to be statutory in New South Wales, is discussed in Chapter 5. It cannot be overstated as one of the most important foundations for the approach I have finally decided to recommend to the Government.
- 23 The point about a service contract – ie an explicit and highly specific description of the public service to be provided and the terms on which costs are to be reimbursed and financial risks allocated – is that it should provide the means by which all interested persons and bodies (the so-called stakeholders) can understand, if they wish to, what is to be expected for the limited funds voted by Parliament or paid by passengers (under controlled fares). The lack of a service contract binding SFC is a pity. There has to be one in the future, if a SOC were to continue to continue to provide the ferry service in Sydney.

- 24 Below, I explain why, in my opinion, the need for a ferry service contract casts doubt, in turn, on the SOC model for delivery of ferry services in Sydney. That is, the question arises whether it is in the public interest for the entity which is supposed to be bound by a ferry service contract also being wholly owned by government.

THE REALISTIC CHOICES

- 25 Like any activity involving the deployment of capital plant, equipment and facilities staffed by skilled employees and requiring constantly reliable operations, the provision of ferry services in Sydney could, in theory, be carried out in a large number of different ways. But many of the theoretical possibilities do not justify detailed further consideration, and were absent from any of the serious contributions to this Inquiry. Thus, the silly notion of saving government money by the government getting out of ferry transport altogether deserves little attention. Governmental involvement in urban transport is part of the fabric of Sydney as a city, and so-called saving by government would really be a major loss for the public – in whose interests the government is the steward of public funds.
- 26 Almost as untenable, but not necessarily silly, is the notion of putting the provision of ferry transport in Sydney completely back into the public sector, not even as a government corporation or statutory authority but (say) in a department. At least that approach recognizes the intrinsic place of all modes of public transport as real parts in the ownership – through elected government – of the communitarian aspects of Sydney as a city. However, the shortcomings identified in this Report in producing governmental value for money are most unlikely to be overcome by that approach.
- 27 In my opinion, in the broad, the three classes of various possibilities for the future provision of ferry services in Sydney may be described by reference to their different angles on the tension between governmental funding of public transport, financial discipline, governmental regulation of passenger transport activities and organizational incentives to

expand and improve ferry services in Sydney. In particular, this last factor cannot be overstated as another foundation of the approach I have decided to recommend to the Government. Simply, ferry services are a good thing, and there should be more of them – but not at any price.

- 28 The three classes of realistic possibilities are (1) a statutory authority providing ferry services under close Ministerial supervision, (2) a SOC providing ferry services pursuant to a service contract as required by the *Passenger Transport Act 1990* (“*PT Act*”) and (3) a private-enterprise corporation providing ferry services pursuant to a service contract as required by the *PT Act*.
- 29 The essential justification for Option (1) has to be that it removes the arguably artificial requirement for commercial independence of a SOC – as discussed in Chapters 4, 5, 6 and 7. Its key weakness as a model is that it supplies no more incentive for better governmental value for money than the present model, and may even reduce the present statutory pressure for efficiency.
- 30 The virtue of Option (1) may also be its vice. That is, a statutory authority closely supervised by the Minister, who is responsible to a House of Parliament and through it to the electors, does place full political responsibility and indirect managerial responsibility for the day-to-day operation of ferry services in Sydney, as well as long-term strategies for them, squarely on the Minister’s shoulders, to be discharged with Ministry or Departmental staff assistance.
- 31 Option (1) would preserve such advantage as has been obtained under the current SOC model of the separate visibility of the accounting entity providing Sydney ferry services.
- 32 However, Option (1) continues to place the whole financial and organizational risk of providing a ferry service on government at public expense. This might be appropriate to accept, if better assurance than is presently held out could be obtained for the improvement of

governmental value for money. Without that assurance, which a statutory authority model does not convey, placing all that risk on the public purse is probably not the best course to follow.

- 33 The obvious merit of Option (2) is that it overcomes the problems arising from the current lack of a service contract, addressed in Chapters 4 and 5. A service contract under the *PT Act*, were that statute to be amended as I recommend, constitutes the best practical way of this public transport facility being properly managed and enhanced. A service contract amounts to a detailed specification of what the Government, in the public interest, says must be provided by way of ferry services in Sydney, as well as conduct that must not occur. It lays these fundamental matters of kind and quality out, in considerable detail. It calibrates financial return to the corporation by reference to degrees of success in meeting the specifications laid down by the service contract.
- 34 There has been very recent public comment on the eve of delivery of this Report indicating profound misunderstanding – genuine or affected – on the part of some reported commentators, about the established concept of a service contract. The justification for its pivotal place in my reasoning is elaborated below. In considering Option (2) at this point, it is worth emphasizing that the established primary model under the *PT Act*, and for a long time, has called for a service contract. SFC simply happens not to have had one, for reasons which may once have been defensible as a temporary measure but can no longer justify the lack of such an elementary device to obtain governmental value for money.
- 35 As well, the reported apparent misunderstandings in newspaper coverage in the last few days concerning the provision of ferry services in Sydney under a statutory service contract go to the absurd extreme of warning that under a service contract model the provider of ferry services could pick and choose routes to be served (or scrapped) as well as standards of service to be provided (or not). No-one familiar with the *PT Act* or the recent bus reforms, or with the explanations and

discussion that proceeded in this Inquiry's public forum held on 2 August 2007 could seriously or honestly hold that view. The very point of a service contract – its content and meaning – is to stipulate routes, capacity, standards of service, and the like.

- 36 My recommended option does not allow for any more contractor's discretion, under the proposed service contract, than SFC presently has under the inadequate exemption of it from the statutory requirement to have a service contract. Rather, the superior level of detail and effective legal form will limit discretion to properly operational matters, which would definitely not permit self-interested discarding of mandatory service on routes, including by reference to capacity and timetables. The public transport service governed by a service contract has, as its essence, the running of boats on stipulated frequencies or timetables, with stipulated numbers of seats, to stipulated destinations, from stipulated wharves. None of those essential features would be any more vulnerable to contractor discretion under Option (3) as under Option (2), or under Options (2) or (3) compared with the present.
- 37 Indeed, as explained below in comparing Options (2) and (3), the main and perhaps decisive difference between them is that under Option (3) there may be uncompromising governmental enforcement of the obligations imposed by a service contract. That is not true of the present position, at all.
- 38 Further explanation is attempted below by way of contrasting a service contract model with an unthinkable kind of privatization.
- 39 Returning to consideration of Option (2), it can be seen that its main drawback arises from the unreality of the Government enforcing the obligations imposed on a SOC by a service contract. It would be an affront to the common sense of taxpayers for the Government to incur the expense of suing a corporation for damages, or litigating to justify reduced remuneration of the corporation, were it to breach or fall short of the standards required by its service contract. The money all

ultimately comes from the public purse, albeit through the separate accounts of a wholly Government-owned corporation.

40 While, in form, the SOC model involved in Option (2) differs radically from the statutory authority model involved in Option (1), especially by the distancing of operations from Ministerial control, the difference is more apparent than real. Again, the difficulties described in Chapter 4 illustrate this position.

41 The tensions and conflicts between the various functions of government in relation to public transport, noted in paras 19 and 20 above, invite selection from those functions of those which are best or uniquely performed by government at direct public expense. If there are some such functions, and they are sufficiently different from other functions in their inherent superiority in the hands of government, as opposed to private enterprise under a contract, then an obvious possibility is to leave the peculiarly governmental functions in public hands – and those functions that may be as well or better performed under private enterprise under a contract to be done in that way. Done effectively, this distribution of functions would serve to reduce those tensions and conflicts. In turn, this should permit the Government to enforce the provision of services at private commercial expense under a service contract – rather than place it in the dilemma of incurring yet further public expense upon shortcomings in the provision of services.

42 None of this is new, let alone a threat to democracy, as a very recent reported comment would have it. Democracy simply does not mandate that goods and services be provided by public servants at direct public expense whenever their provision is in the broad public interest. Democracy has never involved any such rule. There are probably no serious national economies in the world which practise that approach as a rule.

43 Government could have its own in-house builders or engineers, complete with a whole workforce through all skilled trades to a corps of

labourers. Government could own all the plant and equipment necessary for all building and engineering works undertaken in the public interest, and buy and maintain them on its own account. In different times and places, all this has been done. There has been no serious suggestion to this Inquiry that New South Wales should treat that approach as nowadays a sensible one, let alone the preferred one, in the case of public transport.

- 44 Like every comparable government that cares to provide public transport services, New South Wales buys major equipment – such as trains – under contracts with suppliers. Usually, suppliers are chosen for their greater expertise and experience, than the Government has, in (say) designing, building and maintaining trains. The same is obviously true of those who design and erect buildings, and construct public roads.
- 45 In all these cases, governmental procurement of goods and services for public facilities is carried out under contracts. The idea is that financial and other risks involved in providing those facilities are allocated according to the parties' perceptions and agreement in particular circumstances. A major driver of what I am calling governmental value for money is the intelligence with which the Government is able to allocate risk by contracting for the procurement of goods and services.
- 46 In this Inquiry, there has not been any demonstration (as opposed to assertion) that the provision of ferry services in Sydney is so special in some unexplained way that it cannot be considered a candidate for provision under a service contract with a private-enterprise corporation.
- 47 After all, the relevant legislation already principally requires SFC to be bound by a service contract. The question is whether the public interest is really best served by that contract suffering from defects in enforceability and blurring of commercial independence (and responsibility), as noted in paras 23, 36, 38 and 39 above.

- 48 Given that a private-enterprise corporation would be just as legally bound to deliver ferry services under a service contract as would a SOC under a service contract, and that the contract would be substantially more enforceable against the former as compared with the latter, Option (3) compels close consideration. It represents what should already be the case with SFC as a SOC, but with real teeth in the mechanism for ensuring the full and proper servicing of all routes to specified standards.
- 49 Explanation of the reasoning which puts Option (3) at the head of the three classes of realistic possibilities is set out below. In summary only Option (3) holds out the realistic prospect of the Government, as champion of the public interest including taxpayers and passengers, taking steps under a service contract to enforce the service obligations in providing ferry transport in Sydney – without the conflict of interest created by government being the only source of funding. Option (3) makes available private resources risked under a service contract.
- 50 I note the basic element of a service contract which would be just as applicable under Option (3) as under Option (2) – ie regardless whether the service provider is government-owned or a private-enterprise corporation. That basic element is that the Government agrees to pay a price fixed by the provisions of the service contract (no doubt by sophisticated formulae recognizing various economic circumstances).
- 51 In theory, under Option (2) a SOC responds to the fixing of its price for the delivery of contracted services in a commercial way – eg budgeting for labour costs according to the work to be done and the relevant employment market. In theory, under the SOC model involved in Option (2), SFC as a SOC would act commercially at arms-length from political direction in that regard. Ideally, I suppose, it would usually mean that an adequate number of staff is hired, with no more recourse to overtime than is truly reasonable, paid at rates sufficient to attract appropriate skills and loyalty, with full provision for proper safety and other work conditions including training. Ideally, no more would be spent by the

SOC on its labour than was appropriate to meet that description. On the one hand, if it spent much less than it should, quite apart from any breaches of employment law involved, reduced service levels would probably by definition breach the service contract. On the other hand, if it paid much more than it should, governmental value for money would be diminished, at public expense. The ideal could be summed up as – no cutbacks, no feather-bedding.

- 52 In practice, there are the difficulties which have been experienced with SFC, especially as addressed in Chapters 6, 7 and 8.
- 53 Under Option (3), it could be expected that a private-enterprise corporation, in practice, would rationally respond to pricing under a service contract, eg in budgeting for labour costs, in much the same way. Of course, the capitalist profit motive would be the reason for this expected conduct, in place of what might be seen as a public administration statutory compulsion in relation to a SOC under Option (2).
- 54 In particular, underspending on labour would cost a private-enterprise corporation under Option (3) by reason of the penalties, or missing out on the bonuses, discussed below in relation to the recommended form of a service contract (and see Chapter 5). Overspending on labour, under Option (3), would cease to be of concern to the public purse, and could be left to the tolerance or otherwise of ultimate shareholders.
- 55 So long as the balance of incentives and disincentives (bonuses and penalties) is intelligent, a service contract ought to produce expenditure and effort by the service provider in order to discharge contractual obligations, in theory alike for a government-owned corporation as for a private-enterprise corporation. In practice, no assurance can be gained from the experience at SFC, described in Chapters 3, 4, 5, 6, 7 and 8, that a SOC would in practice respond to the carrot and stick of a service contract in the same way as a rational private-enterprise corporation.

- 56 However, the basic element is the price, for which costs must be paid in order to earn it. Leaving aside possibly arguable views of differential motivation touched on in para 52 above, the Government would undertake to pay a price fixed by a service contract under either Option (2) or Option (3). If under Option (3) the prospective private-enterprise providers could not offer to provide a comparable service on comparable terms at the same or a lower price as the then current net cost of a SOC to government, then the best governmental decision could well be reversion from Option (3) to Option (2).
- 57 This initial form of contest, or mark to market, may be called Option (4). It comprises an initial choice of Option (3), but on a provisional basis until it proves to be no more expensive than Option (2). It involves would-be private-enterprise providers competing not only among themselves for the service contract with the Government but also as a group against the existing SOC ie SFC. It thus provides an opportunity for the hopeful reforms and improvements currently in hand at SFC to produce a fiscally and operationally superior performance over the performance offered by private-enterprise bidders.
- 58 One other dire consequence has been wrongly warned against by the recent published comments. It has been said that so-called privatization, even under a service contract, will produce higher fares for passengers. Presumably, this means higher fares over and above inflation under the present system. The recommended course explained in this Report gives no freedom to a provider of ferry services in Sydney to set its own level of fares. A private-enterprise corporation would have no more power to do so than SFC does at present – and that is no power at all. Simply, ferry fares would remain regulated by the Independent Pricing and Regulatory Tribunal of New South Wales (“IPART”). No change is recommended in the control, governmental in nature but independent in execution, by IPART of ferry fares. The same interests of governmental value for money, efficiency and social equity

as govern IPART's determinations at present will remain in the recommended future.

- 59 The Terms of Reference are sufficiently wide to have thrown open for consideration even more choices than those described above. Some are really only theoretical and of no analytical use – eg the option of scrapping any publicly funded provision of ferry services in Sydney and leaving the possibility of any ferry services to purely private business and investment decisions. This extreme form of privatization was rejected early in the Inquiry, given the intolerable disruption and uncertainty it would produce for everyone involved in and concerned with ferry services in Sydney.
- 60 It stands in stark contrast against the ideas behind Options (3) and (4) – which would oblige either a private-enterprise corporation or a SOC – whichever promised the better value – to provide stipulated services.
- 61 Perhaps the only usefulness of mentioning the extreme form of privatization is that it demonstrates the threadbare nature of any claim that the private sector (meaning ordinary capitalist, ie for-profit, business) is either uniquely or best fitted to produce an effective or efficient ferry service. All the information available to this Inquiry combines to show that any such approach would involve great interruptions to services, the loss of many of them, and the certainty of large hikes in fares. Any such approach would also have to address competitive neutrality and the public interest in charging appropriate prices for access by private business to public facilities such as waterways and wharves.
- 62 The illusion informing that theoretical, extreme and purist form of privatization, in the case of ferry services in Sydney, is that a genuinely public transport service could realistically be provided at no net cost to the public purse.

- 63 The discussion in Chapters 2-5 attempts to provide the context and findings to justify the conclusion that the realistic choices should be seen as those described above.
- 64 In particular, the shortcomings in financial performance, and industrial practices addressed in Chapters 7 and 8 argue against a determination to maintain unaltered the present position.
- 65 The challenges and difficulties in relation to management and culture, noted and assessed in Chapter 6, further support the Government now deciding to try a different approach.

PREFERRED OPTION

- 66 In contracts generally, both in private life and in business, including contracts between government and business, there is also a well-understood disincentive against shortcomings in performance. Most commonly, the disincentive is the entitlement to damages – the payment of money by way of compensation – by a party who breaches the contract, to the other party who has missed out on the benefit of the full performance of the contract. It is the very essence of a contract in our system that damages are payable by a party who breaches the contract, to the other party, in a sum appropriate to make up for the consequences of the breach of contract.
- 67 Another form of disincentive which parties to a contract can agree to provide is a sliding scale of remuneration depending on the quality of performance. In our legal culture, this method of providing a set of incentives and disincentives can run foul of the doctrine of equity against penalties, designed to prevent the unconscientious resort to terms in terrorem. Fortunately, a precedent close at hand has alleviated the position for the Government in relation to devising a sensible set of disincentives under a service contract for the provision of ferry services in Sydney. It is explained in Chapter 5.

- 68 This precedent, presently confined to the recent, important and promising reform of public bus services in the metropolitan area, should be followed for the ferries in Sydney. Put simply, Parliament can overcome the judge-made law against so-called penalties in contractual provisions, by the specific authorization of what may be called a penalty and bonus system, such as now operates for the buses. As well as putting beyond doubt the enforceability of the penalties, being the disincentive to weigh against the incentive held out by agreed bonuses, this modified form of contract should reduce if not eliminate the need to resort to ordinary contractual litigation, for damages, in the case of disputed shortcomings of performance.
- 69 As explained in Chapter 4, the present position is the latest and relatively short-lived form of legal entity (ie SFC) by which ferry services have been provided in Sydney. Some of the history of previous forms is touched on in Chapters 2, 3 and 4. It includes the provision of those services for an important period by a purely public sector method – by fully State owned and public-servant manned ferries, whether departmentally or under a statutory authority. Historically, the choice was made for the creation in 2004 of SFC.
- 70 A critical aspect of this choice was the legal form of the service providing entity as a SOC. The defining characteristics of a SOC, as relevant to the case of SFC, are addressed in Chapter 4. This Inquiry emphatically does not look at SOCs in general, or even the merits of the policy set by the *State Owned Corporations Act 1989* (“SOC Act”). It is concerned, in this regard, solely with the effects on the present position of SFC of its attributes as a SOC, and the implications of those attributes for the future.
- 71 As a SOC, SFC can never be regarded as truly separate from the public purse. This is true notwithstanding the most energetic and faithful attempts within SFC and the Government to observe the elements of separation intended to be achieved by the provisions controlling the

funding, direction, management and operational activities of SFC as a SOC.

72 For all these reasons, I recommend the Government choose Option (4) which amounts to the provisional choice of Option (3). What this means is that I recommend:

- a. Processes should be started as soon as possible to offer a comprehensive service contract, including fleet replacement responsibilities, to the market;
- b. If bids from the market compare favourably with the financial and quality performance of SFC as a SOC providing the same service, the best (not necessarily the cheapest) bid should be accepted by the Government (ie: Option (3)); and
- c. If bids from the market do not compare sufficiently favourably with the prospects offered by SFC continuing as a SOC, SFC could continue to provide the service subject to a statutory contract (ie: Option (2)).

73 The challenges of an aging and diverse fleet, addressed in Chapters 11 and 12, lay the last of the foundations for the approach I have recommended. Ferry services as a form of public transport in Sydney should not be allowed to deteriorate, let alone by reason of physical deterioration of the fleet. Nor should the well-intentioned and skilled work of SFC's staff continue to be impeded or frustrated by mounting difficulties in maintaining the aging fleet in good order.

74 In order to make a socially useful and environmentally preferable use of our waterways, especially for commuter traffic, routes for ferry services must become better, both in frequency and location. There should be capacity, therefore, for the ferry service to experiment with new and different routes, without any diminution of presently useful routes.

- 75 None of these hoped-for developments can realistically happen unless a better fleet – new and well-designed for Sydney – is acquired to replace the present fleet. Otherwise, stagnant passenger numbers, mounting maintenance costs and problematic reliability will compound the present unsatisfactory state of affairs.
- 76 There is thus an historic opportunity, unparalleled since 1788, for public ferries in Sydney to be rejuvenated as a mode of public transport deserving and capable of passenger growth.
- 77 The unfortunate history of the fleet that Topsy built mandates an opposite approach to the procurement of a replacement fleet. Ad hoc and patchy assignments for the naval architects must be avoided. Happily, SFC's recently drafted strategy for fleet replacement, discussed in Chapter 12, decisively takes the right direction in this regard. In large measure, it should provide the template for the urgent refinement and specification of a replacement fleet.
- 78 In order for the disruption of a transition from the present fleet to the new fleet to be minimized, and most deservedly so as to enhance the somewhat fragile morale of SFC's skilled workforce (afloat and at the shipyard), the replacement of the fleet should be commissioned as soon as practicable, with a sense of urgency. Further, it should be concentrated or compressed in time, so as to move as quickly as feasible to a more steady state of performance at an enhanced level of vessels, facilities and training.
- 79 Again seeking to learn from historical difficulties noted in the Report as a whole, in my opinion it is vital that the present staff be integrally and thoroughly – not merely incidentally by way of intermittent consultation – involved in producing the best specifications for a modern and robust fleet. (A start would be widespread sharing and feedback in relation to the current SFC fleet replacement strategy.)
- 80 Some difficulty can be envisaged in relation to the equally important – perhaps even more important – involvement of management in

replacement fleet specification. It is possible under Option 4 that Option 3 will be the future. Even with virtually complete transfer to a private-enterprise provider of all current SFC management, there will still be ultimate management responsibility residing in a new private-enterprise provider under a service contract. The new management component of that provider must be made to own (so to speak) early decisions concerning the replacement fleet. Otherwise, one does not need to be a cynical litigator to expect expensive and disruptive complaints and grievances in the event that operating conditions start to bite against a private-enterprise corporation under a service contract.

- 81 Furthermore, it is highly likely that the only serious bidders, in the contest proposed under Option (4) against the SFC status quo, will be businesses that already have wider experience of public transport, perhaps including ferries, outside Sydney or even Australia. It would be a foolish loss of value for the Government not to take steps to enlist that comparative experience in the task of devising an excellent new ferry fleet for Sydney.
- 82 It follows, then, that the critical process of devising a form of service contract and inviting bids from the market must also commence as soon as practicable, and be completed as quickly as the necessary thoughtful and prudent considerations permit. It will obviously take more than mere months, but surely less than many years.
- 83 A sketch is made in Chapter 13 of considerations which, in my opinion, must be taken into account concerning the procurement approach. They include suggestions both as to the fleet, shore facilities and contractual provisions. They are all subject to the specialized and overarching skills and preferences of central government approaches to procurement of public projects. Equally, their financing depends on political and technical choices to be made in the circumstances which will exist as commitments to expenditure become necessary.

- 84 It need hardly be said that the test I have tried to apply in investigating the present state of affairs and advising on future possibilities has been the provision of a public transport service, with the implicit stress on meeting the needs and desires of the travelling public. A salutary limit on considerations, of equal force, has been the proper – neither mean nor extravagant – use of public funds to provide that service. In this sense, passengers have been the people this Inquiry has primarily considered, with taxpayers as constant companions.
- 85 In conclusion, however, the present (and future) staff of SFC and any successor provider of ferry services in Sydney must also rank high in considerations of reform. Of course, it is true that SFC's existence and activities cannot be justified simply as a means of providing employment to a relatively small number of workers. On the other hand, it is simply not fair to the workforce to leave out of account understandable fears of an uncertain future, concerns about steady employment and hopes for career progression. These are all legitimate matters, which I have tried to include in the complex of factors.
- 86 In no relevant sense is it the 'fault' of the present employees of SFC that they are employed under the conditions and on the terms to which some critical reference is made in Chapters 6, 7 and 8. As a matter of equity, there is no reason, in my opinion, for those terms and conditions to be abrogated in any degree as part of a reform package. Simply, if a private bidder considers that it can meet the requirements of a new service contract involving replacing the fleet and expanding passenger services, at an attractive price, it should do so accepting that at the outset it must deal with the present fleet, and that the SFC workforce – in whole without any exceptions – should be transferred (one way or the other) to the new provider – without altering anyone's current terms and conditions of employment.
- 87 Thereafter, in the event that Option (4) produces Option (3) and a private-enterprise corporation is contracted to provide the service, within the strictures of that contract and the limits of the law generally,

the intended purpose of my recommendation is that new management will take management decisions for itself.

- 88 Fears have been expressed that such a change necessarily threatens significant loss of jobs on the ferries. First, that will not happen by reason of reduced ferry running or passenger facilities – because I recommend in favour of more rather than less ferry travel. Second, any new operator will need as many employees as the job requires. I have not heard any reasoned representation on behalf of any group that seeks to have more people employed on the ferries than the job requires. In the nature of things, the right number is a matter for management, in the public interest.
- 89 These proper concerns require consideration of a contingency involved in all private-enterprise provision of services, whether of a public or business kind. Such corporations can fail financially, and the demonstrated fact of that having occurred is in fact a necessary part of the rationality intended to inform the conduct of such corporations. But public transport is not just another widget. It must continue to be provided, so far as possible, regardless of private business failures. In this sense it is inextricably part of government.
- 90 Accordingly, there must be step-in provisions in any service contract or related legislation: by which the public can be assured that the necessary boats, facilities and crew, and all other staff, will continue to be controlled in the public interest and seamlessly continue to provide service in the event that a contractor fails. Such provisions are commonplace in this context and serve to equate the security of the provision of services in the way I have recommended with the security offered by continued public-sector provision of services.

RECOMMENDATION

- 91 It is recommended that the Government choose Option (4), that is, undertake to pay a price fixed by a service contract to a private-enterprise corporation for the provision of ferry services pursuant to a

service contract as required by the *Passenger Transport Act 1990* but on a provisional basis, that is, until it proves to be no more expensive than a SOC providing ferry services pursuant to a service contract as required by the *Passenger Transport Act 1990*. This means, it is recommended that:

- a. processes should be started as soon as possible to offer a comprehensive service contract, including fleet replacement responsibilities, to the market;
- b. if bids from the market compare favourably with the financial and quality performance of SFC as a SOC providing the same service, the best (not necessarily the cheapest) bid should be accepted by the Government (ie: Option (3)); and
- c. if bids from the market do not compare sufficiently favourably with the prospects offered by SFC continuing as a SOC, SFC could continue to provide the service subject to a statutory contract (ie: Option (2)).

CHAPTER 2

THE NEED FOR A FERRY SERVICE IN SYDNEY

OVERVIEW OF PUBLIC TRANSPORT IN SYDNEY

92 A city is a moving mass of people. An effective public transport system is critical to ensure people are able to travel between the places where they live, work and visit. The *Ministerial Inquiry into Sustainable Transport* (“the Final Parry Report”) concluded that:

“... a vibrant, modern economy and society like NSW needs an effective public transport system with an appropriate level of taxpayer subsidy.”¹

“Quality public transport services that meet the needs of passengers and the community at reasonable cost provide a wide range of social, environmental and economic benefits.”²

93 NSW has the largest public transport system in Australia. 19% of people in NSW use public transport as their main mode of transport, the highest public transport usage in any State.³ Public transport in Sydney has almost double the share of journeys to work of any other State capital,⁴ with over one in five people in Sydney using public transport to get to work compared to less than 13% in Melbourne and Brisbane.⁵

94 The principal components of Sydney’s public transport system are its railway, bus and ferry networks.

¹ Parry, T, *Ministerial Inquiry into Sustainable Transport in New South Wales, A Framework for the Future, Final Report*, December 2003, p ix

² Parry, T, *Final Report*, op cit, p 1

³ Australian Bureau of Statistics, 2006 Census, *Environmental Issues: People’s Views and Practices*, March 2006, p 62

⁴ Department of Premier and Cabinet, *NSW State Plan*, November 2006, p 56

⁵ NSW Government, *Metropolitan Strategy, Transport Strategy for Sydney*, 2005, p 158

Rail Services

- 95 Rail services in NSW are provided by RailCorp, a SOC.
- 96 RailCorp's Metropolitan Rail Area Network (which includes the Sydney metropolitan area, Central Coast, Blue Mountains and Illawarra lines) covers 3,236 track kilometres.⁶
- 97 Each year, RailCorp carries over 273 million passengers. On an average weekday it operates about 2,500 services and carries over 900,000 passengers from 304 stations.⁷

Bus Services

- 98 The task of providing bus services in NSW is shared between the State Transit Authority ("STA"), a statutory authority, and a number of private bus companies.
- 99 The STA carries over 200 million passengers a year, while private bus companies carry an additional 35 million passengers a year.

Ferry Services

- 100 There are nine passenger ferry operators in NSW. Most of these operate outside of Sydney. Matilda Cruises, a private company, operates passenger ferry services between Darling Harbour and Circular Quay and Lane Cove and Circular Quay. All other ferry services in Sydney are provided by SFC, a SOC.
- 101 SFC operates ferry services along eight different routes, to 45 different wharves. The network covers a distance of approximately 37 kilometres from Parramatta in the West, to Manly in the North East and Watsons Bay in the East.

⁶ ITSRR, *Annual Report 2005-06*, p 111

⁷ *ibid*, p 112 cited from RailCorp, "A Compendium of City Rail Travel Statistics", 5th Edition, April 2006

102 Each year, SFC carries over 14 million passengers and operates approximately 179,000 services.

Funding

103 RailCorp, STA and SFC all rely heavily on Government funding to cover their costs. In 2005-06, RailCorp and CityRail received \$1,313 million in Government funding, STA received \$257 million in Government funding, private bus companies received \$485 million in Government funding and SFC received \$47 million in Government funding. In 2005-06, farebox cost recovery was just 24% for RailCorp⁸, 51.3% for STA⁹ and 34.8% for SFC. In 2006-07, farebox cost recovery for SFC was 42.6%.

104 This is consistent with international experience. Most public transport systems are unable to operate without significant funding contributions from governments.

105 However, as noted in the Interim Parry Report, "*It is important to ensure that public subsidies are justified and that costs are efficient*".¹⁰

CONTRIBUTION OF FERRIES TO PUBLIC TRANSPORT NEEDS

106 Ferries are by far the smallest component of the State's public transport system. 12.3% of people in NSW use trains as their main form of transport to work. 5.7% of people in the State use buses as their main form of transport to work. By contrast, ferries are the main form of transport to work for only 0.6% of people in the State.¹¹

107 It is necessary to put this figure in perspective. First, ferries, for obvious geographical reasons, are of particular significance to Sydney. Public transport use in Sydney is much higher than in the rest of the State.

⁸ Based on IPART figures. IPART, *CityRail Fares from 11 November 2007, Transport- Final Report and Determination*, October 2007, p10

⁹ IPART, *Review of Fares for Sydney Metropolitan Bus Services from 2 January 2007, Transport - Report and Determination*, December 2006, p13

¹⁰ Parry, T, *Ministerial Inquiry into Sustainable Transport in New South Wales, Options for the Future, Interim Report*, August 2003, p 32

¹¹ Australian Bureau of Statistics, 2006 Census, *Environmental Issues* op cit, p 67

Statewide, only 18.6% of people use public transport as the main form of transport to work, whereas in Sydney, 72% of people who work in the Central Business District (“CBD”) use public transport as their main form of transport to work.

108 SFC’s main contribution to Sydney’s transport network is transporting people from the metropolitan area to the CBD, where all of SFC’s ferry routes terminate. In particular, SFC’s Manly service is a vital public transport link to the CBD. In the absence of a rail service to the northern beaches, ferry transportation offers a cost effective and efficient public transport system between Manly and the CBD. SFC’s Manly service accounts for 50% of its total farebox revenue. A 2001 figure suggested that 4.1% of people travelling to work in inner Sydney travel by ferry.¹² An updated figure will not be available until the 2006 census data are released.

109 Secondly, a public transport system is not just for the purpose of moving commuters. Approximately half of SFC’s passengers are not commuters, and use the service for sightseeing or leisure. These passengers are not counted in ‘journey to work’ statistics.

110 Finally, it should be noted that SFC has the potential to make a greater contribution to the public transport system than it presently does. SFC’s patronage is largely static because, for reasons discussed in detail below, SFC is presently unable to enhance its services.

111 Nevertheless, it is inescapably the case that, compared to bus or rail, SFC makes a modest contribution to the daily transport task of the city.

OTHER BENEFITS OF A FERRY SERVICE

112 Whilst the number of Sydneysiders who benefit directly from SFC’s services is relatively low, it must be recognized that the provision of

¹² Information provided to the Inquiry by the Transport Data Centre based on 2001 Journey to Work Census Data

ferry services provides benefits to the broader community and not just to those who directly use the services.

- 113 There is increasing awareness of the health, social and environmental benefits of public transport use.

Urban Development

- 114 Sydney's population is rapidly growing. It is anticipated that Sydney's current population of 4.2 million will grow to 5.3 million by 2031.

- 115 Some areas serviced by ferries, or well capable of being serviced, are undergoing rapid change, with growth along the Parramatta River, redevelopment around Sydney Harbour and the CBD and the growing tourism and leisure industries.¹³

- 116 Population growth should be expected to increase demand for efficient public transport services, as part of an effective urban system.

Environmental Contribution

- 117 Public transport can play an important role in decreasing greenhouse gas emissions, dealing with urban congestion and reducing car dependency, benefits which extend to the whole community.

- 118 The transport sector is NSW's second-largest source of greenhouse gas emissions, contributing 13.7% of the State's total and around a fifth of all the State's energy-related emissions. Road transport has by far the largest share of the transport emissions at 91.4%, followed by civil aviation (5%), marine (1.8%) and railways (1.7%).¹⁴

- 119 The NSW Government has committed itself to reducing emissions from motor vehicles by half by 2020, despite predicted increases in car travel.¹⁵ In addition, the NSW Government has committed to a return to year 2000 greenhouse emission levels by 2025, and a 60% cut in

¹³ NSW Government, *Metropolitan Strategy*, Transport Strategy for Sydney, 2005, p 180

¹⁴ Department of Environment & Climate Change NSW, "Chapter 2.4 Transport" *NSW State of the Environment 2006*

¹⁵ Department of Premier and Cabinet, *NSW State Plan*, op cit, p 118

greenhouse emissions by 2050. Achievement of these goals will undoubtedly be assisted by resort to cleaner fuels and other improvements in public transport and urban and transport planning.

120 Whilst the impact of ferries on the environment is certainly not neutral, it is evident that the carbon emissions released by a ferry transporting hundreds of passengers are significantly less than if each of those passengers travelled separately by private vehicle. Furthermore, an historic opportunity exists in the near future to replace the existing aging fleet with a new fleet that utilizes, to the greatest extent practicable, environmentally friendly technology.

121 Encouraging the use of public transport is also a key factor in reducing urban congestion. The NSW Government's State Plan states that the community reported congestion in urban centres is a key issue. Managing congestion is an ongoing challenge as the population and economy of urban centres continue to grow. One of the priorities of the State Plan is to, "*Improve the efficiency of the road network during peak times as measured by travel speeds and volumes on Sydney's major road corridors*". Ferries can take some pressure off several important and heavily congested roads, particularly in peak hour, such as Victoria Road, Military Road, the Spit Bridge, and Old South Head Road.

Social Benefits

122 Active transport, that is, walking, cycling and using public transport, contributes to good health through increased physical activity.

123 Catching the ferry is a healthy way to travel. In fact, 40.8% of commuters walk from home to the ferry wharf and 68.9% of commuters walk from the wharf to their ultimate destination.¹⁶

¹⁶ Information provided to the Inquiry by the Transport Data Centre based on 2001 Journey to Work Census Data.

Tourism

- 124 In addition to forming part of the city's public transport system, ferries play an important part in the tourism industry and contribute to the broader economy of the State.
- 125 Unlike other forms of public transport, almost half of SFC's passengers use SFC's services for tourism or leisure rather than to commute. Leisure passengers use ferry services for tourist destinations such as Manly, Taronga Zoo, Watsons Bay and Darling Harbour or just to enjoy a ferry ride on the harbour, a tourist attraction in its own right.
- 126 The older vessels in SFC's fleet, in particular, have an iconic presence on the harbour. Ferries make the harbour accessible, in principle, to all Sydneysiders and visitors and thereby contribute to making Sydney a vibrant and liveable city.

IMPORTANCE OF PUBLIC TRANSPORT COORDINATION AND PLANNING

- 127 This is not an Inquiry into the better coordination of public transport in Sydney. However, it must be emphasized how critical it is to the operation of a better ferry service that it be well linked with other modes of public transport. It is not sensible for ferries to pretend to operate as a stand-alone transport system. One SFC commuter submitted to the Inquiry:

"... Sydney Ferries needs to be brought out of its administrative and operational 'bunker' and operate as part of an integrated public transport system. Sydney Ferries can no longer be a quaint maritime 'add on' to the public transport system of Sydney. It needs to be integrated in terms of route planning, pricing, ticketing and management."

128 Various reports have found that the coordination of public transport in Sydney is generally poor.¹⁷ To give a simple illustration, RailCorp and SFC both staff and operate separate information centres within 100 metres of each other at Circular Quay. The maintenance of separate information centres for separate modes of travel is unnecessarily costly. It is also inconvenient for the users of public transport, many of whom presumably wish to use, and receive information in relation to, all modes.

129 In 2003, the Final Parry Report found that:

“New South Wales has had a tradition of assessing transport infrastructure projects on a unimodal basis...

There are dangers in developing sectoral transport plans that are not well integrated with plans for other transport modes. There is the need for a multimodal plan, integrated with a metropolitan planning strategy. Among the requirements for this are:

- a. the development of overall objectives for the transport sector against which transport proposals can be assessed;*
- b. similar scenario modelling for other modes (bus, car, etc);
and*
- c. synthesis and harmonization of these modelled futures.*

The proper adoption of a multimodal framework has been absent from many recent transport infrastructure initiatives in New South Wales where project appraisals have not benefited from embedding in a multimodal plan...

The choice of transport infrastructure projects in the Greater Sydney Area has not been made on a consistent basis, except in the case of roads. There is little evidence until recently that a long

¹⁷ Parry, T, *Final Report*, op cit.; Unsworth, B, *Ministerial Review of Bus Services in NSW Interim Report*, November 2003; Auditor-General, Performance Audit, *Connecting with Public Transport: Ministry of Transport*, June 2007

term strategic view of transport needs has underpinned project choice. Reference to a coherent urban plan is needed and this has been absent. Although cost-benefit analysis has been used to screen projects, it needs to be reviewed to achieve consistent treatment of things such as 'developmental benefits'.

A multimodal approach to choosing between alternative solutions to transport problems has been missing. The impact of any transport project on other modes (for example, the impact of a road development on bus and train use) needs to be more closely assessed.”¹⁸

- 130 The coordination of public transport is currently the responsibility of the Ministry of Transport. The Ministry manages the 131 500 Transport Infoline which provides information in relation to rail, bus and ferry services. All timetables for bus, train and ferry have to be approved by the Ministry of Transport. However, despite this, the timetables do not always align well.
- 131 Analysis of timetable integration between bus and ferry on some of SFC's major routes, as illustrated in the following tables, suggests that timetable alignment may be somewhat arbitrary. In some instances the timetables align fairly well. In other instances, a considerable waiting period is necessary before a bus meets a ferry service, or no bus service exists at all. Of course, late running complicates any designed link between modes.

¹⁸ Parry, T, *Interim Report*, op cit, pp 142-143,149

ROSE BAY WHARF- AM

Bus route	Bus arrival	Ferry departure	Gap
324	7.33	7.35	2min
323	7.40	-	15min
325	7.45	-	10min
324	7.50	-	5min
325	7.55	7.55	0min
323	8.00	-	15min
324	8.05	-	10min
325	8.13	-	2min
324	8.15	8.15	0min

ROSE BAY WHARF - PM

Ferry arrival	Bus departure	Bus route	Gap
6.00	6.05	325	5min
-	6.15	324	15min
-	6.19	323	19min
6.29	6.30	325	1min
6.40	6.42	324	2min
-	6.45	324	5min
-	6.49	323	9min
-	7.00	325	20min

MANLY WHARF - AM

Bus route	Bus arrival	Ferry departure	Gap
169	6.23	-	17min
136	6.30	6.40	10min
169	6.23	-	17min
136	6.48	-	12min
169	6.55	7.00	5min
169	7.21	-	9min
136	7.23	7.30	7min
136	7.50	-	10min
169	7.56	8.00	4min
136	8.03	-	12min
136	8.08	-	7min
169	8.15	8.15	0min

MANLY WHARF - PM

Ferry arrival	Bus route	Bus departure	Gap
5.30	169	5.32	2min
-	136	5.42	12min
5.50	169	5.52	2min
-	136	6.02	12min
6.15	169	6.17	2min
-	136	6.32	17min
-	169	6.47	32min
6.50	136	7.07	17min
7.30	136	7.43	13min
8.00	136	8.12	12min

132 The need for more timetable integration of bus and train connections with ferry services was raised in at least five submissions to the Inquiry. SFC told the Inquiry that it liaises with the STA with respect to timetable changes, so that the STA can make appropriate changes to its timetables and rosters for buses which connect to ferry services. Ultimately, all proposed timetable changes are required to be submitted to the Ministry of Transport for approval. However, SFC's Fleet Planning Manager gave evidence that, in his experience, coordination between different modes of transport for timetable changes was,

“Extremely poor... very long and drawn out”. Furthermore, he told the Inquiry:

“There should be set standards dictated by the Ministry, or an agency, that says what ferries have to be met, what the time frame is for departure, where they go. There is very little coordination.”

133 A recent report by the Auditor-General called *Connection with Public Transport* recommended the establishment of a coordinating and oversight entity to plan the whole of network development. The Report noted that coordination requires a network linking bus routes with rail and ferry that responds to a more diverse range of commuter destinations and times, closely integrated interchanges and terminus facilities and network development involving fare coordination, public information and marketing administration coordination.¹⁹ A similar recommendation was made in the Ministerial Review of Buses in NSW.²⁰ This Inquiry also recommends the establishment of a coordinating body, whose role it is to ensure the transport network is properly integrated. In particular, such a body must ensure that timetables are properly coordinated across modes. In default of agreement between service providers, it should be empowered to determine changes for all of them.

GOVERNMENT OBJECTIVES FOR PUBLIC TRANSPORT

134 The Government has developed a number of policy documents to address the State’s transport needs over the next decade. These include the State Plan (2006), the Metropolitan Strategy (2005), the State Infrastructure Strategy (2006) and the Urban Transport Statement (2006).

¹⁹ Auditor-General, *Connecting with Public Transport*, op cit

²⁰ Unsworth, B, *Ministerial Review of Bus Services in NSW*, Final Report, February 2004

135 These documents recognize the need to increase the use of public transport and to better coordinate the public transport system.

136 Priority S6 of the State Plan is:

“An effective transport system with an increasing share of peak hour journeys on safe, reliable public transport and with reduced road fatalities relative to the size of the NSW population.”

137 The targets for public transport set by the plan are to increase the share of trips made by public transport to and from the Sydney CBD during peak hours from 72% to 75% by 2016, to increase the proportion of total journeys to work by public transport in the Sydney metropolitan region from 20-22% to 25% by 2016, and for buses, ferries and trains to consistently meet targets for on-time running.

138 According to the Urban Transport Statement, the Government’s approach to transport management over the next decade will be characterized by integrated ticketing and route information, improved coordination of transport modes and expanded commuter parking at key locations, incentives to encourage higher workforce use of public transport, extension of the hours of peak services to encourage a more even distribution of peak travel and greater use of technology to improve transport operations, with expansion of real time information.

139 The State Infrastructure Strategy states there will be major improvements to transport infrastructure over the next ten years to manage projected population growth. The Metropolitan Strategy provides that the transport network in Sydney will be expanded, improved and better integrated.

140 As might be expected, the policies outlined in these documents focus primarily on improving train and bus networks. Ferries generally receive little attention in the Government’s transport planning and policy. The primary improvements planned for ferries over the next decade are to develop a strategy for improving commuter wharves, review ferry

services to better match routes and timetables to the needs of commuters and the tourism/leisure markets, refurbish Balmain shipyard, re-engine the First Fleet vessels and RiverCats, introduce Closed Circuit Television (“CCTV”) and consider improving the capacity and quality of the ferry fleet through a ferry replacement strategy.

CONCLUSION

141 It is important for Sydney to have a ferry service. Ferries are an iconic feature of the harbour. The scale of SFC’s operations is far smaller than CityRail or metropolitan buses. Nevertheless, SFC carries 14 million passengers a year and takes significant pressure off certain Sydney arterial roads. A well patronized ferry service helps to reduce greenhouse emissions and generate tourism. Ferry services must, however, be integrated into the broader public transport system.

RECOMMENDATION

142 It is recommended that a coordinating body is established, whose role it is to ensure the transport network is properly integrated. In particular, such a body must ensure that timetables are properly coordinated across modes. In default of agreement between service providers, it should be empowered to determine changes for all of them.

CHAPTER 3

SYDNEY FERRIES SERVICE TODAY

SYDNEY FERRIES CORPORATION

143 SFC was established in July 2004 as a statutory SOC under the *SOC Act*. The Corporation's principle objective is to deliver a safe and reliable Sydney ferry service in an efficient, effective and financially responsible manner.²¹ The Corporation's secondary objectives, of less importance than its principal objective, include:

- a. to be a successful business and to that end:
 - i to operate at least as efficiently as a comparable business; and
 - ii to maximize the net worth of the State's investment in SFC;
- b. to exhibit a sense of social responsibility by having regard to the community in which it operates; and
- c. to conduct operations in compliance with principles of ecologically sustainable development contained in sec 6(2) of the *Protection of the Environment Administration Act 1991*.²²

STAFF

144 As at 30 June 2007, SFC employed 723 staff at five different workplaces: a central operations centre and hub at Circular Quay, an operations centre at Manly wharf, a ship maintenance facility owned and operated by SFC at Balmain, a corporate office in Pitt Street Sydney and a fleet of vessels.

²¹ *TA Act* subsec 35B(1)

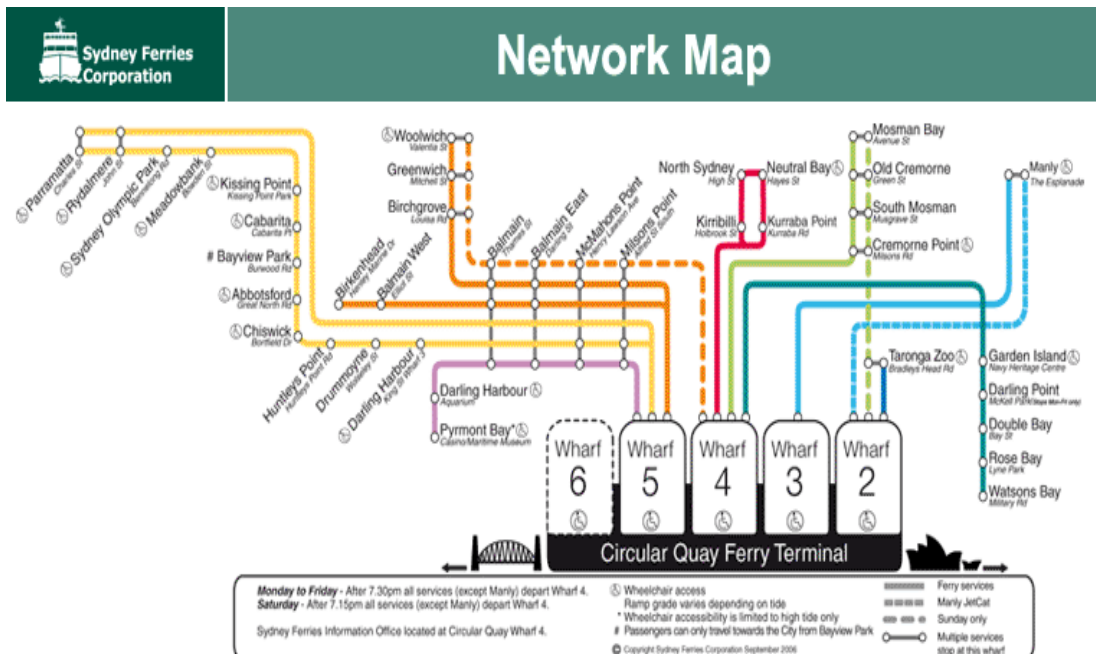
²² *TA Act* subsec 35B(2)

145 As at 30 June 2007, 355 of SFC's employees were 'afloat' staff, working on board the vessels, 86 were employed at the Balmain Shipyards, and the remaining 282 worked in administrative, managerial or onshore operational positions.

ROUTES

146 SFC currently operates ferry services along eight routes on Sydney Harbour and the Parramatta River. Each of the following routes feeds into a central hub at Circular Quay:

- a. Parramatta/Rydalmere;
- b. Balmain/Woolwich;
- c. Darling Harbour;
- d. Neutral Bay;
- e. Mosman;
- f. Taronga Zoo;
- g. Eastern Suburbs; and
- h. Manly.



FLEET

147 SFC owns and operates a fleet of 31 vessels. The fleet may, at first sight, be divided into seven classes:

- a. the Freshwater class comprises four vessels used for services to Manly. These vessels are the largest in the fleet with a passenger capacity of 1,100;
- b. the JetCat class comprises three high-speed vessels used to run a so-called premium peak hour service between Manly and Circular Quay. Each vessel has a passenger capacity of 280;
- c. the SuperCat class comprises four high-speed catamarans used primarily for the Eastern Suburbs services. Each vessel has a passenger capacity of 250;
- d. the RiverCat class comprises seven catamarans specially designed to create low wash. These vessels service the Parramatta River and each has a passenger capacity of 230;
- e. the First Fleet class comprises nine vessels which operate primarily on Sydney's Inner Harbour. The First Fleet class vessels have passenger capacities of between 393 and 400;
- f. the Lady class comprises two older (and iconic) vessels. These vessels are the oldest in the fleet with a passenger capacity of 815 and 554 and are used primarily for the tourist-based Taronga Zoo services; and
- g. the HarbourCat class comprises two vessels. These vessels are the smallest in the fleet with a passenger capacity of 150 and are used to provide back-up services for other vessels.

CUSTOMERS

148 SFC states that it carries around 35,000 passengers on an average weekday and about 12,000 passengers a day on an average weekend.

In total, SFC estimates that it carries over 14 million passengers per year.

149 SFC's passengers fall into two distinct categories: commuters and leisure travellers. According to SFC, around 49% of its passengers are commuters, who primarily travel during the morning and evening peak and around 43% are leisure travellers, who tend to travel in off-peak periods and on weekends. The remaining 8% travel for non-leisure personal trips.

150 Over the peak summer season, when the numbers of tourists and local leisure travellers are at their highest, patronage can almost double.

151 It should be noted that SFC's patronage figures are regrettably inexact. Only two wharves used by SFC, Manly and Circular Quay, are gated. Consequently, only passengers who pass through those wharves can be accurately counted. According to SFC, those passengers who do not pass through Circular Quay or Manly are manually counted by a member of staff on board the vessel. SFC estimates that approximately 94% of its passengers pass through Circular Quay wharf. Assuming this is so, the significance of the unreliability of the overall patronage data is reduced, however, it is not clear to the Inquiry how the above figure of 94% is calculated. The reliability of patronage data is discussed in more detail in Chapter 7.

152 Limited data mean it is difficult to perform a detailed analysis of route-by-route patronage. However, according to a 2006 study commissioned by SFC, the Manly service has the greatest patronage, carrying approximately 47% of all SFC passengers, while the Inner Harbour services carry approximately 35% of passengers, the Parramatta service carries approximately 10% and the Eastern Suburbs services carry approximately 7%.²³ It does not seem too much to expect that

²³ KPMG Risk Advisory Services Pty Limited, *Sydney Ferries Corporation Service Delivery Plan 2006-2015*, December 2006, p 8

SFC would gather complete statistics on patronage by reference to the three main segments: Manly, Inner Harbour and Parramatta River.

REGULATION OF SFC

153 The provision of ferry services by SFC is subject to transport and maritime regulation and oversight by a number of authorities, including:

- a. the Ministry of Transport;
- b. IPART;
- c. the Maritime Authority of NSW (“NSW Maritime”);
- d. Sydney Ports Corporation and the Harbourmaster;
- e. OTSI; and
- f. the Independent Transport Safety and Reliability Regulator (“ITSRR”).

154 The Ministry of Transport regulates the provision of passenger ferry services by contracting (subject to exemption) with SFC for the provision of those services under the *PT Act*. This is discussed in detail in Chapter 5. The Ministry of Transport is also responsible for funding public transport in NSW and coordinating ferry, bus and rail services.

155 IPART determines the maximum fares that SFC may charge for its services. Under the *Independent Pricing and Regulatory Tribunal Act 1992* (the “*IPART Act*”), the Tribunal is required to take into account a range of factors in determining fares, including the cost of providing the service, the quality, reliability and safety of the service, the need for consumer protection from abuses of monopoly power, the need for economic efficiency in the supply of the service and the social impact of the service price.²⁴ IPART’s determinations are discussed in detail in Chapter 7.

²⁴ *IPART Act* sec 15

- 156 NSW Maritime is the State Government's maritime authority and regulator. It regulates the safety of all commercial vessels on the harbour, including ferries. Its primary functions in relation to SFC are to conduct investigations into accidents involving SFC, to certify that SFC's vessels are maintained to an appropriate standard and are adequately equipped to operate safely, to issue certificates of competency to SFC's staff and to audit SFC's safety management system.
- 157 ITSRR is an independent statutory body that has as its principle objective the facilitation of the safe operation of transport services in NSW. Its primary work is in regulating rail safety in NSW. However, it also provides a strategic coordination function for all transport modes by facilitating the liaison between the Ministry of Transport, NSW Maritime and itself to ensure ongoing monitoring and improvement of safety regulations for all the three modes. In addition, it provides independent advice to the Government and the public on the reliability and sustainability of publicly funded transport networks in NSW.
- 158 OTSI carries out independent investigations into passenger transport accidents involving bus, rail or ferry. OTSI's Chief Investigator has a discretion as to which occurrences it will investigate. OTSI's investigations are dealt with in Chapter 11.
- 159 The Harbour Master, an employee of Sydney Ports Corporation, controls Sydney Harbour as a shipping port. The Harbour Master can direct and control the entry, departure, navigations and other movements of any vessels, including ferries.
- 160 The safety regulation of SFC is discussed in detail in Chapters 9 and 10.

PREVIOUS REPORTS INTO SYDNEY FERRIES

- 161 Since 2001, there have been a startling number of reports into SFC or its predecessor Sydney Ferries, many of them conducted by or commissioned by its regulators.
- 162 In March 2001, the then Minister for Transport commissioned the then Chief Executive of Waterways, Matthew Taylor, to conduct a review of Sydney Ferries' operations, following a series of incidents involving ferries. The terms of reference for the review were:
- a. to fully investigate and report on staff management practices of Sydney Ferries, with particular reference to adequacy of operational instructions issues to crews, adequacy of crewing arrangements and related human resource arrangements and adequacy of crew competency, training and development; and
 - b. to fully assess and report on the adequacy of the maintenance regime.
- 163 As the review progressed, its scope was expanded to include issues relating to safety management, customer services, service performance and the regulatory regime. The Report made 55 recommendations concerning management structures, safety management, vessel maintenance, operations, staffing practices and workplace culture (the "Taylor Report").
- 164 In November 2003, the Chief Executive of the STA commissioned Peter Medlock, Director of Fellows Medlock & Associates, to prepare a follow-up review of Sydney Ferries' implementation of the recommendations of the Taylor Report (the "Medlock Report"). Peter Medlock was a member of the original, independent project team formed by the Chief Executive of the Waterways Authority to review Sydney Ferries' operations for the purposes of the Taylor Report. The Medlock Report found a number of the Taylor Report's recommendations were yet to be implemented. The Report made a further 28 recommendations concerning management

structures, safety management, vessel maintenance, staffing practices and workplace culture.

- 165 A number of safety investigation reports and audits have also been conducted by NSW Maritime and OTSI, resulting in numerous recommendations to SFC. These are dealt with in Chapter 10.
- 166 On the one hand, attempting to implement the numerous recommendations made by its regulators and other external bodies has imposed a significant burden on SFC. On the other hand, it must be said, that many of the problems identified in this Report have been identified previously in other reports and have not been adequately dealt with by SFC.

CONSTRAINTS ON THE PROVISION OF FERRY SERVICES

- 167 A number of physical factors impede SFC's ability to deliver a safe and reliable ferry service in an efficient, effective and financially responsible manner.

Fleet

- 168 The primary constraint on SFC's operations is the age and complexity of its fleet. Although formally the fleet is divided into seven classes, the vessels within each 'class', so called, are not all uniform. There is, within some classes, significant variance in vessel design. For example:
- a. the Freshwater class consists of two considerably different types of vessels;
 - b. the four RiverCats have different propulsion plants;
 - c. the two vessels in the Lady class are different in many respects, including displacement, design and propulsion plant;
 - d. the nine First Fleet class vessels can be categorized into three distinct vessel types; and

- e. across the fleet there are 24 diesel engine types from 10 manufacturers.
- 169 The end result is that, remarkably, SFC operates 12 distinct classes of vessel from an operational perspective and 14 from an engineering perspective.
- 170 This imposes, first, a significant training burden on the organization. SFC has to train its crews to operate 12 different classes of vessel, in circumstances where each class has a different control system and operating procedure.
- 171 Due to the time and expense involved in training all crew to operate all 12 classes, afloat staff are generally trained to operate a limited number of classes. Whilst this reduces training costs, it restricts SFC's ability to offer a reliable service. If a vessel breaks down, assuming a spare vessel is available, the available crew may not be able to operate it.
- 172 In addition, the variation in the fleet renders crewing requirements more complex. The number of crew required for each vessel varies, pursuant to legislation, depending on the size of the vessel and the number of passengers the vessel is carrying.
- 173 Secondly, the complexity of the fleet imposes a significant maintenance burden on the organization. Each of the 14 vessel classes requires its own maintenance procedures and its own spare parts supply. Staff at the Balmain Shipyard must be trained to repair 14 different vessel types and 24 engine types.
- 174 Unsurprisingly, SFC finds it is too expensive to hold 24 types of spare engine. If an engine, for which there is no spare, breaks down or requires maintenance, it means the vessel itself remains out of service until the engine is repaired.

- 175 Several of the vessel classes are idiosyncratic, that is, they have been designed for use on a particular route and cannot be used on any other. For example:
- a. Freshwater class vessels are too large for use in the Inner Harbour;
 - b. draft restrictions, speed requirements and bridge clearances on the Parramatta River effectively limit this route to the RiverCats;
 - c. JetCats produce too much wash for Inner Harbour environments;
 - d. RiverCats could, in theory, operate on the Manly route but they would need to be upgraded to a higher survey level; and
 - e. the Lady class could, in theory, partly service the Parramatta River route but they could not maintain the timetable on that route because they travel at significantly slower speeds.
- 176 This makes it difficult for SFC to accommodate breakdowns or surges in demand. In a standardized fleet, vessels would be readily interchangeable. If one vessel broke down, another could much more easily be substituted. At SFC, when a vessel breaks down, even if there is a spare vessel available, that vessel may not be able to run the route required.
- 177 Significant capital investment is thus required to ensure services are not frequently (and unacceptably) cancelled. For example, two JetCats run the JetCat service but SFC owns a third JetCat to ensure the service continues to run when one of the vessels is docked for maintenance.
- 178 In addition to the complexity of the fleet, most of the vessels in SFC's fleet have passed their optimal economic life. The vessels range in age between six and 32 years, with an average age of 17 years. In a harsh operating environment like Sydney Harbour, where the vessels are constantly in use, average life expectancy of most vessels is supposedly reckoned to be 10-15 years.

- 179 As a result of the advanced age of the vessels, the fleet is unacceptably unreliable and susceptible to mechanical failure. Maintenance costs have increased in real terms over the past five years. This is, at least partly, due to the cost of maintaining an aging fleet. Many parts are difficult to source for the older vessels.
- 180 The age and diversity of the fleet could adversely impact on safety. As the fleet reaches and passes its useful economic life, the vessels are subject to a greater risk of critical failures. There is also an inherent safety risk involved in crew transferring between different vessel classes.
- 181 Failure to replace the fleet in a structured manner over time means the entire fleet is now facing block obsolescence. SFC has implemented a re-engining project to extend the life of the First Fleet and RiverCat class vessels. Four First Fleet and two RiverCat vessels have already had their engines replaced and SFC intends to put new engines in another six vessels in the coming year. Ultimately, however, wholesale replacement of the fleet will be the only effective way to remedy the problems outlined above. This is a principal driver of choices for the future.
- 182 The fleet must be replaced. Fleet replacement is discussed in detail in Chapter 12.

Wharves of Varying Standards and Designs

- 183 In order to run an efficient ferry service, it is essential that SFC have access to well-maintained wharves that are appropriately designed for the vessels in the fleet. This is presently not universally the case.

184 SFC currently operates regular ferry services to 45 wharves. SFC does not own any of the 45 wharves utilized by it. It leases nine wharves²⁵ and has an access agreement in relation to the remaining 36.

185 The 49 publicly owned commuter wharves on Sydney Harbour and the Parramatta River are currently owned by a variety of State and Local Government agencies, most commonly local councils. Each agency is responsible for maintaining and managing their own assets. Consequently, the standard of maintenance of publicly owned wharves varies.

186 Ownership of all commuter ferry wharves is currently in the process of being transferred to NSW Maritime. NSW Cabinet approved the transfer of ownership on 21 March 2006, in order to ensure all wharves are maintained to an appropriate and consistent standard.²⁶ Under the *Marine Safety Act 1998* (“MS Act”), NSW Maritime already had responsibility for the inspection of public ferry wharves to determine wharf safety.

Access

187 SFC was due to surrender its leases of wharves and transfer any land adjoining those wharves to NSW Maritime on 1 July 2007. However, at the time of writing, transfer has not yet taken place, as SFC and NSW Maritime are unable to agree on the terms of an access agreement.

188 It is self-evident that SFC must have priority access to well maintained wharves in order to operate a safe, efficient and cost effective ferry service.

189 It is recommended that an access agreement is negotiated between SFC and NSW Maritime which:

²⁵ Taronga Zoo, Musgrave, Mosman, Old Cremorne, Cremorne, Kurraba, Hayes St (Neutral Bay), High St (North Sydney) and Kirribilli

²⁶ NSW Maritime, *Annual Report 2005-06*, p 30

- a. gives SFC priority access to all wharves to which access is required in order to operate ferry services in accordance with current and future timetables;
- b. enables SFC to install ticket machines, CCTV systems, PA systems, help points and customer information systems where appropriate;
- c. enables, in appropriate locations, SFC to berth vessels overnight and implement appropriate security arrangements;
- d. enables SFC to display appropriate signage on the wharves; and
- e. establishes clear and practicable responsibility for maintenance.

Standardization

190 As a result of the historically disparate ownership of the wharves, there is no standardization among the 45 wharves used by SFC. There is significant variation in design. Some wharves are floating pontoons, some wharves have hydraulic ramps and some wharves are stepped. This is functionally equivalent to each railway platform being a different height and distance from the track. Unsurprisingly, it poses a variety of logistical problems for SFC. It means that certain vessels in SFC's fleet, due to their height, length or design, cannot berth at certain wharves. The result is a less efficient and flexible fleet. Tides introduce even more complexity.

191 The lack of wharf standardization also poses an unnecessary safety risk. As a result of the differences in wharf design, and the diversity of SFC's fleet, use of an automated gangway deployment system is not possible. Instead, SFC staff are required to manually operate gangways. At the Chief Executive Officer's ("CEO") Safety Committee meeting held on 1 February 2007, the Committee was told that since 2004 almost 50% of total number of injuries in the operations division have been associated with the use of manual double rail gangways. The standardization of wharves should enable SFC to employ the use of non-manual gangplanks.

- 192 It is recommended that commuter wharves be standardized. The operator of Sydney ferry services, whether it is SFC or a private operator, and NSW Maritime must work together in relation to the re-design and standardization of commuter wharves, to ensure that wharves are appropriately designed to accommodate SFC's operational requirements. This is inseparable from design specifications of a replacement fleet.
- 193 It is noted that NSW Maritime has already announced plans to carry out a \$12 million program over four years to prioritize wharf replacements and upgrades including the provision of disabled access. Wharf standardization must be given priority in this process. In addition, there is, in many cases, a need to ensure that there is adequate seating, shelter and lighting for waiting passengers and appropriate disabled access. None of this should proceed without thorough integration with the design of a replacement fleet.

Congestion at Circular Quay

- 194 Approximately 94% of SFC's passengers pass through Circular Quay wharf.
- 195 Circular Quay is thus critical to SFC's operations. Its proximity to much of the Sydney CBD and its intermodal function as a bus, train and ferry interchange make it an ideal ferry terminus and an important part of the public transport network.
- 196 However, the physical makeup of Circular Quay poses a significant constraint on SFC's present ability to expand its services. There are six jetties at Circular Quay, all owned by NSW Maritime. SFC has exclusive use of Jetties 2-5.
- 197 Since 2001, three-year access agreements for the use of Jetty 6 have been allocated to private operators via a competitive tender process. Access agreements are currently held by Blue Line Cruises, Matilda Cruises and Captain Cook Cruises. All three access agreements expire

in January 2008. SFC has no day-time access to Jetty 6 but uses it (and Jetties 2-5) for overnight berthings.

198 Jetty 1, known as the Eastern pontoon, is used by water taxis and cruise and leisure vessel operators to pick up and drop off passengers. Unlike Jetty 6, the right to berth at Jetty 1 is allocated by NSW Maritime day-by-day through a casual time slot access booking system.

199 There is significant congestion at Circular Quay, with little room for additional capacity at SFC's current wharves. SFC's current timetables are designed to achieve separation of arrivals and departures at Circular Quay so as to minimize congestion. The ability to provide additional services to Circular Quay during peak hour is significantly constrained by a physical and organizational lack of wharf space. According to SFC, service delay due to vessel congestion at Circular Quay is a common occurrence. As NSW Maritime told the Inquiry:

“At peak times there are barely sufficient wharves for the ferries to berth and this can lead to delays and disruption of the timetables when ferries have to wait to berth alongside a wharf. At these times there is very little spare capacity and little opportunity to increase services.”

200 SFC told the Inquiry that it would like to have exclusive access to Jetty 6. Commercial operators, in submissions to the Inquiry, are opposed to this, on the basis that they attract significant passing tourist trade at Circular Quay, which they say is vital to their operations and would be lost if they had to transfer their operations entirely to King Street wharf.

201 NSW Maritime told the Inquiry that access could realistically be shared, given that SFC requires extra wharf access in peak hour whereas commercial cruises generally run in off-peak periods:

“There appears to be a degree of complementarity between the timetables of the commercial vessels and Sydney Ferries which presents an opportunity to develop extra capacity for Sydney

Ferries by using berths at wharf No 6 during the peaks. This would require close coordination with the commercial vessels and modified ticketing and gate arrangements. Although this would introduce some extra costs and inconvenience, it would appear to be a better alternative than denying the commercial vessels any access to wharf No 6 at this time.”

- 202 It is recommended that, when current access agreements in relation to Jetty 6 expire in January 2008, new access agreements are negotiated with commercial operators on the basis that Jetty 6 must be reasonably available for use by the operator of Sydney ferry services, whether it be SFC or a private operator, during the morning and afternoon peak hour.

Additional CBD Hub

- 203 One partial solution to the congestion at Circular Quay is for SFC to develop an additional CBD hub at King Street wharf.
- 204 There are five jetty-style wharves at King Street and four ‘longshore’ style pontoon wharves. Wharves 1, 2, 4 and 5 are licensed to Captain Cook Cruises and Blue Line Cruises. The longshore pontoon wharves are used for charter vessel access and can be booked casually through NSW Maritime.
- 205 SFC currently has exclusive use of King Street No 3 wharf and operates 28 services daily at the wharf on weekdays. Additional services stop at the Aquarium wharf which is within 200 metres of King Street No 3 wharf.
- 206 King Street wharf is an attractive option to develop as an alternative hub for two reasons. First, it is ideally located. The NSW Government’s Metropolitan Strategy indicates that an additional 58,000 jobs are likely to be located along the western side of the CBD. King Street wharf would offer passengers an alternative entry point into the city. In addition, King St wharf may provide opportunities for route development. SFC told the Inquiry:

“A King Street hub could facilitate new services to areas currently not served by ferries such as the new high density residential zone in Pyrmont (Johnstons Bay), the Fish Markets, Glebe Point and Glebe Island. Currently, residents in those areas are only able to commute to the city on buses and by the light rail tram.”

207 Secondly, King Street wharf could be gated like Circular Quay. SFC already has exclusive use of No 3 wharf. NSW Maritime indicated to the Inquiry that one of the longshore wharves could be removed from the casual booking system, and a reallocation of wharves could take place between SFC and the commercial operators to facilitate SFC having exclusive access to two adjacent wharves.

208 This would enable SFC, subject to planning approval and NSW Maritime cooperation, to install ticket offices, ticket machines and ticket gates at the wharf. This would have a significant impact on present revenue leakage. SFC told the Inquiry that, of the estimated 6% of its passengers who do not pass through Circular Quay, the majority pass through King Street wharf. According to SFC, the present revenue lost as a result of King Street wharf not being gated may exceed \$1 million per year. The inexactness is regrettable but the substance is palpable.

209 SFC would also be able to use King Street wharf to berth vessels overnight. SFC currently berths vessels overnight at Circular Quay and at the Balmain Shipyard. However, as NSW Maritime told the Inquiry:

“The existing berthing arrangements, both at Circular Quay and Balmain Shipyard, are stretched to capacity with the existing fleet and would not be able to handle any increase in the number of ferries...”

210 It is recommended that King Street wharf be developed as an additional operational hub to Circular Quay and a new entry point to the city for ferry passengers. The term ‘operational hub’ requires all necessary infrastructure to be put in place for King Street wharf to operate as an alternative to Circular Quay. This requires:

- a. replacement of the current floating pontoon with a different wharf structure which includes appropriate disabled access;
- b. a ticket office, ticket machines and barrier gates;
- c. security measures to protect vessels berthed overnight and infrastructure such as ticket machines;
- d. appropriate crew and staff amenities; and
- e. facilities to service vessels such as sewerage pumps, access to shore power and fresh water.

211 It should be noted that the fleet replacement strategy, very recently developed by SFC, envisages a fleet of 40 vessels, an increase of nine vessels. SFC told the Inquiry that the development of King Street wharf as a ferry hub would be unlikely, alone, to cater for the envisaged increase in SFC's operations following fleet replacement.

212 NSW Maritime has expressed the view that, in the longer term, there is a possibility of the area currently forming the Darling Harbour Passenger Terminal becoming available for development of a ferry terminal or a ferry terminal being incorporated as a new facility in the Barangaroo Redevelopment at East Darling Harbour and that either of these options "*would create fewer navigation and traffic concerns*" than the redevelopment of King Street wharf.

213 Rear Admiral Smith (SFC's CEO) also told the Inquiry that he understands that the Sydney Ports Corporation Tower at Barangaroo may become available, and noted that it would be ideal for SFC to control its operations from the Tower. In addition, the Office of the Coordinator General has told the Inquiry it is currently considering future uses for the White Bay area.

214 In planning the redevelopment of the foreshore, it is recommended that the Government explicitly consider a range of possibilities for ferries including an additional facility at White Bay or even, depending upon

land use considerations, an entirely new facility including a new Shipyard. Any decision in relation to the future location of SFC's operations, including its Shipyard, should be made in consultation with the Office of the Coordinator General.

CONSEQUENCES OF CONSTRAINTS

215 The age and complexity of its fleet, the lack of space at Circular Quay and variations in the standard and design of wharves all impede the quality of SFC's services and, especially, restrict practical ambitions to expand passenger usage.

Static Timetables and Route Development

216 SFC's timetables are largely static. Some have not been changed significantly for many years. As a result of this, the timetables are, in many cases, not ideally responsive to customer needs.

217 SFC's definition of peak hour, for example, has not changed over time to reflect changing work patterns. A number of SFC customers submitted to the Inquiry that SFC's timetables were based on an outdated view that the average worker works from 9.00am to 5.00pm, Monday to Friday. For example, the morning peak hour departure times from Manly to Circular Quay are 7.00am, 7.30am, 8.00am and 8.15am, while in the evening, the last ferry from Circular Quay to Rozelle/Birkenhead/West Balmain leaves at 5.50pm and the evening Darling Harbour service only runs once an hour after 6.00pm. These departure times manifestly do not reflect the pattern of contemporary working hours in Sydney.

218 Similarly, SFC's timetables have not been updated to accommodate changing traffic conditions on Sydney Harbour, including congestion and speed limits. As a result, timetables do not always reflect the true duration of the journey and, at certain times, SFC, understandably struggles to maintain its timetables. Rear Admiral Chris Oxenbould, CEO of NSW Maritime and former Acting CEO of SFC, told the Inquiry:

“Sydney Ferries claims that it’s very difficult to maintain their timetables in certain conditions on the harbour, and I certainly understand that but what I would say is that most of those are predictable as well. You know, summer, weekend, afternoons, there will be a lot of boating activity there. At the moment, the timetable is still based on the same time as if it’s in the middle of the night during the week. It’s a 30-minute run to Manly for a Manly ferry whether it’s Saturday afternoon, midsummer or...”

- 219 A large proportion of submissions to the Inquiry by SFC’s customers commented that services are too infrequent. In particular, the half-hourly peak hour services from Manly to Circular Quay were raised. Outside the morning and evening peak hours, customers said they are inclined not to travel by ferry because of irregular services times with gaps of half and hour or more. A number of submissions also included comments that ferries should run earlier and later on weekends, particular Sundays.
- 220 By far the most significant constraint on SFC’s ability to develop new and improved timetables is the size and age of the fleet. Additional services during peak periods are not possible with the current fleet. Taking into account that at any given time a number of vessels in the fleet will be unavailable due to planned and unplanned maintenance, training and other demands, the present timetables utilize the fleet at or near full capacity. Indeed, since December 2005, SFC has chartered an additional vessel, at significant cost, in order to meet its timetables. Further, as discussed above, vessels in the fleet are not readily interchangeable. For the same reasons, route development is effectively stymied.
- 221 In addition, until recently, SFC did not have a dedicated member of staff in charge of its timetables. A new position, the Fleet Planning Manager, who is responsible, among other things, for developing timetables was created in October 2006. However, there is no computerized system for timetable development; it has to be done by hand. The Fleet Planning

Manager estimates that he is able to spend only about 10% of his time working on SFC's timetables.

- 222 The development of new timetables can have a significant impact on crew rosters. Crew on Manly vessels are employed under the terms of three different Enterprise Bargaining Agreements ("EBAs"). SFC told the Inquiry:

"These enterprise bargaining agreements are in many respects inconsistent with each other. Due to these complexities and inconsistencies the present rosters and timetables for the Manly services do not comply with the enterprise bargaining agreements..."

A timetable that allows rosters to comply with the enterprise bargaining agreements will be extremely complex...."

- 223 The Fleet Planning Manager also gave evidence that he did not have the data that he needed in order to prepare appropriate timetables that catered to customer demand. SFC informs itself about unmet demand and services which do not operate to full capacity through customer complaints, patronage figures, observations made by SFC staff and commissioned studies. The Fleet Planning Manager told the Inquiry:

"A lot of it is actually not specific data, in that if a boat comes past and they leave people behind, the Master won't count them and say, 'I have left exactly 21 people on the wharf'; he will call the controllers and say, 'I have left about 20 people behind'."

Those estimates are not systematically collated or electronically recorded.

- 224 As a result of the factors listed above, improvements to (or experiments with) SFC's timetables since corporatization have been modest. In 2005, additional peak hour services were provided at Cabarita wharf in response to growing demand at Breakfast Point, Garden Island was

added to the Watsons Bay route and Eastern Suburbs services were doubled on weekends.

225 Over 2005-06, passengers were frequently being left behind at Rose Bay wharf as ferries were full, particularly in the morning peak hour. In August 2006 changes were made to better utilize the two vessels used on the Rose Bay service, which allowed an additional morning peak hour service from Rose Bay to Circular Quay to be added to the timetable. However, demand at Rose Bay continues to grow, but the lack of available vessels means that no further services are able to be added.

226 In October 2006, new timetables with increased frequency of services were introduced along the Parramatta River. This was again due to a significant increase in demand for services, for example, ferries in the morning peak hour were often full before reaching Drummoyne wharf, with the result that ferries often were unable to pick up waiting passengers at Drummoyne. Demand for ferry services continues to grow along the Parramatta River, particularly given the significant new housing development that is occurring in areas such as Abbotsford and Breakfast Point. However, due to the constraints of the current fleet SFC is not in a position to add any further services. The morning commuter peak problem at Drummoyne continues and is unlikely to be solved without at least one additional vessel in the fleet.

227 SFC told the Inquiry that:

“... inflexibility in timetable alterations and development means that Sydney Ferries is faced with significant difficulties in responding quickly or effectively to emerging passenger demand or growth opportunities. This in turn results in increased levels of customer dissatisfaction and missed opportunities to expand Sydney Ferries’ revenue base.”

228 Acquiring a new and more reliable fleet, with greater numbers of vessels and fewer classes, would allow a greater capacity to address timetabling issues and develop new routes.

Cancelled and Unreliable Services

229 Two critical factors that impact on customer satisfaction are service availability and service reliability. Both factors are considerably affected by the age and variability of the fleet. The *Customer Satisfaction Index Survey May 2007 Report* strongly recommended significant investment in the fleet:

“Because reliability and frequency of service is so closely related to perceptions of value for money, it is one of the most fundamental business aspects to improve but will require significant capital investment to the fleet.”²⁷

230 Service reliability is the number of scheduled services that actually run. Data in relation to the number of cancelled services are collated manually, based on vessel movement reports provided daily by Controlling Officers. This information is then manually entered into a spreadsheet for the purpose of calculating the percentage of actual services that run as against scheduled services.

231 Services may be cancelled for a variety of reasons but the principal reasons are the weather, the unavailability of vessels (due to planned or unplanned maintenance) or the unavailability of crews. Cancellations due to weather are relatively infrequent. For example, in the last 12 months, there have been five days on which services were unable to run due to fog.

232 SFC’s target for service reliability, set by agreement with the Minister for Transport, is 99.5%. In 2004-05, service reliability was 98.9%. It stayed the same in 2005-06 and improved in 2006-07 to 99.3%. Whilst

²⁷ The Leadership Factor, *Sydney Ferries Customer Satisfaction Index Survey*, May 2007, p 127

this sounds impressive, if service reliability is 98.9%, then around six services a day out of 547 are being cancelled. If service reliability is 99.3% then three to four services a day are being cancelled. Three to six cancellations a day, particularly if they occur during peak hour, mean a significant number of passengers are unable to travel.

- 233 A more informative statistic would be the percentage of peak services cancelled rather than the percentage of total services not cancelled. This is due to the greater relative importance of peak hour services to public transport in Sydney and the fact that services are more likely to be cancelled during peak periods when the fleet is being used to full capacity and spare vessels are unlikely to be available.
- 234 It should be noted that RailCorp reports to the Minister on the number of cancelled peak hour services. SFC, by contrast, was unable to provide the Inquiry with hard information in relation to the number of peak-hour services that are cancelled each day.
- 235 The NSW State Plan sets targets for on time running. For ferries, the target is for 99.5% of ferries to run on time. A ferry is 'on time' if it arrives at Circular Quay no more than five minutes after its scheduled arrival time. SFC has achieved 98.4% in 2005-06 and 98% in 2006-07. Again, this figure is not fully informative. On-time running is measured by time of arrival at Circular Quay aggregated over all services on a full day basis. It is possible that peak hour services perform substantially better or worse than the target. It is also possible that ferry services carrying the most number of passengers, like the Manly service, perform better or worse than average.
- 236 It is recommended that SFC disaggregate its service reliability figures including on time running and services that actually run so that separate statistics for each of Manly, Inner Harbour and Parramatta River are kept. Passengers, and taxpayers, deserve to know the facts.

Declining Customer Satisfaction

- 237 The Key Performance Indicators (“KPIs”) for customer service are the number of customer complaints and the ‘Customer Satisfaction Index’, which is an overall measure of SFC’s success in satisfying its customers, based on customer surveys.
- 238 The number of customer complaints to SFC has been steadily increasing. The yearly limit, according to the KPI, for customer complaints is 800 maximum, but in 2005-06 1,243 complaints were received which increased to 1,808 in 2006-07. Most customer complaints relate to poor communication and lack of information, particularly in relation to cancelled services.
- 239 The Customer Satisfaction Index target is 78%. In 2005-06, SFC achieved 76% and in the last financial year 75%. Respondents to the 2007 customer survey were most satisfied with the Parramatta River service (79.06% satisfied), followed closely by the Inner Harbour (78.31%). The worst performing service (by surveyed satisfaction) was the Manly JetCat (67.55%), particularly during peak periods.
- 240 Recent customer surveys show that the key issue for commuters is the reliability of the service. Also important are the timetable and frequency of service; being kept informed of changes/delays, safety, value for money, and the speed of the service point-to-point. These priorities are *“significantly more important to commuters than non-commuters”*²⁸ while for non-commuters, *“a safe journey”* is most important.
- 241 Customer surveys indicate that there is a willingness by passengers to accept some degree of cancellations and delay, provided that they are kept informed of the changes (see also Chapter 6).

²⁸ The Leadership Factor, op cit, p 16

Static Patronage

- 242 SFC's patronage is relatively static. In 2005-06 patronage fell by 0.2%. In 2006-07 it increased by 0.8%. Overall, since 1996-97 patronage growth has averaged less than 1% per annum.²⁹
- 243 SFC's observations suggest that, in general, ferry use is well below vessel capacity and a 2006 study commissioned by SFC indicates that there is real room for considerable patronage growth.
- 244 A survey by Taverner Research in 2005 found that ferries are a secondary form of transport for most passengers. At least 50% of regular commuters use other modes of transport to commute to work up to three to four times per week.³⁰
- 245 In addition, journey to work data indicate that, even in suburbs with high ferry usage, such as North Sydney and Manly, ferries make up a relatively low proportion of commuter journeys.³¹
- 246 The Taverner Research survey found that there are opportunities for SFC to increase patronage particularly by increasing frequency of service and introducing new routes. It found that:
- a. there is a demand for more frequent services along the Parramatta River, Balmain, Darling Harbour, Woolwich and Watsons Bay;
 - b. there is a demand for more weekend services on the Neutral Bay, Woolwich, Watsons Bay, Balmain and Mosman routes;
 - c. there is a demand for extended evening services across a number of routes;

²⁹ KPMG Risk Advisory Services Pty Limited, *Service Delivery Plan 2006-2015*, op cit, p 8

³⁰ Taverner Research, *Customer Demand Study: Stage 5: Report on Findings and Implications from three phases of research*, prepared for Sydney Ferries Corporation, May 2005, p 48

³¹ Information provided to the Inquiry by the Transport Data Centre based on 2001 Journey-to-Work Census Data

- d. there is a demand for more express services at high usage wharves; and
- e. there is a demand for more frequent services at peak times.

247 For the reasons outlined above, SFC is largely unable to respond to this demand.

CONCLUSION

248 It is clear that SFC inherited difficult operational circumstances which it cannot remedy in the short term. The focus of the Inquiry has been on examining how SFC has responded to the challenges and obstacles facing it, accepting the constraints outlined above.

249 It must be said that the Corporation's ability to respond, and the nature of its response to these challenges and obstacles, have been influenced by the governance framework within which it operates. This is discussed in detail in the following Chapter.

250 In the longer term, the issues outlined in this Chapter must be addressed. In particular, the fleet must be replaced.

RECOMMENDATIONS

251 It is recommended that an access agreement is negotiated between the operator of Sydney ferry services, whether it be SFC or a private operator, and NSW Maritime which:

- a. gives the operator priority access to all wharves to which access is required in order to operate ferry services in accordance with current and future timetables;
- b. enables the operator to install ticket machines, CCTV systems, PA systems, help points and customer information systems where appropriate;
- c. enables, in appropriate locations, the operator to berth vessels overnight and implement appropriate security arrangements;

- d. enables the operator to display appropriate signage on the wharves; and
- e. establishes clear and practicable responsibility for maintenance.

252 It is recommended that commuter wharves be standardized. The operator of Sydney ferry services, whether it be SFC or a private operator, and NSW Maritime must work together in relation to the re-design and standardization of commuter wharves, to ensure that wharves are appropriately designed to accommodate SFC's operational requirements, particularly with a view to the specifications of a replacement fleet.

253 It is recommended that, when current access agreements in relation to Jetty 6 expire in January 2008, new access agreements are negotiated with commercial operators on the basis that Jetty 6 must be reasonably available for use by the operator of Sydney ferry services, whether it be SFC or a private operator, during the morning and afternoon peak hour.

254 It is recommended that King Street wharf be developed as an extra operational hub to Circular Quay and a new entry point to the city for ferry passengers. The term 'operational hub' requires that all necessary infrastructure is put in place for King Street wharf to operate as an alternative to Circular Quay. This requires:

- a. replacement of the current floating pontoon with a different wharf structure which includes appropriate disabled access;
- b. a ticket office, ticket machines and barrier gates;
- c. security measures to protect vessels berthed overnight and infrastructure such as ticket machines;
- d. appropriate crew and staff amenities; and

- e. facilities to service vessels such as sewerage pumps, access to shore power and fresh water.
- 255 It is recommended that, in planning the redevelopment of the foreshore, the Government explicitly consider a range of possibilities for ferries including an additional facility at White Bay or even, depending upon land use considerations, an entirely new facility including a new Shipyard. Any decision in relation to the future location of SFC's operations including its Shipyard should be made in consultation with the Office of the Coordinator General.
- 256 It is recommended that SFC disaggregate its service reliability figures including on time running and services that actually run so that separate statistics for each of Manly, Inner Harbour and Parramatta River are kept.

CHAPTER 4

SYDNEY FERRIES AS A CORPORATION

BRIEF HISTORY

- 257 Prior to corporatization, Sydney Ferries was a business unit of the STA. It had no separate legal standing and no separate reporting requirements.
- 258 The STA was established in 1988 by the *Transport Administration Act 1988* (“*The TA Act*”) to operate bus and ferry services in Sydney and Newcastle. As a commercialized statutory authority, one of its principal objectives was, and is, to be a successful business.³²
- 259 Sydney Ferries was a small and expensive part of STA’s business. The evidence before the Inquiry is that Sydney Ferries received little attention within STA. Most of STA’s resources and expertise were directed towards the provision of bus services which generated the bulk of STA’s revenue. Sydney Ferries was variously described to the Inquiry as having been, “*off to the side*”, “*a small player*” and “*a poor cousin*”.
- 260 In 2001, the Taylor Report recommended that Sydney Ferries’ business unit status should be enhanced to give it full autonomy within the STA. It recommended that the General Manager of Sydney Ferries should report directly to the STA Board, and that certain functions, such as safety management, training and development, should be the sole responsibility of dedicated staff within Sydney Ferries. The Medlock Report subsequently observed that:

³² *TA Act* sec 20A

“Sydney Ferries, whilst nominally a business unit of the STA, had not received the levels of oversight or support required to ensure the efficient operation for the ferry service. Sydney Ferries had not developed its own resourcing or expertise to compensate for this lack of support in areas such as human resources, safety or training.”³³

261 At the end of August 2003, the Interim Parry Report was released. It described Sydney Ferries as “a costly public ferry service that includes what is effectively a subsidised water taxi service for mainly middle to high income earners and tourists”³⁴ and concluded that Sydney Ferries could achieve efficiency savings of up to \$3.5 million a year in the medium term. It recommended that Sydney Ferries should be an entirely separate entity from the STA. The Report stated:

“One option is to separate ferry operations from the STA and establish a Sydney Ferries Corporation. The new Corporation could focus solely on ferry services. New funding arrangements that reflect the special nature of these services could be established.”³⁵

262 In accordance with Parry’s recommendation, and prior to the release of the Final Parry Report, SFC was established as a statutory SOC on 1 July 2004 by an amendment to the *TA Act*.

THE SOC MODEL

263 Since 1988, the Government has had a policy of operating its major trading enterprises as SOCs.³⁶ SOCs are, “government owned entities

³³ Fellows Medlock and Associates, *Implementation of the Taylor Report: A Follow-up Review*, 2004, p 41

³⁴ Parry, T, *Interim Report*, op cit, p xv

³⁵ Ibid, p 55

³⁶ New South Wales Department of Premier and Cabinet, *Corporatisation Manual*, http://premiers.nsw.gov.au/our_library/business/Corps_Manual.htm, Accessed: 24 October 2007

that produce goods and services on a commercial basis by substantially or fully covering their costs.”³⁷

264 In the Second Reading Speech for the *State Owned Corporation Bill 1989*, the then Premier stated:

“Corporatization is a strategy aimed at improving the level of efficiency and accountability in government business enterprises for the benefit of consumers and taxpayers...

State Owned Corporations will be under the same regulatory regime as companies in the private sector. This will include Federal trade practices and the State fair trading legislation. Also, State Owned Corporations will have their performance measured in the same way as companies in the private sector... This will impose on State Owned Corporations the same incentives and sanctions which apply to companies in the private sector.”³⁸

265 SOCs are outside the general Government sector and do not represent the State. However, the State, as owner, retains the ability to provide strategic direction to a SOC by setting financial and non-financial performance targets. The role of Government in relation to a SOC has been likened to that of a ‘holding company’, that is, a parent Corporation that owns enough voting stock in another Corporation to control its Board of Directors and, therefore, to control its policies and management.³⁹ The reality of this capitalist analogy is dubious, to say the least.

266 A critical element of the SOC model is that SOCs are obliged, by law, to operate on a commercial basis. This involves the notion, borrowed from

³⁷ Productivity Commission, *Financial Performance of Government Trading Enterprises, 2000-01 to 2004-05*, Commission Research Paper, Canberra, July 2006, p 3

³⁸ New South Wales, Legislative Assembly, “Second Reading Speech for the State Owned Corporations Bill 1989”, *Parliamentary Debates (Hansard)*, 2 August 1989, p 9139

³⁹ NSW Treasury, *Monitoring Policy for NSW Government Trading Enterprises*, 1992, Sydney, NSW Treasury

enterprises funded by private capital and run for private profit, of a return on capital.

267 The Government's *Corporatisation Manual* identifies five key principles of corporatization:

- a. clear commercial objectives;
- b. appropriate managerial authority and autonomy;
- c. effective performance monitoring;
- d. rewards and sanctions on performance; and
- e. competitive neutrality in input and output markets.

RATIONALE FOR CORPORATIZATION

268 The decision to corporatize Sydney Ferries appears to have been based, largely, on a laudable desire to make Sydney Ferries 'visible' as a separate reporting entity from the STA. There also appears to have been a concern that money generated by buses was 'cross subsidizing' the provision of ferry services. The Deputy Secretary, Office of Financial Management, NSW Treasury, told the Inquiry:

"Sydney Ferries received relatively limited attention within the STA structure. The Government considered that this was not an ideal structure, particularly when there was a prospect of significant reform of Sydney and Newcastle bus services through the introduction of an industry wide contract framework which would be a significant focus of management. The Government also needed to separate the Ferries business from the STA's bus operations so the Government, and the community, could evaluate its performance as a stand-alone entity including its financial performance which otherwise would be distorted by the cross subsidy from bus operations and the relatively imprecise allocation of STA's overheads between its different businesses. Once separation occurred the performance of Sydney Ferries could be more

objectively reviewed and responsibility for performance properly imposed.”

269 The Final Parry Report noted that, “*Sydney Buses should also benefit from the corporatisation of Sydney Ferries, as the operating losses of this business will no longer constrain its operation*”.⁴⁰

270 In short, the emphasis seems to have been on the undesirability of Sydney Ferries remaining a business unit of the STA rather than the desirability of it becoming a SOC.

271 One possible conclusion is that Sydney Ferries was corporatized because it was Government policy to operate Government businesses as SOCs rather than because there was anything particular to SFC that suggested it might be an appropriate candidate for corporatization. A similar observation was made in the Glenbrook Report:

*“I have the impression, rightly or wrongly, that the changes in 1996 [to corporatize Rail] were driven more by ideological considerations based upon supposed competition theory than on how a very heavily patronised public utility could best be managed in the interest of efficiency or safety.”*⁴¹

PROBLEMS WITH APPLYING THE SOC MODEL TO SFC

272 There are a number of problems with the application of the SOC model to SFC. In particular, it is far from clear that the SOC model is an appropriate vehicle for operating a ferry service as part of a public transport system.

⁴⁰ Parry, T, *Final Report*, op cit. p 29

⁴¹ *Special Commission of Inquiry into the Glenbrook Rail Accident, Second Interim Report*, November 2000, p 113

Clear Commercial Objectives

- 273 It is a fundamental assumption of the SOC model that a SOC is capable of operating as a profitable commercial entity.
- 274 Section 20E of the *SOC Act* provides that it is a principal objective of every statutory SOC to be a successful business and to that end:
- a. to operate at least as efficiently as an comparable business; and
 - b. to maximize the net worth of the State's investment in it.⁴²
- 275 In addition, ordinarily, a SOC is expected to return a dividend to Treasury⁴³ and to pay tax equivalent amounts to the Government.⁴⁴
- 276 These requirements have been modified somewhat in relation to SFC. First, pursuant to subsec 35B(1) *TA Act*, SFC's principal objective is to deliver a safe and reliable Sydney ferry service in an efficient, effective and financially responsible manner.⁴⁵ To be a successful business is one of SFCs 'other objectives', of less importance than its principal objective.⁴⁶ Secondly, pursuant to subsec 35N(1) of the *TA Act*, SFC is exempted from the requirement to pay dividends. Thirdly, pursuant to subsec 35N(2) of the *TA Act*, SFC's obligation under the *SOC Act* to pay tax equivalent amounts has been suspended by the Treasurer.⁴⁷
- 277 Nevertheless, SFC is required to perform its function, which is to operate Sydney ferry services, in such a way as to further its objectives.

⁴² A SOC's other principal objectives are:

- a. *to exhibit a sense of social responsibility by having regard of the community in which it operates;*
- b. *to conduct operations in compliance with principles of Ecological Sustainable development contained in subsec 6(2) of the Protection of the Environment Administration Act 1991; and*
- c. *to exhibit a sense of responsibility towards regional development and decentralization in the way in which it operates.*

⁴³ *SOC Act* sec 20S

⁴⁴ *TA Act* subsec 35N(1)

⁴⁵ *TA Act* subsec 35B(1)

⁴⁶ *TA Act* para 35B(2)(a)

⁴⁷ *SOC Act* sec 20T

Consequently, SFC is legislatively required to deliver a safe and reliable ferry service, so far as is practicable, on a commercial basis.

278 On the information available to the Inquiry, there is no evidence to suggest that Sydney Ferries was capable of operating as a successful commercial entity. SFC's financial performance is discussed in Chapter 7. At this point it is sufficient to note, that on incorporation, SFC inherited:

- a. a loss making business;
- b. \$49.1 million worth of debt;
- c. an asset base that was:
 - i inherently complex;
 - ii aging;
 - iii underperforming in terms of reliability and availability due to maintenance practices;
 - iv in need of a replacement strategy; and
 - v overvalued.

279 Thus, SFC was significantly limited in its capacity to operate 'commercially' from 1 July 2004.

280 In addition, as SFC told the Inquiry:

"There are clear tensions... between SFC's role as a provider of (often inherently unprofitable) public transport services and its statutory objectives of providing efficient and financially responsible ferry services and operating as a successful business."

281 Public transport is not, as a matter of fact, profitable. This is not something that is unique to ferries or to NSW. The Productivity Commission concludes that overall, returns for all urban transport Government Trading Enterprises ("GTEs") are well below those required by private operators, indicating that urban transport GTEs,

throughout Australia, are not operating on a commercially viable basis.⁴⁸ This is consistent with international experience. Most public transport systems are unable to operate without funding contributions from governments. For example, the percentage of operating costs covered by farebox revenue is (approximately):

- a. Europe: 40-60%;
- b. UK: 70%;
- c. North America: 30-50% (California: 28%, Toronto: 65%); and
- d. Australia: 30-50%.⁴⁹

282 Many of the benefits of public transport are non-economic and are not captured on the balance sheet, such as reductions in road user cost, environmental benefits and access for the young, elderly and poor.⁵⁰ As Professor Stillwell, Chair of the Discipline of Political Economy at the University of Sydney, told the Inquiry:

“In all economic issues, rate of return is fundamental but... when we’re talking about something like public transport we do have to take account of... the concept of externalities. For example, in provision of ferry services, if about 50% of the users are commuters who would otherwise go by road transport into the city or wherever else they are working, then that imposes a social cost. It needs to be factored into considerations of a broader concept of social rate of return.

Likewise, for those ferry users who are tourists... there is a multiplier effect: if the provision of good quality public services on

⁴⁸ Productivity Commission, *Financial Performance of Government Trading Enterprises, 2004-05 to 2005-06*, Commission Research Paper, Canberra, July 2007, p 212

⁴⁹ Richardson, E, “Transport Planning Sinclair Knight Merz”, *Funding Choices for Sustainable Urban Transport*, prepared for the Metropolitan Transport Forum, March 2004, p 12 cited in IPART, *Report on the Determination of Fares for Sydney Ferries*, 18 December 2005, p 10

⁵⁰ Productivity Commission, *Financial Performance of Government Trading Enterprises, 2000-01 to 2004-05*, op cit, p 231

the harbour is a magnet to people in spending their money in hotels, shops, restaurants and so on, that also needs to be taken into account as a return, not directly to the ferry provider but to the broader economy and community of Sydney.”

283 The adoption of the SOC model encourages a conceptual framework whereby SFC’s success as an organization is assessed on its measured financial performance, rather than on its overall, and real, contribution to an effective and reliable integrated public transport system, with major tourism advantages.

284 The Maritime Union Australia (“MUA”) cogently submitted to the Inquiry that SFC’s statutory objective of maximizing the net worth of the State’s investment:

“... should be refocused towards ‘maximization of Sydney Ferry patronage’ as an essential part of the Sydney public transport system which has as a conscious outcome, relief of urban congestion, reduction in car dependency and reduced road/tunnel construction and social dislocation costs and which makes a contribution to a reducing greenhouse gas emissions...”

285 Similarly, and correctly, Paul Bastian, Secretary of the Australian Manufacturers Workers Union (“AMWU”) told the Inquiry:

“Sydney Ferries should be recognized as an essential part of a fully integrated public transport system for NSW, and, as such, it should be properly funded by Government as an essential public service...”

Appropriate Managerial Authority and Autonomy

286 Under the SOC Act, SFC is structured in a manner analogous to a private corporation. The analogy is far from exact. It is not really genuine.

Board of Directors

287 According to Treasury:

“Giving Government Enterprises a clear, commercial objective will not be successful in generating sound economic performance unless the Board and management are given the authority to make the key decisions required to achieve efficient commercial outcomes.”⁵¹

- 288 A critical feature of the SOC model is the existence of a Board which is able to make decisions, independently of the Government of the day, in relation to the operation of the SOC.
- 289 SFC’s Board of Directors must comprise at least three, and no more than seven, directors. Subsection 35H(3) of the *TA Act* requires one of the Directors to be a person nominated by Unions NSW. The other Directors of the Board must each or together have such expertise (including maritime safety expertise and expertise in vessel operations) as the Shareholding Ministers, after consultation with the Portfolio Minister, consider necessary in order to realize the objectives of Sydney Ferries. The Chief Executive is expressly permitted to be a Director.⁵²
- 290 All decisions relating to the operation of SFC must be made by or under the authority of the Board of SFC,⁵³ subject to the statutory powers of the Shareholding Ministers and the Portfolio Minister as set out below. In particular, the following should be noted:
- a. the Board must follow and implement any statutory directions given by the Shareholding Ministers or the Portfolio Minister;
 - b. the Board has the sole power to appoint the CEO but, in doing so, must consult with the Shareholding Ministers and the Portfolio Minister;⁵⁴

⁵¹ Special Premier’s Conference Coordinating Task Force on GTE Reform, *Characteristics of a Fully Corporatised Government Trading Enterprise and Checklist for National Stocktake of GTE Reforms*, August 1991, p 15, Sydney, NSW Treasury.

⁵² *SOC Act* subsec 20J(5)

⁵³ *SOC Act* subsec 20L(1)

⁵⁴ *TA Act* subsec 35I(1)

- c. the Board has the sole power to remove the CEO from office, for any reason or for no reason, but again, may only do so after consulting with the Shareholding Ministers and the Portfolio Minister;⁵⁵ and
- d. the key duties and liabilities of the Board and its directors include duties of honesty, care and diligence⁵⁶ and a duty to prevent insolvent trading.⁵⁷

291 In practice, the Board of SFC is, without fault on its part, significantly curtailed in its ability to operate autonomously, for reasons discussed below.

The Shareholding Ministers

292 The State, as owner of SFC, is represented by what are called Shareholding Ministers. SFC has two Shareholding Ministers, each of whom holds an equal number of shares in SFC and is entitled to equal rights.⁵⁸

293 The current two Shareholding Ministers of SFC are the Treasurer and the Deputy Premier, Minister for Finance and Minister for Transport.⁵⁹

294 To enable them to exercise broad strategic control over SFC, the Shareholding Ministers have the following powers under the legislation:

- a. to appoint the members of the SFC Board of Directors, after consulting with the Portfolio Minister;⁶⁰
- b. to recommend to the Government the removal of any Director at any time without prior notice for any reason or for no reasons;⁶¹
- c. to appoint and remove the Chair of the Board;⁶² and

⁵⁵ *TA Act* subsec 35I(3)

⁵⁶ *SOC Act* cl 3 of Schedule 10

⁵⁷ *SOC Act* cl 7 of Schedule 10

⁵⁸ *SOC Act* sec 20H

⁵⁹ *SOC Act* subsec 20H(5)

⁶⁰ *TA Act* sec 35H

⁶¹ *SOC Act* subcl 7(2) of Schedule 8

- d. SFC is required, under sec 35O of the *TA Act*, to prepare a Statement of Corporate Intent (“SCI”) every year which sets out the Corporation’s objectives. This must be submitted to the Shareholding Ministers and the Portfolio Minister. The Shareholding Ministers must review the SCI before its finalization and have the power to direct the Board to include or omit anything from the SCI (other than a performance benchmark), following consultation with the Portfolio Minister and the Board.⁶³

The Portfolio Minister

295 Although SFC is a separate legal entity and does not represent the State, the Portfolio Minister, that is, the Minister with political responsibility, through Parliament, to the electors for the provision of public transport, retains a level of control over SFC.

296 The Portfolio Minister has the power to give written directions to the Board of SFC in two circumstances:

- a. a direction may be given in “*exceptional circumstances*”, if the Portfolio Minister is satisfied that it is necessary for the public interest to give a written direction to the Board because of the exceptional circumstances. However, such a direction may only be given after obtaining the approval of the Treasurer, after consulting with the Board and after requesting the Board to advise the Portfolio Minister whether, in its opinion, carrying out the direction would not be in the best interests of SFC;⁶⁴ and
- b. a direction may be given if the Portfolio Minister is satisfied that a written direction to the Board is warranted on grounds involving urgency or public safety. There is no obligation to consult with the Board before issuing a direction of this kind but the approval of the Treasurer must be obtained if the Portfolio Minister considers that

⁶² *SOC Act* cl 2 of Schedule 8

⁶³ *TA Act* subsec 35O(9)

⁶⁴ *SOC Act* sec 20P

compliance with the direction may cause a significant variation in the approved financial outcomes of SFC.⁶⁵

- 297 In both cases, the reasons for the written direction must be published in the Government Gazette within a month after the written direction is given and SFC is entitled to be reimbursed the cost of complying with the direction.
- 298 The Portfolio Minister also has the power to notify the Board of a public sector policy with which SFC is required to comply. This power may only be exercised if the Portfolio Minister is satisfied that it is necessary to give the notification in the public interest and after following the procedure set out in the *SOC Act*. As with a written direction, the reasons for the notification must be published in the Government Gazette within a month after the notification is given and SFC is entitled to be reimbursed the cost of complying with the policy notified.
- 299 Finally, SFC is required to enter into a performance agreement with the Portfolio Minister which establishes performance benchmarks for the ferry services provided by SFC. The performance benchmarks must be included in SFC's annual SCI.⁶⁶
- 300 Apart from these express statutory controls, SFC is intended to operate at arm's length from the Government. The Portfolio Minister's ability to influence SFC, outside of these express statutory powers, is limited to formulating and setting industry-wide policies and purchasing ferry services from SFC pursuant to the Government's Social Programs Policy.
- 301 SFC's Portfolio Minister is the Deputy Premier, Minister for Finance and Minister for Transport. As noted above, that Minister is also a Shareholding Minister of SFC. Until recently, the Portfolio Minister was expressly forbidden by sec 35M of the *TA Act* from being a

⁶⁵ *TA Act* sec 35K

⁶⁶ *TA Act* sec 35O

Shareholding Minister of SFC, although the Portfolio Minister was authorized to attend shareholder meetings. During the course of the Inquiry, but unrelated to it, sec 35M of the *TA Act* was amended so as to remove this prohibition. In relation to the *Transport Administration Amendment (Portfolio Minister) Act 2007*, the then Minister for Education and Training and Industrial Relations stated:

“This Bill... will allow the Minister for Transport to have dual roles as both the Portfolio Minister and a Voting Shareholder.

This will put the Minister in a better position to work with rail and ferry operators to improve their operational performance. It will ensure, for example, that the Minister has a seat at the table in formulating the Statements of Corporate Intent for the Government’s rail and ferry operators.’⁶⁷

302 The same speech also noted that there is no general prohibition in the *SOC Act* that prevents the Portfolio Minister from being appointed as a Voting Shareholder.

Tension Between Role of the Board and Role of the Portfolio Minister

303 There is a tension between the salutary direct political responsibility of the Minister for Transport to the electorate for the provision of ferry services and the management of SFC by an independent Board of Directors.

304 The SOC model requires that the Government’s procurement of ferry services from SFC be in the form of an arm’s length contract. The Minister for Transport’s power in relation to SFC is strictly confined, as set out above. Any direction by the Minister for Transport as to SFC’s affairs, other than as expressly permitted by the legislation, would be unlawful.

⁶⁷ New South Wales, Legislative Council, “Agreement in Principal Speech for the Transport Administration Amendment (Portfolio Minister) Bill 2007”, *Parliamentary Debates (Hansard)*, 30 May 2007, p 438

- 305 Since corporatization, the Minister for Transport has not issued any statutory directions to the SFC Board under either the *SOC Act* or the *TA Act*. One explanation for this is that the Minister has not considered it either necessary or appropriate to exercise his statutory powers to direct the SFC Board. Another explanation, which the Productivity Commission has suggested may apply to SOCs generally, is that Ministerial wishes are being relayed to the Board in a manner that is informal and thus not as open to public scrutiny.⁶⁸
- 306 During the course of the Inquiry, three incidents of Ministerial intervention in SFC's operations have come to attention that suggest, at least in relation to those incidents, that the latter explanation is correct. This is not to say that they were necessarily inappropriate in the circumstances.
- 307 The first incident involved the termination of the employment of Suzanne Sinclair as CEO of SFC. Under the *TA Act* the SFC Board has sole power to appoint and dismiss the CEO of SFC, although it may do so only after consultation with the Shareholding Ministers and the Portfolio Minister.⁶⁹ In addition, the Board may, after consultation with the voting shareholders, fix the conditions of employment of the CEO in so far as they are not fixed by or under any other Act or law.⁷⁰
- 308 Suzanne Sinclair was appointed by the Board as Acting CEO of SFC on 1 July 2004 and then as CEO on 9 August 2004. A written agreement was entered into between Ms Sinclair and SFC that set out Ms Sinclair's conditions of employment. Clause 2 of the Agreement provided that Ms Sinclair was appointed as CEO of SFC for a period of five years, or until she was removed from her office, or her employment was terminated. Clause 10.1 provided that Ms Sinclair's employment would terminate on 8 August 2009, unless Ms Sinclair's employment

⁶⁸ Productivity Commission, *Financial Performance of Government Trading Enterprises, 1999-00 to 2003-04*, Commission Research Paper, Canberra, July 2005, p 56

⁶⁹ *TA Act* Sec 35I

⁷⁰ *TA Act* subsec 35I(5)

was terminated earlier in accordance with cl 10. Clause 10.2 provided that SFC may terminate the Agreement prior to 8 August 2008 for any or no reason by the giving of three months notice in writing.

309 On Friday 17 February 2006, Ms Sinclair attended a meeting with the Deputy Premier, Minister for Finance and Minister for Transport at the Minister's request. The Minister was then, as now, the Portfolio Minister for SFC.

310 According to correspondence written on Ms Sinclair's behalf, the Minister informed Ms Sinclair that her tenure as the CEO of SFC was over and that Rear Admiral Chris Oxenbould would be Acting CEO of SFC until a permanent CEO of SFC was appointed.

311 The Deputy Premier and Minister for Transport, told the Inquiry:

"I invited Ms Sinclair to my Ministerial Office on Friday 17 February 2006, to discuss the performance of Sydney Ferries...

Aware of my limited legal authority as Portfolio Minister, I had kept the Shareholding Ministers informed about my growing concerns about Ms Sinclair ahead of that Friday meeting...

At that meeting, our discussion turned to my view that Ms Sinclair's performance was lacking, and that there was considerable pressure building on the Government over the maintenance and safety issues at Sydney Ferries...

I put to Ms Sinclair my personal view that any future incidents would inevitably lead to increased calls for action to be taken against her or the Board. It is my impression that she agreed with this assessment...

I explained that I wished to avoid that outcome if possible, and suggested that a better result for all parties may be for her to take a period of leave from her position...

I suggested to Ms Sinclair that my preference would be to announce her taking leave in the coming week but that no public comment should be made until these matters were formalized...

I suggested she take the weekend to consider the concerns I had expressed and my suggestions of a way forward... It was my understanding that Ms Sinclair would seek leave from the Board during the following week, allowing an Acting CEO to be appointed."

312 Ms Beth Laughton was then and is now Acting Chair of the SFC Board. Ms Laughton told the Inquiry she was not aware that the Minister was intending to suggest to Ms Sinclair that she be removed from her position as CEO of SFC, temporarily or otherwise, or that he had in fact done so, until she received a telephone call to that effect from Ms Sinclair:

"The conversation that I had had with Sue, who had rung me after she had met with the Minister, was along the lines that she had been sacked, and when I said that he didn't have the right to sack her, she said that she had told him that..."

313 Ms Laughton also told the Inquiry that, later that evening, she received a telephone call from the Minister confirming that he had removed Ms Sinclair from her position as CEO of SFC.

314 Ms Laughton did not, either at that time or subsequently, challenge the legality of the Minister's actions:

"I didn't tell him that he shouldn't or he didn't have the right to do it..."

I think I was probably in a state of shock at that point."

315 The Deputy Premier and Minister for Transport told the Inquiry:

"I then spoke to Ms Laughton, Acting Chairperson of the Sydney Ferries' Board on Friday 17 February following the meeting with Ms Sinclair.

I cannot recall the exact details of that conversation, other than I explained the discussion with the CEO that had taken place. My interpretation of the conversation was that Ms Laughton concurred with my suggestions that Ms Sinclair take leave the following week.”

- 316 On Monday 20 February 2006, a press release was issued by the Minister’s office announcing that Rear Admiral Oxenbould would take over from Ms Sinclair as CEO of SFC. The press release stated:

“Following the well publicized problems with ferry operations and maintenance, I had a number of discussions with the CEO on how to build further on our multi-million-dollar plans to improve the organisation’. Mr Watkins said.

‘Ms Sinclair has worked hard to establish Sydney Ferries as a stand-alone organisation from its former position within the State Transit Authority...

However, both Ms Sinclair and I agree more must be done to improve the organisation and its culture.

‘That’s why one of the country’s most trusted maritime experts, Rear Admiral Chris Oxenbould, will help us to get Sydney Ferries back on track.’”

- 317 The same day, Ms Laughton distributed a message to all SFC staff announcing:

“After almost two years, Sydney Ferries’ Chief Executive Officer Sue Sinclair has left the organization to pursue her career within Government.”

- 318 On the same day, Ms Sinclair wrote to Ms Laughton stating:

“I note the radio and print media are reporting today that I have resigned from my position as Chief Executive Officer of Sydney Ferries Corporation.

I have not resigned as Chief Executive Officer. I was informed by the Minister for Transport on Friday 17 February 2006 that I was to be removed from my position. My understanding is that this has resulted in a termination of my contract of employment with Sydney Ferries Corporation.”

- 319 Ms Sinclair did not attend work at SFC’s premises again.
- 320 At a Board meeting on 23 February 2006, the Board resolved to appoint Rear Admiral Oxenbould as Acting CEO, subject to voting Shareholder and Portfolio Minister approval and to commence the recruitment search for a permanent CEO immediately.
- 321 Legal representatives for Ms Sinclair wrote to the Board on 24 March 2006, asserting that Ms Sinclair’s employment had been unlawfully terminated in breach of the *TA Act* and her employment contract and she was claiming damages. On legal advice, the Board adopted, and subsequently maintained, the position that Ms Sinclair’s employment had not been terminated and that she was on paid leave.
- 322 Finally, on 24 May 2006, following protracted negotiations between Ms Sinclair’s legal representatives and the Board, Ms Sinclair’s contract was terminated by mutual agreement between Ms Sinclair and SFC, and Ms Sinclair resigned as a Director of the Board. On that day, Ms Sinclair and SFC entered into a deed of release, settling all legal claims in relation to Ms Sinclair’s termination.
- 323 Ms Sinclair told the Inquiry:

“I had to go through this ridiculous process of pretending to be terminated when I wasn’t actually at work and someone else was the CEO...”

There was no interaction between the Board and the Portfolio Minister at the time [17 February 2006]. The only one who took action was the Portfolio Minister, after consultation with

Shareholding Ministers, in clear contravention of the [Transport Administration] Act. It was a unilateral act by the Portfolio Minister...

What happened was exactly what the Act was designed to prevent...

I don't think the Ministers or their staff ever think about the legal framework in which they operate—they just act and then think I'll mop it up afterwards."

- 324 In explaining why the Board did not, at any point, raise with the Minister that he does not have the power to remove or appoint, temporarily or otherwise, the CEO of SFC, Ms Laughton told the Inquiry:

"I think the Board probably had felt by that stage that the Minister had imposed a number of things on the organization. And the Shareholding Ministers, we were aware, had had some discussions with him about his performance...

The Board, I think, at that point also felt that there was little point in saying anything to the Portfolio Minister.

I think possibly because it felt that the offence – if that's the general word that you could use – had been done and there really wasn't much point in debating it further with him...

It is not something that any of us I think are particularly pleased with."

- 325 A reasonable view, having regard to the sequence of events outlined above, is that Ms Sinclair's employment as CEO of SFC was, as a matter of practicality, terminated, in substance if not in form, by a decision taken by the Portfolio Minister. Certainly, Ms Sinclair was left with the clear impression, following her meeting with the Minister on 17 February 2006, that she no longer had a job.

- 326 The second incident involved a decision by SFC to dry-dock a Freshwater class vessel outside of NSW. Freshwater class vessels require major maintenance once in every five-year period to meet

survey specifications. As these vessels are too large for the dry dock at the Balmain Shipyard, their docking is contracted out, at significant cost.

- 327 Prior to corporatization, tenders for the dry-docking of the Freshwater class vessels had attracted two NSW contractors only. In 2004-05, SFC adopted an open tender process for the scheduled dry-docking of the *MV Freshwater* to attract more competitive tenders from a wider market, including contractors outside NSW, in an attempt to minimize the cost of this essential maintenance.
- 328 SFC awarded the tender to a Brisbane-based company. After adjusting the bids to take into account additional costs such as transportation of the vessel to Queensland, the cost of having the work performed by the Brisbane-based company was \$1.2 million less than the cost of having the work performed by the second ranked tenderer. After the docking was successfully completed, SFC's 2005 SCI noted that, "*material savings were achieved on the base contract work with no compromise to the quality of service*".
- 329 In 2006, a second Freshwater class vessel, the *MV Queenscliff*, was due for docking and survey. The SFC Board did not receive any formal written direction from the Minister in relation to the location of the Freshwater class dockings. However, according to SFC, "*during a meeting between Acting CEO Chris Oxenbould and the Minister for Transport, the Acting CEO was given a clear verbal instruction that the MV Queenscliff was not to be docked outside NSW*" and subsequently, "*during a recent meeting between current CEO Geoff Smith and the Minister for Transport, a similar verbal instruction was given by the Minister for Transport in relation to the MV Narrabeen*".
- 330 Rear Admiral Oxenbould confirmed to the Inquiry that, on 9 May 2006, the issue of the docking of *MV Queenscliff* was raised during a routine meeting with the Minister and his staff at which operational and

administrative matters in relation to SFC were being discussed. Rear Admiral Oxenbould told the Inquiry that:

“From the discussion at the meeting it was clear to me that the Minister’s preference was for the docking of the MV Queenscliff to be conducted in NSW. The Minister also stressed the importance of the vessel being available for the summer running period from mid-December. As I was aware that the work was possible at two dockyards within NSW, thereby providing a level of competition, I pursued the option of restricting the tender to NSW.”

331 In evidence, Rear Admiral Geoff Smith told the Inquiry that he raised the issue with the Minister prior to releasing the tender documentation for the MV Narrabeen:

“We were approaching the point of releasing the tender documentation and my contract manager came to me and asked me if there were any constraints in terms of who we can go to given what had occurred the year before. I was aware of what happened before and had discussed it with Chris Oxenbould.

I decided at my weekly meeting with Minister Watkins to actually bring that matter up. I said I was aware of the direction and he corrected me and said it wasn’t a direction; there was a preference indicated that it be done in NSW, and he clarified for me that that preference remained for the docking that was coming up for the Narrabeen.

So I had no doubt in my mind that I was not ordered to do that but I was given a very clear preference that the matter be constrained to NSW. On the basis of that preference, I gave a direction to the contract manager to limit the tenders to the two potential contractors in NSW.”

332 The Minister told the Inquiry:

“I am in frequent contact with the CEOs of the various transport agencies in my portfolio and they regularly seek my guidance on particular issues...

My recollection of the 9 May meeting with Mr Oxenbould was that, when he sought my views on the matter, I expressed a preference for the MV Queenscliff to be docked in NSW, particularly as the vessel would be required for the busy summer period commencing in December and a dry-docking takes a ferry out of service for several months...

Mr Smith raised the docking of the MN Narrabeen with me in one of our regular meetings on 13 June 2007. He mentioned that the MV Queenscliff had been docked in NSW and wanted to confirm that I would consider it appropriate for this to occur again for the MV Narrabeen. I told him that from my recollection of Mr Oxenbould’s experience with the MV Queenscliff this arrangement had worked well and I did not see why it should not occur again in this manner.”

- 333 It appears plain from the above accounts that the Minister expressed a clear preference but did not issue an instruction. However, SFC, under the hand of the CEO, initially told the Inquiry that it had interpreted these dealings as a, “*clear verbal instruction*”.
- 334 Whilst this example of Ministerial intervention may seem, in one sense, fairly innocuous, it illustrates the difficulties faced by the Board and CEO of SFC in attempting to manage SFC as a stand-alone commercial business. Under the SOC Act, the Portfolio Minister could have directed SFC, lawfully, not to dock Freshwater class vessels outside NSW in the public interest. Had the legislated process been followed, however, two things would have resulted.
- 335 First, the direction and the reasons for giving it would have been placed on the public record. Secondly, SFC would have been compensated for any financial loss involved in complying with the direction. The intervention of the Portfolio Minister in operational decision making,

other than in accordance with the process set out in the *SOC Act*, affects the Board's ability to operate SFC on a commercial basis. In a private commercial organization, the Board has ultimate responsibility and accountability to the shareholders to ensure effective return on investment. In a SOC, there is no such unalloyed objective.

336 The third incident involves a dispute between the MUA and SFC in relation to the rate of conversion of casual General Purpose Hands ("GPHs") to permanent employment.

337 Clause 5.1.3 of the General Purpose Hand Enterprise Agreement 2006/2008 provides that the parties are committed to the conversion of temporary employment to non-rostered permanent employment within two months after certification of the Agreement. The Agreement was certified on 24 March 2006.

338 In addition, clause 15A of the State Transit Authority of NSW Ferries (State) Award confers on a casual GPH the right to elect to become permanent if he or she has been engaged on a regular and systematic basis for six months and where his or her employment is ongoing. Under the clause, an employer may refuse an election to convert but the reasons for doing so must be fully stated and discussed with the GPH and a genuine attempt must be made to reach agreement.

339 In June 2006, the MUA notified a dispute in the Industrial Relations Commission of NSW ("IRC") in relation to concerns that SFC had not finalized the offer of permanency to suitable temporarily employed persons.⁷¹ Following compulsory conciliation, between 7 to 20 July 2006, SFC appointed 22 temporary GPHs to permanent positions in accordance with the EBA.

340 In December 2006, a further 23 casual GPHs were appointed to permanent positions by SFC, of its own initiative, after SFC identified

⁷¹ IRC 06/2538

that there were a number of vacant lines of work that could be filled by transferring casual GPHs to permanent positions.

341 Following the conversion of, in total, 45 casual GPHs to permanent employment, SFC believed the matter to be settled and its obligations under the EBA to have been fulfilled. However, on 22 February 2007, the MUA wrote to SFC seeking the conversion of a further 20-40 casual GPHs to permanent employment. SFC indicated to the MUA that SFC's management would discuss the request and report back to the MUA.

342 On 13 March 2007, before SFC had responded to the MUA claim, Paul Garrett of the MUA wrote to the IRC notifying a dispute with SFC in relation to the casual conversion issue.⁷²

343 At the time, SFC was preparing for the celebration of the 75th anniversary of the Harbour Bridge which was to take place on Sunday 18 March 2007. It was also the week before the State election. The CEO of SFC rang the Deputy Chief of Staff of the office of the, then, Minister Assisting the Minister for Transport to inform the Minister's office of the dispute.

344 The following morning, MUA members took part in what appeared to be industrial action related to the MUA's request for additional permanent GPHs. The General Manager, Operations, told the Inquiry:

“... [the Harbour celebration] required every ferry we could possibly get out on service that day, plus some charter boats on top of that which required bringing in just about everybody we possibly could on overtime. We had something in the order of 40 General Purpose Hands who had all agreed to do the overtime.

Then about two days before the event, all within the space of about two hours, they telephoned in and said they were no longer available to do overtime. So, to us, it was very clearly orchestrated,

⁷² IRC 06/3515

and that was very quickly followed by the demand from Paul Garrett [of the MUA] for us to take on additional permanent people.”

345 Later that day, there was a meeting, that had been previously arranged, between SFC and various unions to discuss SFCs plans for the Harbour Bridge celebration. According to SFC, at that meeting, the MUA reiterated its demand for the appointment of up to 40 casual GPHs to permanent status. SFC told the Inquiry:

“It was clear to SFC that if it resolved this issue the MUA would ensure all its members attended their shifts on 18 March 2007. To avert the continuation of the apparent overtime bans being conducted by MUA members SFC offered for 11 casual GPHs to be transferred to permanent positions. The MUA rejected this offer.”

346 Following the meeting, the CEO of SFC telephoned the Deputy Chief of Staff of the office of the Minister Assisting the Minister for Transport again to inform the Minister’s Office of the possibility of industrial action on 18 March 2007, during the Harbour Bridge celebration.

347 The Minister’s office organized an urgent meeting between the MUA and SFC on 15 March 2007 to try and resolve the issue. According to SFC, at the meeting the MUA reduced its claim for 20-40 permanent GPHs to a demand for 20 permanent GPHs.

348 Following the meeting, the CEO of SFC telephoned the Deputy Chief of Staff of the office of the Minister Assisting the Minister for Transport again. According to the CEO:

“During both conversations [on 14 and 15 March] Mr Holder [the Deputy Chief of Staff] reiterated the point that the Government had been emphasizing consistently at high level executive meetings leading up to the Harbour Bridge celebrations, that all transport arrangements had to go smoothly...”

- 349 The Deputy Chief of Staff of the office of the Minister Assisting the Minister for Transport, when asked by the Inquiry, was unable to recall either of his telephone conversations with the CEO of SFC. However, he told the Inquiry that, while he is certain he did not issue a direction either in general terms or in specific terms to employ any person or group of persons, he considers it appropriate that the Minister make suggestions and express opinions on matters related to the management of SFC and reasonable to expect management to take account of the Minister's views. It is impossible not to agree with this, in principle.
- 350 Following the telephone call between the CEO and the Deputy Chief of Staff of the office of the Minister Assisting the Minister for Transport on 15 March 2007, SFC agreed to the conversion to permanency of 15 casual GPHs. The CEO told the Inquiry that he made this decision because he *“considered, in the circumstances, that it was in the best interests of the Corporation to do so”*. He told the Inquiry that in making the decision he *“took into account the strong desire of the NSW Government, the Corporation’s shareholder, that the Harbour Bridge celebrations not be disrupted by industrial action”* and that *“this was a factor in but not determinative of, the decision”*.
- 351 In a communication unrelated to this dispute, SFC told the Inquiry:
- “The Portfolio Minister has clear statutory powers pursuant to which he or she may issue directions to Sydney Ferries... However, the position of Sydney Ferries and its Board is less clear when the Portfolio Minister or other branches of government make suggestions or requests as to certain actions to be taken, or seek to exercise influence over decisions to be made which fall short of formal statutory directions.”*
- 352 In this instance, the understandable, if incorrect, perception of a number of senior managers within SFC appears to have been that SFC was required to comply with the Minister's wishes.

353 The General Manager, Operations, told the Inquiry:

“From my discussions with Geoff [the CEO], I certainly had the impression that the Minister’s Office had indicated to him that we should just go ahead and do it. That was my indirect involvement with the Minister’s Office.

My more direct involvement was the telephone conversation I had with Darren Holder from the Minister’s Office... Darren Holder, in the course of the discussion – and it was on this whole business – said to me words to the effect, ‘Dennis, you’ve just got to stay with us and give in on this one, and don’t worry, as soon as the election is out of the way, we’ll be helping you take care of the MUA.’”

354 The Deputy Chief of Staff of the office of the Minister Assisting the Minister for Transport told the Inquiry that he had no recollection of the conversation referred to by the General Manager, Operations, although over the relevant period, he had had hundreds of telephone conversation with the staff of agencies within the Transport Portfolio and generally spoke to each agency every day. Despite not recollecting the conversation, the Deputy Chief of Staff of the office of the Minister Assisting the Minister for Transport told the Inquiry that:

“I do not accept [the General Manager, Operation’s] statement as an accurate recollection of any conversation with me. I nonetheless note his words do not disclose any purported direction.”

355 The Deputy Chief of Staff of the office of the Minister Assisting the Minister for Transport also told the Inquiry:

“It would be unlawful for a manager to follow any direction issued other than in accordance with [the legislative framework].” ...

All conversations between Ministerial offices and Corporation management take place with this knowledge. Opinions may be freely given by Ministers and their staff but there is a clear understanding management decisions may only be made by

management. Managers may or may not choose to act in accordance with the opinions expressed by a Minister or their staff.

Should a manager interpret a Minister, let alone a member of a Minister's staff, to have issued a direction, it could reasonably be assumed they would raise an objection."

356 The Acting Chair of the Board told the Inquiry:

"As I understand – and this is not a direct contact that I've had – just before the election, a couple of the unions had started lobbying, asking for additional things. I believe the MUA was wanting us to take on up to 30 permanent employees who had been casual employees. I think the flow of events was that someone from the Minister's office rang the Chief Executive and told him to give the MUA whatever they wanted. As a consequence of that, I believe the negotiated position ended up being 14 extra General Purpose Hands as full-time employees, converted from casuals."

357 It should be noted that this information was acquired indirectly by Ms Laughton, who made that very point herself, and the CEO has subsequently informed the Inquiry that it is incorrect. Nevertheless, it illustrates the point that the perception, at the highest level of the Corporation, was that SFC was acting on the Minister's (informal) instructions.

358 The General Manager, Industrial Relations, told the Inquiry:

"There is a strong history, particularly in the maritime unions, and my experience since I've been working at Sydney Ferries, of the unions going to the Minister, whoever it is, the Transport Minister, to seek support for a claim or their position on something...

Certainly there was a clear sense within the organization that the Minister didn't want any difficulties on that day in terms of our running the Corporation...

Certainly I think I could say that the Minister wanted us to be able to ensure that the services ran on that day without disruption.”

359 It is not possible, fairly or reasonably, to critique the kind of Ministerial attitude referred to.

360 The General Manager, Industrial Relations agreed in evidence that, while the Minister’s Office did not issue a specific direction to SFC to employ permanent GPHs in accordance with the MUA’s demand, the attitude communicated by the Minister’s staff involved the notion that a concession should be made to the MUA so as to dissuade them from the threatened disputation.

361 When asked why Ministerial staff are not rebuffed by Management and told that to seek to influence SFC’s position may be inimical to the statutory expectation, the General Manager, Industrial Relations told the Inquiry:

“There is certainly a sense that that would be a difficult thing to do within the transport environment.”

362 The General Manager, Industrial Relations agreed in evidence that it was *“legitimate”* for the Inquiry to report, *“that the conduct of industrial relations with the maritime unions has been complicated by the pressure outside the statutory framework brought by Ministerial staff for the Corporation to give in to union demands”*.

363 It should be emphasized that there is nothing, of itself, unacceptable about the Minister for Transport intervening in the running of public transport, particularly in response to public pressure. That is precisely how a democratic system of responsible government ought to work. Political intervention by the Minister of the kind described above is problematical because it tends against the model of commercial independence that Parliament has chosen to adopt.

364 That model is inconsistent with the healthy political realities involved in the provision of a ferry service for the purpose of public transport.

365 Pdraig Crumlin, National Secretary of the MUA told the Inquiry:

“There are some contradictions in the State Owned Corporations model. For example, there seems to be some practical misalignment between the responsibilities of the Portfolio Minister, the Transport Minister, who is responsible for the public transport objectives holistically, Community Service Obligations and the key performance indicators, and also the Shareholders of Sydney Ferries Corporation, meaning the Treasurer and Minister for Infrastructure, the Minister for Finance, Minister of Industrial Relations and Minister for Commerce...”

We favour the model where the Transport Portfolio Minister has more effective input into the funding decisions necessary to place Sydney Ferries on a sounder commercial footing but within the context of its prime public transport role.”

366 There is real merit in these observations.

367 John Stott, former Chief Executive of STA and former Chief Executive of the Public Transport Ticketing Corporation told the Inquiry:

“I came into this business almost 20 years ago with a very firm view that the best way to provide public transport was by government agencies. Over the last 20 years, I have been compelled to revise that view. The reason is that government is capable of providing good service but at a cost. Government is not good at being efficient. Generally government agencies with line of accountability to ministers cannot resist pressure from vested interest in a variety of areas - pressure not to modify services, pressure to retain those services, pressure to put in new services, pressure not to put up fares, pressure not to take industrial action - let's avoid strikes at all

costs - and pressure to sack managers, and I've seen a bit of that in my time as well.

Government operating expenditure will always be higher than a complete arms-length operation because government also has less appetite for risk out there. Because of these factors, government will always be less efficient than an arms-length operator, and the news is that a.SOC is not arm's-length. In my opinion there is no such thing as an effective contract between government agencies. Whether they are State Owned Corporations or anything else; there will always be a deal done in a conflict situation."

368 Suzanne Sinclair, former CEO of SFC, told the Inquiry:

"I just don't think the model works. That's my view. It's this concept of the 'Board' actually being independent and operating at arm's length with the Minister. Doesn't happen at all. It's the nature of what you're doing. The theory's fabulous but it doesn't work.

You're supplying a public service for which the public holds the Minister responsible but the model says hands off, there's a Board."

369 Rear Admiral Chris Oxenbould, former Acting CEO of SFC, told the Inquiry:

"Part of the problem is the governance structure—the structure of a SOC is very complicated. The CEO is basically barking for three masters—the Shareholding Ministers, Portfolio Minister and the Board."

370 SFC supplies an essential public transport service for which the public properly and sometimes savagely holds the Minister for Transport responsible. In the event of a significant failure of ferry services, it is likely that the Government will be held responsible by the electorate for the failure, regardless of the existence of a governance arrangement that limits the Government's control over the provision of those services. There is much to be said for aligning the formal structure

under which SFC operates with the real and healthy political structure. As was observed in the Glenbrook Inquiry:

“... it seems to me logical that if the Minister for Transport, in a democratic system of Government is held accountable to the electorate for the way in which the railway industry operates then the Minister ought not have to work with the cumbersome procedures and restraints created by the State Owned Corporations Act 1989... [but this is] ultimately a matter for the Government and the Parliament.”⁷³

371 This Inquiry makes no comment about SOCs generally. Its study of SFC suggests irremediable imperfections of that model for this public transport service.

Effective Performance Monitoring

372 The Government’s *Corporatisation Manual* states:

“The primary accountability of SOCs is to their shareholders. The keystone of the monitoring and accountability framework is the Statement of Corporate Intent. The Statement of Corporate Intent is supposed to form a type of contract between the Board and the government as owner or shareholder in relation to the enterprise’s objectives.”⁷⁴

373 SFC’s SCI must include, inter alia:

- a. SFC’s objectives;
- b. SFC’s main undertakings;
- c. the nature and scope of activities to be undertaken;

⁷³ *Special Commission of Inquiry into the Glenbrook Rail Accident, Second Interim Report, November 2000*

⁷⁴ *Special Premier’s Conference Coordinating Task Force on GTE Reform, op cit, p 15*

- d. performance benchmarks for the ferry services provided by SFC, as set out in a Performance Agreement between the Portfolio Minister and the Board; and
- e. financial and any other performance benchmarks, as agreed by the Board and Shareholding Ministers after consultation with the Portfolio Minister.⁷⁵

374 As noted above, the Board of SFC must prepare and submit to the Shareholding Ministers a SCI each financial year.⁷⁶ Pursuant to the *SOC Act*, a Minister must table, before each House of Parliament, a copy of a SOC's completed SCI within 14 sitting days after the date the Shareholding Ministers received it. By this means, the electors' representatives, responsible for appropriations of public money, are informed of the service to be funded.

375 The SOC model also imposes numerous (perhaps superfluous) reporting requirements on SFC. SFC must deliver:

- a. half-yearly reports to the voting shareholders;⁷⁷
- b. annual reports that comply with the *Annual Reports (Statutory Bodies) Act 1984*.⁷⁸ Each annual report must identify any actual departures from the performance targets (including financial targets) set out in the SCI and reasons therefore;
- c. audited financial reports that comply with the *Public Finance and Audit Act 1983*.⁷⁹ The Auditor-General may make a special report regarding any matter arising from an audit which he or she considers should be brought to the attention of Parliament.⁸⁰ The functions of the Public Accounts Committee include the

⁷⁵ *SOC Act* sec 22; *TA Act* subsec 35O(2)

⁷⁶ *SOC Act* para 26(1)(d)

⁷⁷ *SOC Act* sec 23

⁷⁸ *SOC Act* subsec 24A(2)

⁷⁹ *SOC Act* subsec 24A(1)

⁸⁰ *SOC Act* sec 25

examination of the financial reports of SFC and reports of the Auditor,⁸¹ and

d. monthly reports to the Portfolio Minister.⁸²

376 For an organization of around 723 people, these requirements are burdensome. Implementation of the SOC model, and ongoing compliance with its legal requirements, occupies a significant amount of SFC's administrative and executive time and resources.

377 In the OTSI Systemic Report, OTSI noted that, "*the process of 'corporatising' Sydney Ferries which is ongoing, has required considerable effort and has added to the challenges confronting senior managers.*⁸³ *...The requirements to determine its true operating cost base [and] establish corporate policies and asset management... has weighed heavily upon [management].*"⁸⁴

Rewards and Sanctions on Performance

378 A key goal of corporatization is to increase the efficiency of Government businesses. According to the Government's *Corporatisation Manual*:

*"A vigorously applied system of rewards and sanctions must operate in order to effectively promote good commercial performance and to sanction poor performance. Such rewards and sanctions can be achieved in remuneration and employment arrangements, the tightening or relaxing of reporting and monitoring requirements, and liberalizing or restricting management's decision making ability in regard to future investment decisions."*⁸⁵

⁸¹ SOC Act sec 28

⁸² Performance Agreement for the Purposes of section 350(2)(a) of the *Transport Administration Act 1988* (NSW) between the Hon John Watkins, MP, Minister for Transport and Sydney Ferries Corporation, June 2006, p 6

⁸³ OTSI, *Systemic Investigation into incidents of collision involving Freshwater Class vessels operated by Sydney Ferries Corporation*, 20 October 2006, p x

⁸⁴ *Ibid* p 31

⁸⁵ New South Wales Department of Premier and Cabinet, *Corporatisation Manual*, op cit, p 2

379 Under the *TA Act*, the CEO of SFC is required to enter into a performance agreement with the Board and has his or her performance reviewed at least annually against performance criteria which must be included in his or her contract of employment.⁸⁶ Under the CEO's Employment Agreement, the Board may review the CEO's total remuneration package annually following completion of the performance review. The Board may consider various factors but not limited to the CEO's performance and the results of the performance review, market movements, and the performance of SFC. The only sanction is the possibility of removal by the Board.

380 Obviously, these rewards and sanctions are nowhere near the practicality of capitalist, for-profit, motivations that operate in private commercial corporations.

Competitive Neutrality

381 Clause 3 of the Competition Principles Agreement between the NSW Government, the Commonwealth and other State and Territory Governments provides:

"The objective of competitive neutrality policy is the elimination of resource allocation distortions arising out of the public ownership of entities engaged in significant business activities: Government businesses should not enjoy any net competitive advantage simply as a result of their public sector ownership. These principles only apply to the business activities of publicly owned entities, not to the non-business non-profit activities of these entities."

382 The Government's *Corporatisation Manual* states that, in accordance with the Competition Principles Agreement:

"Any special advantages or disadvantages applying to Government Trading Entities ("GTEs") by virtue of their Government ownership

⁸⁶ *TA Act* subsecs 35I(6), (7)

must be removed. GTEs are encouraged to be efficient through exposure to competition. The Government has in place explicit policies to level the playing field between GTEs and their competitors. For example, a corporatised entity is required to pay tax at rates equivalent to those of a private company. GTEs are also required to pay a commercial return to the Government as shareholder on the assets employed in each business. Through the payment of dividends and guarantee fees the full costs of capital and debt are transparently reflected in the costs of the business. GTEs which operate as monopoly service providers will have their pricing policies referred to the Government Pricing Tribunal. This is necessary to prevent exploitation of market power once a GTE is established with a clear profit motive.”⁸⁷

383 In April 2007 SFC ceased its cruise operations for a variety of reasons, including concerns about a lack of competitive neutrality in relation to those operations and (in any event) a lack of available vessels. SFC now provides public transport services only. It should be noted, that while approximately 50% of SFC’s passengers are not commuters, a public transport system is not solely for the purpose of moving commuters but also operates so as to move tourists and non-commuters around the city.

384 There is a tension involved in the application of competitive neutrality principles to SFC. Competitive neutrality principles do not apply to the non-business, non-profit activities of government businesses. Although SFC operates a business and is legislatively charged with doing so on a commercial basis, its business is to provide an essential social service that, despite the object and intention of the *SOC Act*, is not likely ever to be profitable.

⁸⁷ New South Wales Department of Premier and Cabinet, *Corporatisation Manual*, op cit, p 2

CHAPTER 5

A SERVICE CONTRACT

385 The operation of ferry services by SFC is subject to the requirements of the *PT Act* which regulates, among other matters, the provision of ‘regular passenger services’ for the purposes of public transport in NSW by bus, ferry⁸⁸, taxi-cab and other vehicles.

386 In NSW, regular passenger services by ferry are provided by a combination of Government and private operators. There are seven private passenger ferry operators: Central Coast Ferries, Church Point Ferry Service, Clarence River Ferries, Cronulla and National Park Ferry Service, Dangar Island Ferry Service, Matilda Cruises and Palm Beach Ferries. There are two Government passenger ferry operators: SFC and the STA which provides ferry services in Newcastle. Only SFC and Matilda Cruises operate ferry services on Sydney Harbour and the Parramatta River.

387 One of the objects of the *PT Act* is to regulate Government and non-Government buses and ferries on a more equal basis.⁸⁹ In pursuance of this goal, the *PT Act* imposes a contractual regime whereby all bus and ferry services, regardless of whether they are publicly or privately operated, are to be provided pursuant to a service contract entered into between the operator and the Director General of the Ministry of Transport.

388 The central provision in this regime is subsec 16(1) which relevantly provides that:

“The terms and conditions on which any regular passenger service is to be carried on within, or partly within, New South Wales are to

⁸⁸ For the purposes of the Act, a ‘ferry’ is a vessel which seats more than eight adults.

⁸⁹ *PT Act* sec 4

be set forth in a contract entered into between... the operator and the Director General (on behalf of the Crown)."

389 This obligation is subject to criminal sanction. Subsec 16(3) provides that any person who carries on a regular passenger service otherwise than under the authority of a service contract is guilty of an offence. The maximum penalty is 1,000 penalty units (that is, \$110,000).

SERVICE CONTRACTS FOR FERRY SERVICES

390 A service contract for ferry services must specify a region or route of operation⁹⁰ and fix minimum service levels, that is the periods of time during which services are to be operated and the frequency of services. Service levels are to be determined having regard to the needs of the community.⁹¹

391 Certain additional matters must also be provided for, including:

- a. the period for which the contract operates;
- b. the manner in which the contract may be terminated;
- c. safety and maintenance standards;
- d. requirements relating to the financial viability of the operator; and
- e. requirements relating to the fitness of the operator to be an operator.⁹²

392 The Director General has an obligation to ensure that a service contract is not inconsistent with the Government's standards of safety and maintenance and any relevant legislative standards or requirements. In the event of inconsistency, however, the provisions of the contract will prevail.⁹³

⁹⁰ *PT Act* subsec 21(1)

⁹¹ *PT Act* subsec 20(3)

⁹² *PT Act* subsec 17A(1)

⁹³ *PT Act* subsecs 17A(4), 17A(5)

COMMERCIAL AND NON-COMMERCIAL CONTRACTS

393 The *PT Act* contemplates two types of service contract: a ‘commercial’ service contract and a ‘non-commercial’ service contract.⁹⁴

394 A ‘commercial’ service contract is characterized by the following:

- a. the operator’s revenue is derived from the farebox;⁹⁵
- b. the maximum fares that may be charged by the operator are fixed by the contract;⁹⁶
- c. the operator has an exclusive right to operate ferry services on the particular routes specified in the contract;⁹⁷
- d. the contract must be for a term of five years;⁹⁸ and
- e. provided the operator meets prescribed objectives and standards under a performance assessment regime established by the Director General, the operator is entitled to have the service contract renewed for a further five years, and for further five year periods thereafter, indefinitely.⁹⁹

395 By contrast, a ‘non-commercial’ service contract is characterized by the following:

- a. the operator’s revenue is a contract price, or remuneration fixed at an agreed rate, paid by the Crown.¹⁰⁰ The operator is not precluded from charging and collecting fares from passengers in accordance with the contract.¹⁰¹ The manner of remuneration is provided by the contract and may be by means of payments to

⁹⁴ *PT Act* subsec 18(1)

⁹⁵ *PT Act* subsec 18(2)

⁹⁶ *PT Act* subsec 19

⁹⁷ *PT Act* subsec 21(3)

⁹⁸ *PT Act* subsec 18(4)

⁹⁹ *PT Act* subsec 23(7)

¹⁰⁰ *PT Act* subsec 18(3)

¹⁰¹ *PT Act* subsec 18(6)

make up for any shortfall between an agreed contract price and the revenue generated through fares;¹⁰²

- b. the contract does not confer exclusive rights to operate ferry services on the particular routes specified in the contract;
- c. the contract may be for any term;¹⁰³ and
- d. there is no automatic right of renewal.

LIMITATIONS OF THE CONTRACTUAL REGIME UNDER THE *PT ACT*

396 There are some significant problems with the service contract provisions of the *PT Act*.

Exclusive Rights in Perpetuity

397 Commercial contracts under the *PT Act* confer considerable rights on the contract holder. This is a consequence of two provisions in particular.

398 The first is sec 21 which provides that, under a commercial contract, the operator has an exclusive right to operate regular passenger services on a particular route or in a particular region. The second is sec 23 which provides that, if an operator meets the prescribed objectives and standards applicable during the life of the contract, the Director General must renew the contract, indefinitely, for further periods of five years.

399 The combined effect of sec 21 and sec 23 is that commercial service contracts under the *PT Act* effectively confer upon the contract holder exclusive rights, potentially in perpetuity, to operate passenger services on a particular route or in a particular region.

400 Under sec 22 the Director General can determine that, in the public interest, additional services should be provided on a route, or in proximity to a route, on which a contract holder has an exclusive right to

¹⁰² *PT Act* subsec 19(4)

¹⁰³ *PT Act* subsec 18(5)

operate. However, this gives rise to a right of first refusal in the existing contract holder. If the existing contract holder declines to provide the additional services, the Director General may enter into a contract with another operator for the provision of those services, unless, given the nature and extent of the proposed additional services, variation of the existing contract so as to include the provision of those services is 'unreasonable'.¹⁰⁴

401 Given that a commercial contract holder's remuneration is derived solely from the farebox, any variation to a commercial contract so as to require the contract holder to run services at times that are unprofitable, in my view, is likely to be 'unreasonable' within the meaning of sec 22. In effect, this ensures that public transport services on routes in respect of which a commercial contract exists will only be provided at times when the operator is likely to make a profit, notwithstanding that the provision of services at other times, such as outside peak hour, is considered by the Director General to be in the public interest.

402 Parliament's intent in enacting secs 21, 22 and 23 was to provide operators with "*security of tenure in exchange for a guaranteed level of quality of service*".¹⁰⁵ SFC should be able to strategize for route development without inhibition and to accommodate the public transport needs of a rapidly expanding city. It should not be constrained by exclusive rights granted to other operators, particularly when those rights are awarded on a perpetual basis and the exercise of those rights is informed solely by profitability, narrowly defined as the amount of money in the farebox.

403 To illustrate the problem by way of a concrete example, in 1991 the Director General of the Ministry of Transport entered into a commercial contract with Matilda Cruises to provide ferry services between Circular Quay and Darling Harbour. This contract has conferred on Matilda an

¹⁰⁴ *PT Act* subsec 22(3)

¹⁰⁵ Hansard, NSW Legislative Assembly, 21 May 1990, p 3961

exclusive right to operate ferry services on that route. Provided Matilda continues to meet the performance standards set out in the contract, Matilda has a right for the contract to be renewed in perpetuity. Other ferry operators, including SFC, are prevented, for the foreseeable future, from operating services between Circular Quay and Darling Harbour. Obviously, there are any number of potential ferry routes that could, and from a consumer's perspective ideally would, include passage between Circular Quay and Darling Harbour. The effect of the award of a commercial contract to Matilda, however, is to prevent competition on the Darling Harbour to Circular Quay line of route.

404 The Ministry of Transport attempts, with limited success, to ameliorate the effect of the Matilda contract by adopting a narrow interpretation of the exclusivity provision. Where an exclusive right has been granted to operate ferry services on a particular route, the Director General is precluded from subsequently entering into a contract with any other person *“for the operation of a similar service along a route sufficiently proximate that it would result in substantial competition with the service carried on by that holder”*.¹⁰⁶ The Ministry of Transport interprets this provision, it seems, so as to prevent competition on an identical line of route only. The Principal Policy Advisor - Ferries, Ministry of Transport, told the Inquiry that, despite Matilda's exclusive right to operate between Circular Quay and Darling Harbour, SFC is able to run a service between Circular Quay and Darling Harbour because, *“it doesn't replicate the Matilda run precisely.”*¹⁰⁷

405 Notably, the commercial contract with Matilda is the first, and only, commercial contract for the provision of ferry services that has been entered into by the Ministry since the commencement of the *PT Act*.

¹⁰⁶ *PT Act* subsec 21(4)

¹⁰⁷ Matilda's route is Circular Quay, Milsons Point, Darling Harbour, whereas SFC's Darling Harbour service includes additional stops at McMahons Point and Balmain.

Rigid and Inflexible Contracts

- 406 While non-commercial contracts are not subject to the limitations described above, there are other problems inherent generally in the contractual regime established by the *PT Act* that limit its utility in regulating public transport services.
- 407 First, the distinction between ‘commercial’ and ‘non-commercial’ contracts in the *PT Act* is not a useful one. Public transport is an essential service provided by Government. It is generally not, and nor should it be expected to be, profitable. Even assuming that a particular route, such as Manly or Darling Harbour, is capable of being funded by the farebox, if services on that route are only run at certain times, such as in peak hour, it is clearly not in the public interest for the frequency of public transport to be determined solely by reference to profitability. How ferry services should be funded is a complex question which will be touched on in Chapter 13. At this point, it should simply be noted that it is not helpful for service contracts to be rigidly characterized as either commercial or non-commercial. An effective service contract is likely, in the public interest, to have characteristics of both.
- 408 Secondly, both commercial and non-commercial contracts under the *PT Act* are characterized by inflexibility. Section 20 fixes the levels of service required under a contract. Section 24 provides that the region or route of the contract cannot be varied during the term of contract except by consent. Section 26 provides that a service contract may be varied, suspended or cancelled during its term only if there has been a serious or persistent failure to observe the terms and conditions. This results in rigid and inflexible contracts that are not adequately capable of responding to changing community needs. The transport needs of the community are not static. They will vary in accordance with changing demographics and urban development during the life of a service contract.
- 409 Thirdly, subsec 17A(5) provides that the terms of the contract will prevail over Government and legislative standards, including safety

standards, in the event of an inconsistency. It would be contrary to the legislative intention for any inconsistency to emerge. Nevertheless, *PT Act* contracts ought to be, like any other contract, subject to paramount general public law, particularly in relation to matters of safety.

410 Section 28 provides that the legislative provisions are taken to be terms of a contract, and contravention may be remedied at law or at equity. In form, where the Director General enters into a contract with a SOC, such as SFC, or other Government entity, it provides for the Director General to have rights to enforce obligations as contractual obligations as against a SOC.

LACK OF TRANSPORT COORDINATION

411 Finally, one of the objects of the *PT Act* is said to be, “to encourage coordination of public transport services.”¹⁰⁸ There does not appear to be another single provision of the *Act* that is designed, as a practical matter, to encourage or contribute to the realization of that goal. To the contrary, one possible consequence of the *PT Act* could be the disaggregation of public transport services, first, by regulating each mode of transport separately, and secondly, by creating exclusive operating zones within modes.

412 Similar observations were made in the Ministerial Review of Buses in NSW.

413 The importance of public transport coordination has already been noted. It is this Inquiry’s observation that, despite its intention, the *PT Act* has not encouraged the coordination of public transport services involving ferries.

BUS REFORM

414 The limitations of the contractual regime established by the *PT Act* are well understood.

¹⁰⁸ *PT Act* subsec 4(f)

- 415 When the *PT Act* was originally enacted, the service contract regime previously described applied to both bus and ferry operators, resulting in a common contracting regime for bus and ferry services.
- 416 In 2003 the Minister for Transport Services commissioned an Inquiry into the NSW bus industry. The Ministerial Review of Buses in NSW found that the service contract regime in the *PT Act* was deficient, largely for the reasons described above, and that its inflexible service requirements were neither in the public interest nor in the long term best interests of the bus industry.
- 417 As a result of the Ministerial Review of Buses in NSW, the NSW Government introduced legislation to reform the provision of bus services. In the Second Reading Speech for the *Passenger Transport Amendment (Bus Reform) Act 2004* the Minister for Transport Services, clearly acknowledged the problems with the existing contractual regime under the *PT Act*:

“In metropolitan areas, there is no real bus network. Services are planned as a series of individual operations and cannot operate freely outside exclusive contract areas. Bus service contracts have few measurable service requirements and are effectively granted in perpetuity. The funding model rewards operators for cost control rather than service provision. The minimum service level requirements force operators to plan indirect, slow and unattractive services. Not surprisingly, patronage levels on private bus services have fallen consistently since 1991...

The Passenger Transport Amendment (Bus Reform) Bill introduces a more contestable regime of performance-based contracts to replace perpetual contracts with few measurable performance standards and gives the parties the flexibility to determine the terms and conditions of service by shifting the detail from the legislation to the contracts. It allows changes to be negotiated on the expiry of a contract term so that services meet changing needs and facilitates

the introduction of more transparent and accountable funding arrangements, including the payment of School Student Transport Scheme [“SSTS”] subsidies based on actual travel undertaken. It provides an independent process for setting the maximum fares that private or Government-owned bus operators may charge and allows for existing commercial service contracts to be varied or terminated, if that becomes necessary to move to the new system.

Contracts for regular bus services will no longer be fettered by legislative provisions which confer exclusive rights to operate services in the contract area, give operators a right of contract renewal in perpetuity on the same terms and conditions, and shackle service planning to rigid minimum service levels. Instead, the Bill provides for passenger-focused, performance-based service contracts that are supported by more flexible service planning guidelines...

The Bill makes it clear that there is no right or expectation of renewal for a regular bus service contract, except as may be set out in the contract. However, it is proposed that the contract will allow the Director General to enter into a further contract with the contract holder, if the performance standards set out in the contract have been met and the parties can agree on any new terms. This will allow the Director General to negotiate changes to contract area boundaries, service levels and performance standards, and subsidy payments, as needs change. The contract will detail how the contract holder is remunerated, including payment of SSTS subsidies on actuals and the right incentives to promote value for money and patronage growth. There will no longer be a distinction between ‘commercial’ and ‘non-commercial’ service contracts.”

- 418 The amendments to the *PT Act* allow most of the detail of a service contract for the provision of bus services to be set out in the contract itself. A contract is to be for a term not exceeding eight years, may specify a region or route of operation (but does not confer an exclusive

right to operate in a particular region or on a particular route) and may be renewed from time to time as set out in the contract (but does not confer an automatic right to renewal). The performance standards to be observed by the operator of the service are to be set out in the contract, and are to include standards concerning greenhouse emissions.

419 Significantly, subsec 28C(5) provides that performance standards are to be enforced by such civil penalty provisions as are contained in the contract and subsec 28C(7) provides that despite anything to the contrary in any Act or other law, a person who breaches a civil penalty provision is liable to pay, as a debt due to the State, an amount determined in accordance with the service contract as the penalty for the breach of that provision.

420 In the absence of sec 28C, the equitable doctrine against penalties would prevent a provision in a service contract, that provided for the payment of an agreed sum of money by way of damages in the event of a breach of the contract, from being enforced, unless the agreed sum amounts to a genuine pre-estimate of the damages actually flowing from the breach. Sec 28C overcomes the operation of this doctrine and allows agreed penalties to be enforced against providers of public transport bus services for a failure to meet minimum service standards.

421 Pursuant to these provisions, the Ministry of Transport has negotiated new service contracts with the bus industry. Under these contracts, the Government retains the farebox and operators are paid a price by Government to provide the bus services specified in the contract. Performance incentives are payable to the operator for patronage growth and improvements in service quality, and penalties are enforceable against the operator for failure to meet performance standards. Operators own and finance buses and depots, and are responsible for asset maintenance. If patronage increases to a certain level, operators may seek funding from the Government for the purchase of new buses. Contracts will only be renewed if the performance standards set out in the contract have been met and the

parties are able to successfully negotiate or tender for a new contract. Where a contract is not renewed, all assets of the incumbent operator novate to the successor operator. While these contracts have only been in operation for a short period of time, they appear to be operating successfully. They are, however, in the nature of an experiment, and a good one.

422 The extensive reform of the *PT Act* outlined above only affects the provision of bus services. The old contractual regime considered unsuitable for the provision of bus services, is still in place for ferry services and is required to be complied with on pain of criminal penalty.

ABSENCE OF A SERVICE CONTRACT

423 Early on in this inquiry, it was discovered that SFC did not have a service contract as required by the *PT Act*.

424 Under cl 14 of the *Passenger Transport (General) Regulation 2000* (“*PT Regulation*”) the Director General of the Ministry of Transport has power to exempt an operator, by instrument in writing, from any or all of the provisions of the *PT Act*. An exemption may be expressed to be conditional on the observance, by the exempted person, of certain conditions specified in the exemption. The exemption ceases to have effect if specified conditions are not observed.¹⁰⁹

425 The Inquiry was informed that SFC did not have a service contract as required by the *PT Act*, and operated instead under an Instrument of Exemption, of the kind just described, that was granted to the STA in November 2001. By virtue of a savings provision in the *TA Act*,¹¹⁰ the reference in the Instrument of Exemption to the STA was to be read as a reference to SFC in so far as it related to ferry services operated by Sydney Ferries.¹¹¹

¹⁰⁹ *Passenger Transport (General) Regulation 2000* subcl 14(3)

¹¹⁰ *TA Act* cl 135 of Schedule 7

¹¹¹ The Instrument of Exemption also applies, on its terms, to ferry services in Newcastle which remain a function of the STA.

426 The Instrument purported to exempt the STA from subsecs 16(1) and 16(3) of the *PT Act*, that is from the obligation to operate ferry services pursuant to a service contract with the Director General and the criminal sanctions attached to a breach of this obligation. The word ‘purported’ is used because the Instrument suffered from significant difficulties, discussed below.

427 The Director General of the Ministry of Transport told the Inquiry that, as a matter of policy, he considered the contractual regime established by the *PT Act* to be unsuitable for the regulation of passenger ferry services and had developed a practice of issuing operators of passenger ferry services with instruments exempting the operators from the service contract provisions of the *PT Act*, subject to a series of conditions that are intended to take the place of a service contract.¹¹² According to the Director General of the Ministry of Transport:

“The concept of the Instrument of Exemption [“IOE”] was developed as a more effective way of overcoming the problems with granting exclusivity under a service contract...”

The reason an IOE was issued [to SFC] instead of a service contract appears to have been as a means of overcoming the application of exclusive rights in perpetuity on Sydney Harbour which a commercial contract would have conferred and which would have impacted on the rights of private ferry operators to provide regular passenger services in the area...

The exemption appears not to have been envisaged as a long term solution but has remained in place as there is no clear alternative under the existing legislation...

¹¹² The Inquiry understands that the Ministry has issued nine Instruments of Exemption to ferry operators in NSW, each of which exempts the operator from the service contract regime under the *PT Act*. The Ministry of Transport has only entered into two service contracts under the *PT Act*, both with Matilda Cruises. Matilda’s commercial contract for the provision of ferry services between Circular Quay and Darling Harbour has been referred to in the Report. In addition, Matilda holds a non-commercial contract for the provision of ferry services between Lane Cove and Circular Quay.

In practice, the conditions attached to the Instrument of Exemption fulfil a similar purpose to that of a service contract between the Ministry and Sydney Ferries, except that, unlike a commercial contract under the PT Act, it is not exclusive and can be revoked or varied at the Director General's discretion. The Instrument of Exemption provides the Director General with authority over service levels, timetables, and fares and sets conditions relating to on-time running and the provision for information."

AN INEFFECTIVE EXEMPTION

428 The Instrument of Exemption was subject to a number of conditions. These related to various matters, including on-time running, provision of timetable information to passengers, requirements to keep ferries clean and tidy, requirements that Masters and crew be adequately trained, and financial adequacy and solvency obligations.

429 By virtue of cl 14(3) of the *PT Regulation*, if any of these conditions were breached, the Instrument of Exemption would automatically cease to have effect.¹¹³ Automatically, because cl 14(3) is expressed in self-executing terms such that, if a condition of an exemption is not observed, the exemption is automatically rendered ineffective, without, as it were, any opportunity for repentance.

430 The nature of the conditions attached to the Instrument of Exemption was such that they were virtually certain not to be met from time to time, if not all the time. Some were vague. Others were aspirational. For example, condition 5.1(c) provided:

"STA must ensure that all journeys listed in the timetables arrive on time and that 95% of journeys operate no more than 5 minutes late (except for intermodal journeys which are delayed waiting for the connection service)."

431 Read literally, the effect of this condition is that:

¹¹³ *Passenger Transport (General) Regulation 2000* cl 14(3)

- a. 95% of services may be up to five minutes late departing and/or behind schedule during the voyage;
- b. 5% of services may be more than five minutes late departing and/or behind schedule during the voyage; but
- c. no service may be late arriving.

432 The practical impossibility of reliably meeting this condition on a routine basis is self-evident - quite apart from the safety implications of requiring all late departing services to make up lost time during the voyage, in circumstances where a breach of this requirement leads to criminal liability.

433 To give another example, condition 4.3 provided:

“a. STA must be solvent at all times.

b. STA must at all times maintain sufficient financial resources to provide the regular passenger services.”

434 Unhelpfully, the term ‘solvent’ was not defined. However, it is unclear whether SFC was consistently able to meet this requirement, whatever its precise requirements were, given the uncertainty of SFC’s funding arrangements.

435 Having regard to the nature of the conditions to the exemption, the Inquiry does not think it is extreme to suggest that at least one of those conditions is likely to have been breached on the very first day that Sydney Ferries purported to operate ferry services pursuant to it.

436 Once a condition is breached, the Instrument of Exemption ceases to have effect. It cannot be revived by subsequent observance of its conditions or, at least, it is difficult to construe it so as to have that effect. Consequently, even if, on occasions, SFC managed to comply with the conditions of the Instrument of Exemption, the exemption probably remained ineffective, from the date of the first breach.

- 437 In short, the Inquiry considers that the exemption either never came into effect or very rapidly ceased to have effect and continued to be ineffective thereafter.
- 438 The consequences of this are serious. In the absence of a valid Instrument of Exemption, SFC is required by subsec 16(1) of the *PT Act* to operate ferry services subject to a service contract with the Director General of the Ministry of Transport. Operating a ferry service without a service contract is a criminal offence, punishable by a penalty of up to \$110,000.¹¹⁴
- 439 The difficulties with the Instrument of Exemption were drawn to the attention of SFC by the Inquiry on 21 May 2007 and to the attention of the Ministry of Transport shortly thereafter. By 15 August 2007, no action had been taken to remedy those legal difficulties. The Inquiry recommended that SFC seek, and the Director General of the Ministry of Transport grant, an exemption to SFC immediately, pursuant to cl 14 of the *PT Regulation*, from sec 16 of the *PT Act*, so that SFC was able to continue to provide ferry services in the immediate future without exposing itself to criminal liability. It was suggested that the exemption, for obvious reasons, should not be subject to any conditions. It was made very clear that this was to be an urgent short term measure only. The Inquiry does not, as a general proposition, support the use of instruments of exemption, let alone unconditionally, in place of service contracts.
- 440 In accordance with this Inquiry's recommendation, the Director General of the Ministry of Transport issued a new Instrument on 24 August 2007, exempting Sydney Ferries from subsec 16(1) of the *PT Act*. The exemption is stated to have effect from 24 August 2007 to 30 June 2008.

¹¹⁴ *PT Act* subsec 16(3), condition 9 of the Instrument of Exemption

THE NEED FOR A SERVICE CONTRACT

441 It has already been stated that, in the view of this Inquiry, various provisions of the contractual regime established by the *PT Act* are not entirely appropriate, and, that secs 21, 22 and 23, in particular, are not in the public interest. Notwithstanding the particular difficulties involved with the model of service contract set out in the *PT Act*, the Inquiry is nevertheless of the view that the service contract idea is, of itself, a very good one. A detailed service contract is an effective means of regulating the relationship between the Government and a provider of public transport services. The Inquiry's research throughout Australia and internationally shows a widespread resort by Governments to what are, in effect, service contracts to specify and regulate the provision of public transport.

442 In 2001, the Taylor Report noted that, in the absence of a service contract, there were no contractual service levels that Sydney Ferries was required to meet and report against and no benchmarks against which Sydney Ferries' performance could be monitored and funding assessed. The Report concluded:

*"A proper contractual regime is required for the passenger services delivered by Sydney Ferries and there should be external monitoring of Sydney Ferries performance against the contract's requirements. A contract should be developed specifically for Sydney Ferries' services which should not be based on bus contracts, and which should incorporate ferry specific [KPIs]."*¹¹⁵

443 The Report recommended that a service contract be put in place under the *PT Act* that included all aspects of service performance, customer service and complaint management.

444 While the Ministry of Transport has historically taken the view that the Instrument of Exemption operated as a de facto service contract, the

¹¹⁵ Taylor, M, *Review of Operations of Sydney Ferries*, commissioned by the then Waterways Authority, 2001, p 87

conditions attached to the Instrument of Exemption were not articulated with sufficient specificity to allow SFC to know its service obligations and properly plan its operations. As the Chief Financial Officer informed the Inquiry:

“The Instrument of Exemption is not something that’s actually used at ferries. I’m sure [the General Manager, Operations] wouldn’t have seen it. It’s not a management tool.”

445 The problem has been alleviated to some degree by the fact that, following corporatization, SFC now has a Performance Agreement with the Minister which sets out KPIs and other requirements. However, this is not a sufficient statement of SFC’s obligations in providing an essential public service. It also creates a new difficulty, in so far as the Performance Agreement is not necessarily consistent with other documents that govern SFC’s relationship with central Government. As ITSRR has noted:

“The reliability monitoring by ITSRR of Sydney Ferries that is envisaged by the Transport Administration Act 1988 is complicated by the number and variety of arrangements between Sydney Ferries and the Ministry. Relevant performance indicators are included in a number of disparate documents and possibly reports. This creates a risk of inconsistency between the documents and perceived lack of coherence in Government requirements of Sydney Ferries. It also creates an environment in which substantial aspects of performance can be overlooked—with one document expecting that an issue will be handled in another etc or major issues not being identified at all.”¹¹⁶

446 SFC has expressed the view to the Inquiry, with which the Inquiry agrees, that:

¹¹⁶ ITSRR, *Advice to Ministry of Transport on Sydney Ferries Report to Minister for Transport*, Ministry of Transport, August 2006, p 5

“It is imperative that Sydney Ferries has in place a document or documents which identify with clarity its service obligations and how those obligations are to be funded. Without that clarity in its relationship with Government, it is not possible for Sydney Ferries to properly understand and plan for its future business needs and commitments.”

447 As Padraig Crumlin, National Secretary of the MUA, quite rightly pointed out:

“If there was a service contract established from day one, I don't think that we would be talking three or four years down the track, or whatever it is, about two or three possible rosters because what would have been delivered, with the nature of the enterprise agreement, would have been the service contract. The responsible Ministers, whether the Portfolio Minister or the Stakeholder Ministers, would not have been able to sign off that EBA if it didn't meet the strict terms of the service contract which they in turn had authorized after considering their responsibilities under the SOC Act.”

448 SFC has indicated that, in its view, an effective service contract would do the following:

- a. Clearly identify the expectations of the Government and the obligations with which SFC must comply in providing ferry services;
- b. Provide a reasonably flexible framework for SFC's operations, particularly so that SFC can respond efficiently and effectively to issues and opportunities arising from changing infrastructure (including replacement of fleet and access to wharves) and changing markets and demographics; and

- c. Provide a sufficient level of certainty with respect to funding (for both operational and capital expenditures) into the future so that longer term planning can be undertaken with greater confidence.

449 The manner in which ferry services ought to be funded and delivered is discussed in Chapters 1 and 13. Whether ferry services be provided by a private or a public operator, the primary model referred to in the *PT Act* should be utilized. Under that Act, as the law presently stands, ferry services are required to be provided pursuant to a service contract between the operator and the Ministry of Transport. The Director General may invite contracts by tender or in such other manner as the Director General thinks fit.¹¹⁷ The Director General may enter into contracts with either public or private operators or both.

450 The Inquiry recommends that urgent consideration be given by the Government to modification of the *PT Act* in its application to ferries, as outlined below, so as to enable SFC, or another operator, to enter into an appropriate and effective service contract with the Ministry of Transport for the provision of ferry services.

RECOMMENDATION

451 It is recommended that Division 2 of Part 3 of the *Passenger Transport Act 1990* (Ferry service) is amended so as to make it consistent with Division 3 of Part 3 of the *Passenger Transport Act 1990* (Regular bus services) in these respects:

- a. removing the distinction between commercial and non-commercial contracts;
- b. removing those provisions which confer upon a contract holder exclusive rights, potentially in perpetuity, to operate passenger ferry services on a particular route or in a particular region;

¹¹⁷ *PT Act* subsecs 16(1), 16(3)

- c. removing the provision that allows the terms of a service contract to prevail over Government's standards of safety and maintenance and any relevant legislative standards or requirements; and
- d. inserting a provision, equivalent to sec 28C, which overcomes the equitable doctrine against penalties and allows agreed penalties to be enforced against providers of passenger ferry services for a failure to meet minimum service standards set out in the service contract.

CHAPTER 6

MANAGEMENT AND CULTURE

INTRODUCTION

452 Although the size of SFC is relatively small and the scope of its operations quite narrow compared with other Government corporations or agencies, management of the Corporation has proven to be complex and difficult.

453 This is because of the interrelationship of a range of factors including:

- a. its corporate governance framework as a SOC, as described in Chapter 4;
- b. the absence of a service contract between SFC and the Government, as described in Chapter 5;
- c. a high turnover of senior staff including two CEOs and one Acting CEO in three years;
- d. limited capacity of the Corporation to implement the Corporation's plans and achieve savings, efficiencies and service delivery improvements;
- e. inadequate management information, processes and procedures;
- f. inadequate information technology ("IT") systems;
- g. poor internal communications;
- h. an absence of a performance-based culture in the organization;
- i. a difficult industrial relations framework and climate, as described in Chapter 8; and

- j. the investigation by OTSI of nine serious ferry incidents between 2004 and 2007, resulting in many recommendations requiring action, as described in Chapter 10.

454 SFC told the Inquiry:

“To date, Sydney Ferries has not had access to information technology systems which enable it to maintain reliable records relating to attendance, scheduling, rostering, payroll, human resources, injury management, personnel, recruitment, accounts, finance procurements, work orders and safety...”

Dated and ineffective management of IT systems, characterized by data integrity issues and the requirement for extensive manual manipulation and validation of systems outputs, severely limits the Corporation’s analytical capability. This hampers timely and informed management decision making and ability to critically evaluate opportunities for efficiency improvements...

Analysis of key business data or support for facts-based decision making in relation to patronage, payroll, and overtime is limited.”

455 The *TA Act* and the *SOC Act* form the foundation of the corporate governance framework of SFC and prescribe many of the management and reporting requirements of the Corporation. These have already been described in Chapter 4.

456 In addition to the onerous planning and reporting requirements as a SOC including the preparation each year of a SCI and quarterly reports to shareholders, SFC has a range of general public sector responsibilities and accountabilities such as the obligations under the *Occupational Health and Safety Act 2000*, the *Annual Reports (Statutory Bodies) Act 1984* and the *Freedom of Information Act 1989*. Of course, SFC is not unique in these respects; other SOCs are subject to similar requirements.

457 The need to meet the various, and at times competing, planning, reporting and other accountability requirements of various stakeholders, has placed considerable pressure on the management of SFC. Resources have been diverted from planned priorities to rectify issues identified by stakeholders particularly where the safety and security of passengers has been at stake. The focus and effort of management has frequently been diverted to responding in an ad hoc way to issues and ‘ticking off’ the various requirements of stakeholders, away from the challenge of achieving real and substantial organizational, financial and service delivery improvements.

458 SFC told the Inquiry:

“The difficulties associated with Sydney Ferries’ post corporatization ‘standing start’ has manifested, in many cases... reliance on reactive, ‘crisis management’ responses to the needs of the Corporation, rather than taking a planned and systematic approach. Such reliance has meant that the results or outcomes of the responses are not verifiable or not able to be reproduced across the organization.”

459 An analysis of the approach of the SFC management to these challenges provides some explanation and understanding of why the Corporation has been unable to achieve significant improvement in areas such as financial management, organizational capability and service delivery. Aspects of SFC’s management examined in this Chapter include:

- a. the Board;
- b. management framework including the organization structure and committees;
- c. strategic and corporate planning;
- d. project management;

- e. communications;
- f. IT;
- g. performance management;
- h. workforce planning;
- i. audit; and
- j. culture.

THE SFC BOARD

460 Initially, in July 2004 there were five members of the Board with further new and replacement appointments made between August 2004 and February 2007. There are currently only four directors including the CEO.

461 From the outset, planning has been a key focus of the Board. The Board papers reflect a significant involvement by Board members in the development of a SCI, Business Plan and Savings Strategy. In addition, the Board has considered numerous other strategic plans put to it by the management of the Corporation including a Total Asset Management Plan, a Service Delivery Plan, the Balmain Shipyard Improvement Plan and an Information Technology Strategic Plan. Some of these plans have been developed by external consultants. A number have been deemed to be inadequate by the Board and have been rewritten by the management of SFC.

462 The Board held a strategic planning day in December 2005 and June 2006. A further planning day which had been scheduled for April 2007, was deferred due to the Inquiry.

463 Not only has the Board oversights the development of major plans for the Corporation but it has also taken an active interest in the Corporation's operations with a particular focus on safety and security

and actions arising from various incidents and external reports. These are discussed in more detail in Chapter 10 of the Report.

- 464 The Board monitors the performance of SFC through a range of mechanisms including monthly reports on the overall performance of SFC and its financial and operational performance, as well as presentations on various parts of the business either by members of the management team or by consultants engaged by SFC, occasional site visits and participation in Board committees, namely the Audit Committee and the Human Resources and Remuneration Committee.
- 465 In the area of policy development, since it first met in July 2004, the Board has progressively considered and adopted policies specific to SFC, replacing those of the STA. These policies have mainly dealt with workplace conditions such as harassment and discrimination, smoking in the workplace, protected disclosures and the code of conduct as well as the Corporation's policy and procedures for handling Freedom of Information matters. The Board has also considered policies in relation to the operations of SFC such as drug and alcohol testing and the use of mobile phones while performing safety specific functions and while dealing with members of the public.
- 466 Safety has been a prime focus of the Board. At the outset the Board requested an emphasis on safety and security ahead of commercial performance in all planning and reporting documents. A significant proportion of the agenda of Board meetings has involved discussion of the findings, recommendations and implications of a number of reports on incidents and safety issues in SFC as well as safety issues in other organizations. The Board's role in relation to safety is discussed in more detail in Chapter 10 of the Report.
- 467 Related to this has been the Board's focus on management information systems and the need to ensure that SFC has appropriate systems in place to monitor and report on incidents, the implementation of plans and recommendations to improve the operations and performance of

SFC, and a broad range of corporate performance indicators including health and safety issues.

- 468 While the Board has endorsed the Information Technology Strategic Plan and has approved the commissioning of a number of new systems such as an Integrated Management System and a Customer Information System, there have been delays by the Corporation in implementing IT systems. Provision for IT projects has been included in SFC's capital budgets but, as discussed in Chapter 7, the capital budgets have been under-spent because of delays in implementing projects.
- 469 Financial management has been a key challenge for SFC and the Board has taken a role in shaping the operating and capital budget for SFC and in approving the capital works program within the extent of Government funding for SFC and the determinations by IPART in relation to fares.
- 470 The Board's involvement in financial management is discussed in detail in Chapter 7 of the Report. In late 2006 the Board sought a meeting with the Shareholding Ministers to outline its concerns about SFC's funding and a proposed strategy for resolution over the next few years. It resulted in a commitment by the Government to provide additional Government funding for SFC over the next three financial years.
- 471 The Board maintains a working relationship with Treasury, Shareholding Ministers and the Portfolio Minister through a number of mechanisms. The Minister for Transport and representatives from the Treasury have met with the Board from time to time. In addition the Board approves the annual SCI for submission to Shareholders and quarterly reports to Shareholders.

MANAGEMENT FRAMEWORK

The Executive Team

472 While SFC's Board of Directors has overall responsibility for the operation of SFC in accordance with section 20L(1) of the SOC Act, the CEO is responsible for the day-to-day management of the operation of SFC in accordance with the general policies and directions determined by the Board.

473 The primary role of the CEO as described in the position description is to, *"lead the organization to ensure that the strategic directions of the Board and functions covered by legislation are effectively planned and executed."*

474 The Corporation is currently organized around five divisions, each led by a General Manager:

- a. Operations Division;
- b. Engineering Division;
- c. Human Resources and Industrial Relations Division;
- d. Finance and Corporate Services Division; and
- e. Communications, Marketing and Business Development Division.

475 The CEO, five General Managers and the Corporate Counsel are members of the Executive Committee of the Corporation.

476 Since its commencement as a Corporation in July 2004 there has been a high turnover of members of the Executive team. In the past three years SFC has had:

- a. two CEOs and one Acting CEO;
- b. three Chief Financial Officers, including one contractor;

- c. two substantive, one Acting and one contractor General Manager, Operations;
- d. three General Managers, Engineering, including one who occupied the role for only one month; and
- e. three Directors Safety, Environment and Risk.

477 SFC has also had three different organization structures.

478 Turnover of senior staff was acknowledged by SFC as a serious problem in its five year Business Plan 2006-07 to 2010-11 (“the Business Plan”) which was prepared in September 2006. SFC attributed the turnover to the relative unattractiveness of SFC as a place to work rather than to its frequent organizational restructures. The Plan noted that a permanent CEO was appointed in August 2006 supported by permanent appointments to the executive team and senior management ranks.

479 The high turnover of senior staff has also been identified as a contributing factor to the poor workplace culture of SFC and is discussed in more detail later in this Chapter.

480 The Corporation’s middle management structure, comprising 30 salaried officer positions, is much smaller than the senior management structure of the organization which comprises 90 officers including five senior executives and 85 senior officers. This is quite different from most other Government organizations where there are generally fewer senior managers than middle managers.

481 Not only are there fewer middle managers than senior managers but there has also been a high turnover of staff at the Corporation’s middle management level. The Business Plan acknowledged that this situation has made it difficult to build teams to work effectively together in creating a climate where responsibilities and accountabilities are clear.

- 482 Despite a commitment in the Business Plan for General Managers to give priority to finalizing divisional staffing complements and recruiting permanent staff members, contractors and temporary staff have continued to occupy key functional positions across the organization pending recruitment. In 2004-05 a total of \$1.3 million was spent on the hire of 112 temporary employees, \$2.87 million on the hire of 136 temporary employees in 2005-06, and \$2.17 million on the hire of 134 temporary employees in 2006-07. Records provided by SFC show that positions in payroll, procurement, public affairs, finance, quality management and Occupational Health and Safety (“OH&S”) have been filled by temporary staff to undertake projects or pending recruitment of permanent occupants.
- 483 The lack of continuity in leadership and management is likely to have impeded the capacity of SFC to implement its plans and achieve outcomes and organizational improvement. It has also served to widen the divide between management and staff, a feature of the current culture of SFC described in previous reviews of SFC, submissions and other material considered by the Inquiry.
- 484 Since 2006 there have been some improvements including the finalization of the appointment of a new CEO and other key executive appointments, the establishment of formalized committee structures, improved planning processes including documentation of the annual planning cycle, the development of a performance management policy and procedure and the implementation of a new framework for project management.

Management Committees

- 485 The Inquiry was informed by SFC that the management of the Corporation is effected through a range of mechanisms including a committee structure that provides forums for developing and monitoring strategies and initiatives and for generating information and advice to the CEO and Board.

- 486 Each General Manager has a range of subordinate meetings and committees through which they cascade down the issues and policies raised at the senior levels of the organization.
- 487 Senior committees are the Executive Committee, the CEO Safety Committee, the Project Review Committee, the Information Technology Steering Group, the Occupational Health and Safety Committee and Industrial Committees which hold monthly meetings between the unions and management (with the exception of the Australian Institute of Maritime and Power Engineers which meets with management on an ad hoc basis).
- 488 While the framework of committees and meetings provides the vehicle for the management team to meet with each other and to consult with other managers, unions and stakeholders, there are indications from SFC that it is not particularly effective in engaging unions, because of the number of unions and complex issues surrounding delegates and employee representatives.
- 489 Although the framework has only recently been introduced, there are early indications that it might prove to be effective in achieving improvements in areas such as project management and the implementation of key IT projects.
- 490 However, as the committees and meetings do not involve staff, the framework itself, will have only limited benefit in addressing the issue of communications between managers and staff, a matter which was frequently raised with the Inquiry.

STRATEGIC AND CORPORATE PLANNING

- 491 While the prime responsibility for setting the strategic direction for SFC and approval of the Strategic Plan rests with the Board, the actual development of the SFC's Strategic Plan for the Board's approval is the responsibility of management. The Inquiry was informed that monthly

strategic review sessions are held by the Executive Committee to monitor implementation of the Strategic Plan.

492 According to SFC, since mid 2006 the strategic and business planning process has become more structured and disciplined, as follows:

- a. the Corporation has developed a Planning and Reporting Cycle outlining the calendar for strategic planning and reporting;
- b. strategic planning workshops are held annually firstly by management and then jointly with the Board. The last joint workshop was held in June 2006 which led directly to the development of SFC's Business Plan; and
- c. the implementation of the Business Plan is monitored by the Executive Committee on a monthly basis by division. The monthly Dashboard Report, which indicates SFC's performance based on the KPIs, is used to inform this review, with General Managers responsible for answering questions and tabling corrective action strategies where they are required.

493 The Corporation advised the Inquiry that General Managers through their own management meetings and mechanisms monitor their divisional responsibilities against assigned KPIs, which are reported upwards to the Executive Meeting.

494 The Inquiry was provided with details of daily, weekly and monthly divisional meetings including some cross-divisional meetings designed to ensure communication and coordination of matters across SFC.

495 In theory, this extensive framework of committees and divisional communication mechanisms should provide a mechanism for two-way communication within the organization and should assist in cross-organizational communication. It should also assist in monitoring and reporting on the achievement of planned outcomes and improvements.

Despite this framework communication is continually described as poor. This is dealt with later in this Chapter.

- 496 It is possible that the measures have only been in place for a short time and it is too early to judge whether they will be effective. Another explanation, however, may be that the introduction of the measures is seen as the solution in itself to the problem rather than as a vehicle for managers and staff to use actively and effectively in improving communications and accountability.

PROJECT MANAGEMENT

- 497 It is apparent to the Inquiry from an analysis of financial data and reports, Auditor-General's reviews and material provided to the Inquiry by SFC, that project management at SFC has been poor. The result has been that projects critical to the financial and operational performance of the Corporation have not been implemented on time or on budget. The capital expenditure budget has been significantly underspent each year notwithstanding the Corporation has spent considerable time and dollars in developing plans in key areas such as IT and asset management.
- 498 The Business Plan acknowledged that, despite the development of numerous improvement projects, progress has not been swift enough to achieve the necessary improvement. The Plan recognized that lasting improvements to the Corporation's performance could only be realized by addressing systemic limitations and strategic priorities.
- 499 The Plan identified key projects and actions in relation to each of the four goals of safety, availability, reliability and customer service, and viability and sustainability of the Corporation, and assigned accountability for the delivery of the actions to General Managers. In addition to SFC's statutory reporting requirements, the plan proposed an internal reporting regime involving monthly reviews of progress in achieving the plan by the executive management group and quarterly reviews by the Board.

- 500 The Business Plan and previous documents acknowledged management issues that needed to be rectified in order to deliver the outcomes specified in the plan. Initiatives such as the establishment of Divisional business plans, a project management framework and strengthened monitoring, reporting and executive accountability were to provide solutions.
- 501 The Business Plan also stated that project management is required for a viable and sustainable organization and that the current environment is characterized by projects being managed in an undisciplined manner with little measurement of progress against clear milestones.
- 502 The need to improve performance in project management has been recognized by the CEO, who has oversighted the development and implementation of a comprehensive project management framework for SFC in the first half of 2007.
- 503 In establishing the project management framework late last year, SFC acknowledged that *“projects tend to be poorly defined, reactive, and with flimsy or no association to strategic plans”* and that this significantly contributed to *“a culture of ‘fighting fires’ rather than planning ahead.”* The Corporation also acknowledged that there was no formal monitoring of projects. This leads to, *“poor project leadership, confused responsibilities and poor control over project risks and issues which in turn leads to project scope creep, occurrence of avoidable problems and poor value for money.”*
- 504 The new project management framework includes governance arrangements for the approval of projects and for monitoring and reporting on their implementation. As well, a Project Management Office has been established to provide guidance to managers on all areas of project management. The Manager of the Project Management Office attends monthly meetings with the Executive of SFC to review progress on the implementation of projects.

505 While it is too early to assess the effectiveness of the project management framework in improving the Corporation's performance in this area, the leadership demonstrated by the CEO for the framework including the establishment of a Project Management Office to provide support for managers and staff, and the implementation of a new regime for monitoring and monthly reporting on the progress of projects, augurs well for the achievement of tangible improvements in this area of project management.

506 In this regard the Inquiry notes that the OTSI Systemic Report¹¹⁸ dated October 2006 commented on the need for a project management team.

507 In March 2007, the Board requested that regular updates on major capital works projects be provided to it and that a format for business cases be developed. Since then the Board papers for each meeting have included a report on major projects showing performance against budget, time and scope, together with commentary on performance to date, current status, milestones, and forecast expenditure.

COMMUNICATIONS

Internal Communications

508 Poor communications within SFC is a recurring theme in previous reviews of SFC and in submissions to the Inquiry.

509 In 2001, the Taylor Report raised internal communications as an issue and recommended that:¹¹⁹

“While there are obvious difficulties in establishing face to face communications in an environment with many differing rosters, such as exists at Sydney Ferries, effective direct communications processes should be put into place to supplement the existing

¹¹⁸ OTSI, *Systemic Report*, op cit, p 49

¹¹⁹ Taylor, M, *Review of Operations of Sydney Ferries*, op cit, p 11

consultative, OHS committee and enterprise agreement monitoring processes.

As well as a more effective flow of information and better understanding among employees, the benefits of introducing such processes will include a more united organisation and a better informed workforce with greater input and involvement in the overall directions of Sydney Ferries.”

510 Six years later internal communication is still an issue impeding the performance of the Corporation.

511 In May 2007 ChangeDrivers,¹²⁰ a consultant, was engaged by SFC to conduct a survey of organizational readiness comprising three parts:

- a. online survey of 54 managers;
- b. face-to-face discussions with 21 managers selected by SFC; and
- c. online survey of 666 staff.

512 Forty-seven responses were received from managers (87% response rate) and 149 responses were received from staff (22% response rate which is lower than the norm of 25% to 30%). Surprisingly, three out of five General Managers did not respond.

513 The responses from both managers and staff identified that formal communications are very poor and that there is lack of consultation and face-to-face communications between all levels at SFC. Communication of decisions was perceived to be a weakness by both groups. Both managers and staff strongly believed that they would be more efficient if their supervisors shared more information with them.

¹²⁰ ChangeDrivers, *Report on the Results of the Organisational Readiness Survey (ORS) at Sydney Ferries*, September 2006

- 514 The following comments received in a submission to the Inquiry from a Master of SFC provide some insight into the nature of the communication problem and its impact on staff:

“Over the last ten years within SFC a change has occurred that adversely affected safety and morale. This change involved the dividing of the management from the others, the ‘staff’. Staff are defined as any person working on the ferries or wharfs as opposed to the ‘office’. Prior to this Sydney Ferries employed ‘ferry crews’ and ‘wharf crews’. The ferry crews had a Master or Captain as their manager. Each vessel had its own crew or crews, master, engineers and deckhand/s. The Master had a hands-on management role of his crew and vessel, even looking after the crew’s pay/time sheets. This is a picture of a ship’s crew that most people can readily understand, this structure has largely disappeared in Sydney Ferries. This has been to the detriment of safety throughout the fleet...

The split within the organization is so large that I have only met two of the CEO’s that have been in charge of the ferries over the years. I did not even know what a lot of these people looked like. I managed to get a glimpse of two of them when they were on TV! It may seem very strange but to emphasize the point about this divide, I do not know who my direct boss is and neither do the other Masters that I have talked to.”

- 515 This view, however, is at variance with the information provided to the Inquiry by SFC about its internal communication mechanisms. For example the General Manager, Operations, told the Inquiry that:

“There is a position description for Masters, and in the position description, I believe it says that they are responsible to the Director of Operations and Plans. That’s Keith McIntosh. Certainly in the restructure of the Operations Division that I did last year after

I joined in establishing those positions, I briefed what the new structure would be to the delegates at the various meetings.”

516 Material provided to the Inquiry by SFC gives the impression that communication occurs regularly and that it is effective. For example, the General Manager, Communications, Marketing and Development, advised the Inquiry that:

“The CEO makes an effort to regularly walk down to the wharves and talk directly to staff and with the controlling officer. In addition to that, we have more formal communication in terms of normal internal memos and staff emails. In addition to that we have our daily operations sheet which goes out to our operational front-line staff and is also available to the rest of the organization, that has information relevant for that day.”

517 SFC commented on the difficulties of bringing all employees together at the one place and time due to the diversity of workplaces, the shift work environment, lengthy leave periods and the need to continue operating services. Hence the internal communications strategy includes the following:

- a. the CEO addresses staff at Pitt Street and Balmain on a quarterly basis or more frequently as circumstances dictate. General Managers have regular briefings sessions with their staff subject to availability;
- b. only 70 of the 723 employees have SFC email addresses which currently limits this communications mechanism. The proposed new IT framework will enable all employees to have an SFC email address;
- c. CEO's Bulletins are issued as required and posted on all vessels and crew rooms;

- d. *Sydney Ferries News* is a monthly publication that includes news of interest to the workforce. The study commissioned by SFC in May 2007 found that *Sydney Ferries News* was generally welcomed. The Inquiry was informed by SFC that the publication ceased in January 2007 because of demands on the editor in relation to the accident in January and the SFC Inquiry. The publication has now resumed, coincidentally on the same day that the Corporation responded to a question from the Inquiry with information about its communication mechanisms; and
- e. mail outs to each individual employee at their home address are used occasionally.

518 The CEO advised the Inquiry that he had written to individual staff members about the survey discussed above. He explained the reason for adopting this communication strategy as follows:

“I wrote to each staff member individually. One of the great disappointments I have in the organization is my inability—I'm used to an organization where I can just muster everybody to one place and talk to them and I just can't do it here. I have written to them individually.”

519 The above communications are complemented by divisional and departmental publications such as *Daily Operations Sheets* and *Training News Sheets*, which disseminate safety and other material to staff.

520 While the above communication mechanisms provide a means for management to communicate with staff, they do not address the issue identified in previous reviews and in comments by managers and staff that there should be more face-to-face communication and consultation with staff. In addition to the more formal communication mechanisms put in place by SFC, General Managers should spend time out of their offices walking around the various locations and on board talking to staff informally and engaging with them about their work.

521 One of the objectives of the new Performance Management Policy being introduced by SFC, and discussed in more detail below, is to “*promote two way communication within SFC Corporation in planning and monitoring employee performance*”. If managers and staff are supported in the implementation of the new policy and there is genuine and constructive dialogue between them, it could be expected that there will be some improvement in internal communications.

Communication with Stakeholders

522 SFC advised the Inquiry that communication with stakeholders is managed through a series of structured meetings including:

- a. annual meeting between the Chair, CEO and Shareholding Ministers;
- b. quarterly meeting with Stakeholder Consultation Group, the participants of which are not known;
- c. CEO weekly meeting with Portfolio Minister; and
- d. monthly meeting with Treasury and Ministry of Transport.

523 While SFC did not comment on its communication with other stakeholders such as NSW Maritime and IPART, which have a significant impact on the financial and operational management of SFC, it can be inferred from documents that such communications do occur in relation to issues such as SFC’s financial and operational performance and safety performance indicators.

Communication with Passengers

524 Communication with passengers in the case of service delays and cancellations, including poor or no public address announcements at wharves, was raised throughout the Inquiry, including in many submissions.

525 The Tourism and Transport Forum made the following assessment of the travelling public's mood:

"Too often, the workings of the ferry system are perceived by the public as 'secret public transport business'. For the uninitiated, this lack of information serves as a significant barrier to entry."

526 In relation to the 131 500 Customer Information Hotline, some submissions commented that recorded information was not always updated regularly, or experienced errors with this service.

"On a number of occasions, ferries have been late or have been cancelled, and the Information people have been unaware of a problem. On other occasions, the Information people have said services were cancelled when they haven't been. On almost all occasions, people waiting on the wharf have had to initiate the inquiry. If there is a problem with a ferry, the ferry captain should immediately inform the Information people, or someone who has been made responsible for such communication. They, in turn, should inform the people waiting on the wharves for the service, without waiting for a patron to inquire."

527 It is apparent from these submissions and the results of recent customer surveys that communication with passengers needs to be improved.

528 In presenting his report to the Board in May 2007, the CEO advised Directors that the high number of customer complaints was substantially attributable to the Corporation's inability to keep customers informed about the services and that the introduction of the Customer Information System would see a reduction in the number of complaints.

529 While this is recognized by SFC, and action to rollout CCTV to all wharves has commenced, there have been considerable delays in the implementation of the project. This is despite the fact that it has been a

priority since corporatization and that capital funding has been included in the budget for the project.

530 SFC plans to implement a new Customer Information System, now called the Ferry Operations and Customer Information System, over the next year which will provide real-time information to customers. The project was included as a high priority project in the Information and Communications Technology Strategic Plan 2006-2009 with a start date of July 2007 and scheduled finish date of December 2007.

531 The Inquiry has been informed that a report has been published recently entitled *Assessment of Public Transport Passenger Information Systems* which makes a recommendation that SFC review its proposal for a real-time Customer Information System. The purpose, apparently, is to assist in the development of an integrated multi-model approach to passenger information systems.

532 In the Inquiry's view, it would be unfortunate if SFC's work in this area is further delayed.

INFORMATION TECHNOLOGY

533 The Inquiry has heard repeatedly that, not only did SFC inherit inadequate and unreliable IT systems from STA, but it has been forced to rely on STA for many of its IT systems until it transfers across to new systems, which are tailored to meet the specific needs of SFC. This has imposed limitations and created problems in relation to all aspects of the Corporation's business and operations. It has:

- a. inhibited the Corporation's capacity to obtain and provide reliable financial and performance data to stakeholders for planning and reporting purposes;
- b. restricted its capacity to provide real-time and effective communication with staff;
- c. limited its capacity to communicate with passengers; and

d. impeded business improvement and cultural change.

534 While the Inquiry recognizes this situation and the frustrations it poses for management, SFC has been slow in taking action to rectify the problem. Despite commentary in SCIs, submissions to IPART, and the Business Plan that IT projects were being implemented to achieve efficiency savings and business improvement, and despite the provision of capital funding each year for key IT projects, they have been delayed for various reasons. Reasons have included delays in the development of an acceptable Information Technology Strategic Plan, the priority given to other projects, such as the re-engineing of vessels, or delays in planning and procurement.

535 SFC has advised the Inquiry that the restructuring and upgrading of its management IT architecture, systems and support arrangement is a strategic management imperative.

536 The CEO advised the Inquiry of his assessment of the situation at the time of his appointment in late 2006:

“When I arrived... we expedited the IT strategy and then the implementation of the ICT refresh which was to establish a new backbone throughout the organization onto which we can then put the applications which will allow us to capture this data and then be able to analyze it, because we can’t analyze data—getting the data is a challenge, let alone trying to analyze it.”

537 The Corporation has recently rolled out a new IT network across its corporate office and there are plans to provide laptops onboard vessels together with data links from the vessels to enable information to be sent to and received from Masters onboard the vessels. The extension of the wireless network to wharves, is also included in SFC’s Information and Communications Technology Strategic Plan 2006-09.

538 The finalization of that plan in November 2006, the development of business cases and tender briefs for key IT projects such as the IT

Network, Customer Information System, and the Integrated Management Project, together with the establishment of the project management framework should result in some improvements in rectifying SFC's information management and systems deficiencies.

539 However, continuing delays in implementing planned systems and in rectifying outstanding IT systems issues will increase the already high levels of frustration on the part of managers and staff who require access to accurate and reliable data for planning and service delivery. This in turn inhibits the achievement of improvements in internal communications, cultural change and performance improvement, and it impedes the capacity of the Corporation to deliver service improvements to its passengers.

540 In this regard the Inquiry notes that the Knowledge Management Project, which incorporates document management and records management, and which was due to commence in July 2007 with a completion date of July 2008, has, *“been temporarily [put] on hold due to scarcity of resources”*. This project is critical to addressing many of the issues relating to the accessibility and reliability of data which have been identified during the course of the Inquiry, and was rated a high priority in the Information and Communications Technology Strategic Plan 2006-09.

PERFORMANCE MANAGEMENT

541 SFC told the Inquiry that, at corporatization, there was no performance management framework for SFC.

542 The Inquiry was advised by SFC that, *“In 2006 the Acting Chief Executive Officer introduced performance review of members of the Executive... In June 2007 SFC's CEO commenced performance reviews of members of the Executive”*.

543 In response to the Inquiry's request on 18 June 2007 for copies of Performance Agreements of the CEO and General Managers, SFC

provided copies of the Agreements to the Inquiry on 21 September 2007. The agreements were signed by the CEO and General Managers in June, July, August and September 2007.

544 In relation to other staff, the Inquiry was advised by SFC that the EBAs finalized in 2006 included provision for the implementation of performance management. A Draft Performance Management Policy and Procedures was developed by SFC in May 2007. It was the subject of consultation with the unions until September 2007, and is expected to be in place in November 2007.

545 The proposed Performance Management Policy reflects the wording of the performance management sections in the EBAs and involves the preparation of a performance agreement for each member of staff, a six monthly review of performance and an annual evaluation and rating of performance. Salary progression, where relevant, is linked to the annual evaluation and rating of performance. The procedure also requires the development of a training and development plan for each employee focusing on ensuring that the essential qualifications and training are undertaken or maintained as well as on broader training and development.

546 Accountability for ensuring that performance management is conducted in accordance with the Corporation's Policy and Procedure lies with General Managers, Directors and Supervisors.

547 It is unfortunate that SFC has not had the benefit of a performance management system that provides for the comprehensive review of every employee's performance, measured against a detailed set of criteria. Such a system assists in clarifying roles, responsibilities, expectations and accountabilities of staff and provides a vehicle for communication between supervisors and staff.

WORKFORCE PLANNING

548 The Inquiry was advised by SFC that:

“The Sydney Ferries Corporation Board requested the development of a workforce plan for the Corporation. In August 2006 a labour model was introduced into the Workforce Plan. The Workforce Plan was amended to reflect comments from the Board in November 2006.

The Workforce Plan is under review in the light of the NSW Government Workforce Strategy to support the State Plan 2007-10.

The Corporation intends to finalize the Workforce Plan in the fourth quarter of 2007 following the completion of crew-based afloat rosters and shore-based Operations Division rosters.”

549 The Draft Plan identified some of the workforce challenges facing SFC including:

- a. an aging workforce generating immediate and future labour shortages;
- b. occupational shortages amongst particular professional, management, trades and maritime groups;
- c. morale problems for current workforce members arising from a history of management churn, restructures, underperforming employees, employees seeking to maximize superannuation benefits and redundancy payouts;
- d. previous deficit in learning and development opportunities;
- e. a difficult cultural and industrial environment;
- f. a poor mix of competencies in light of safety legislative requirements and safety critical issues; and
- g. pressures to deliver core services without adequate staffing and planning.

550 The Plan identified that 13.7% of SFC employees are 60 years and over, with many in the Engineering and Operations Divisions. Outer

Harbour Engineers were identified as the group most at risk of shortage in view of their age profile and a national shortage of engineers.

551 The Plan provides information about the structure and composition of SFC's workforce and identifies areas which require attention such as the development of a training plan (to be incorporated ultimately in the workforce plan), new work practices and rostering at the Balmain Shipyard, and the negotiation of workplace reforms through EBAs.

552 However, the Plan does not include a detailed analysis of the impact of these issues on future workforce needs or identify the Corporation's future needs and strategies to meet future needs.

553 SFC appears to place significance on the fact that the Plan incorporates a labour costing model, based on the NSW Maritime labour model. In essence, however, this is a list of all current positions in the organization and their minimum and maximum salaries. While it provides a useful base for calculating the cost of salaries and for modelling of future scenarios, it is merely a tool for workforce planning.

554 It is not apparent to the Inquiry that any further action has been taken on these matters other than a review of SFC's Workforce Plan in the light of the State Plan mentioned above.

555 An example of a SFC workforce issue that should be addressed and incorporated in the Workforce Plan relates to GPHs. This group makes up the greatest proportion of the SFC workforce. As of 30 June 2007 there were 285 permanent GPHs and 53 casuals GPHS employed.

556 181 of GPHs employed by SFC undertake crew-based roles. The remainder undertake gate and wharf hand, cashier and cleaning roles.

557 Despite this, all GPHs are paid according to the same classification and no differentiation is made in relation to work duties. They are also all entitled to 25 days Maritime and Leisure Leave, additional to 25 days Annual Leave. Although negotiated in the past as a trade-off in relation

to pay and working hours, this form of leave is usually reserved for lengthy 'at sea' work, as SFC pointed out. This issue is discussed further in Chapter 8.

558 The General Manager, Operations, when asked about possible future labour reforms, considered that the lack of differentiation of GPHs was one area that needed change. He stated that reform is needed:

“So that we don't have General Purpose Hands selling tickets and standing at gates... We [will] have General Purpose Hands as Deckhands on vessels not doing all those other functions.”

559 The implementation of the Human Resources module of the Integrated Management System (“IMS”) which is scheduled for early 2008, should assist in providing more accessible and reliable data, as well as analytical tools to support workforce planning in SFC.

AUDITS

560 Audits, including those conducted by the Corporation's Internal Auditors, the Auditor-General and other external bodies, provide further insight into the management practices of the Corporation.

Internal Audit

561 At the time of corporatization, WalterTurnbull was engaged to provide internal audit services to SFC. Previously the internal audit function was carried out in-house within STA.

562 WalterTurnbull completed a Risk Assessment and Strategic Internal Audit Plan 2004-07 which noted that a key challenge for SFC is organizational culture and the need to build an organization which is vibrant and efficient and where staff have pride in their work and working environment. While noting that the Corporation has many highly skilled and dedicated managers and personnel, the risk assessment identified that there are factors inhibiting the development

of a new organizational culture including work quality problems and unwillingness to submit to increased control and accountability.

563 Each year since incorporation SFC has developed Internal Audit Programs aimed at addressing identified risks.

564 The audits which have been completed have provided useful feedback to the Corporation on a range of management issues such as payroll processing and rostering, procurement practices, management of leave and financial processes.

565 However, the Annual Audit Programs have not been fully executed and some recommendations remain outstanding, particularly those which are dependent on the implementation of new IT systems.

Auditor-General

566 The Auditor-General has played a substantial role in overseeing the financial performance and operations of SFC, through its participation in Audit Committee meetings and through its reviews of the management practices, policies and procedures of the Corporation.

567 The Auditor-General has undertaken performance audits including a follow up audit in April 2006 of a 2000 Performance Audit of Fare Evasion on Public Transport. The Auditor-General acknowledged that a lot has been done but made recommendations in relation to the development of a strategic plan for revenue protection, the establishment of reliable estimates of fare evasion and detection levels, and the development of benchmarks and KPIs.

568 SFC's *Annual Report* for 2005-06 notes that:

"Sydney Ferries' enhanced revenue protection measures, including more effective allocation of resources to prevent high-risk fare evasion, and upgrading on-board ticket-selling equipment."

569 The Auditor-General's management letters have also commented on practices and procedures which impact on SFC's capacity to extract accurate and reliable information on passenger boardings and to account adequately for ticket revenues. For example, in 2005 the Auditor-General found that SFC did not investigate and document the reasons for noticeable monthly fluctuations in boardings with the consequences that:

- a. SFC may not be receiving its share of revenue as the allocation of inter-modal revenue from the STA based on the number of boardings; and
- b. business functions such as budgeting, services planning, crowd control, special event planning, and ticketing strategy may be affected by inaccuracies or incomplete boarding data.

570 The Auditor-General recommended that SFC should investigate and identify the reasons for these major fluctuations and implement appropriate systems or procedures to capture and manage complete and accurate boarding data.

571 SFC's Business Plan noted that, as the focus of SFC during 2005, 2006 and 2007 would primarily be on safety and reliability, plans had not been developed for increased passenger numbers or additional revenue generation, other than more strongly enforcing revenue protection which commenced in 2005-06 and would continue throughout the life of the plan.

572 The Plan noted that a detailed focus on revenue generation would commence in 2007-08 with analysis of revenue and passenger trends, revenue of business development opportunities and the development of a marketing plan. However, these activities would be unlikely to generate the quantum of revenue required to significantly reduce the need for Government funding in the future.

- 573 The Auditor-General also made recommendations in relation to the monthly reconciliation and checking of ticket revenue to the general ledger balance to ensure accuracy and completeness. At the time SFC accepted the findings and advised that action was being taken to address the issues as part of the Internal Control Review of the revenue-recording process.
- 574 Advice provided to the Inquiry by SFC indicates that the collection and processing of revenue is complex and unreliable, relying on two electronic systems and manual estimates and lack of automatic integration with the Finance system. While the interface between the two revenue data systems was completed in May 2006, the interface with the Finance system will not be achieved until the introduction of the Finance module of the IMS which is being implemented in October 2007.
- 575 The Auditor-General has also commented on management practices and procedures which impact on the financial performance of the Corporation. Examples include:
- a. the method of depreciation of fixed assets which was found to be inconsistent from year to year because of inaccuracies in the asset register;
 - b. inadequate internal controls for electronic purchase orders and the preparation of stock issue transaction reports;
 - c. lack of compliance with financial delegations;
 - d. lack of regular monitoring of capital works in progress;
 - e. poor recording of leave and the accumulation of leave balances;
and
 - f. inadequate controls over appointments and terminations.

- 576 While some action has been taken by the Corporation to address these issues including the recruitment of expertise in the personnel, finance and project management areas to review and streamline procedures, a number of the actions rely on the implementation of new systems, particularly the Finance and Human Resources modules of IMS.
- 577 The Auditor-General also commented on communication with staff and the implementation of policies. Noting that many of the Corporation's policies were transferred across from the STA, the Auditor-General found that not all staff are familiar with them with the risk that staff might not be implementing established policies and procedures or applying inconsistent practices. The Auditor-General recommended that the Corporation should ensure that staff are familiar with policies and procedures including placing them on the intranet.
- 578 These comments by the Auditor-General are consistent with comments made by NSW Maritime in its 2005 Audit Report and OTSI in its 2006 Systemic Report which referred to the lack of regard in SFC for formal procedures. Similarly, both managers and staff commented in the recent survey commissioned by SFC that there should be stronger communication on policies and decisions.
- 579 These findings and recommendations reinforce the conclusion reached by the Inquiry that insufficient attention has been paid to the actual implementation of policies and plans.
- 580 The Corporation has previously advised the Auditor-General that it has been systematically reviewing its policies, procedures and work instructions across all aspects of the business. As the documentation is reviewed, it is recorded and issued within the framework of the Corporation's Quality Management System. However, the revision of all material is not expected to be completed until the end of 2007.

CULTURE

581 A recurring theme in previous reports on SFC, audit findings and submissions to the Inquiry is the poor workplace culture of SFC. Of particular concern is that the culture is perceived by many commentators to be deteriorating not improving.

582 Culture refers to the set of values, beliefs, customs and practices that underpin the way in which work is performed in an organization and the way members of the organization relate to each other in carrying out their work.

583 Culture in SFC is complex and multi-dimensional involving the interrelationship of many contributing factors. These factors include among others:

- a. poor communication between management and staff;
- b. perceptions about the relative status of groups of employees within SFC;
- c. high turnover of senior staff;
- d. perceived limited expertise of managers;
- e. acceptance of the status quo and resistance to change;
- f. inadequate data, poor systems and procedures;
- g. absence of a comprehensive performance management framework;
- h. lack of clarity in relation to roles, responsibilities and accountabilities; and
- i. lack of responsiveness to customers' needs.

584 Culture featured strongly as an issue in the Taylor and Medlock Reports. The Taylor Report commented on a number of dimensions of SFC's culture including:

- a. the turnover of senior management, which had inhibited the capacity of the organization to develop a continuing and well communicated vision or direction and clear priorities for the organization;
- b. strained relations between management and staff and adversarial relationships between management and unions;
- c. the impact of culture on morale. Although many staff were happy with their jobs, they were unhappy with the way the organization was being managed; and
- d. the absence of processes for formal and direct face-to-face communications between management and staff.

585 The Taylor Report stressed that effective communications are essential for positive employee relations.

586 The Medlock Report described the relationships between management, unions and delegates as, "*antagonistic*" and "*immature*". The culture of blame inhibited the capacity for the groups to work together to seek solutions. Like the Taylor Report, the Medlock Report emphasized the need to establish effective communication between staff and management including regular team briefings and opportunities for staff to put their ideas, issues and concerns directly to management for consideration.

587 The Taylor Report recommended that SFC consider introducing 'intranet cafes' in the workplace as a vehicle to improve communication between management and staff. However, the Inquiry is not aware that this initiative has been taken up by SFC.

588 There is no single view of the culture of SFC or what it ought to be. Staff, management, external reviewers and customers have different perceptions of the culture.

589 SFC told the Inquiry:

“The ‘us’ and ‘them’ workplace culture fragmented along union, functional, divisional, geographic or other lines hampers the engagement of all staff in the achievement of shared business outcomes.

In the Corporation’s view the most significant divide exists between management and afloat staff.

There appears to be a level of scepticism and resentment towards management by some staff.

At incorporation, the general lack of loyalty and trust that characterized the relationship between some employees and Sydney Ferries was apparent to new employees and managers.

Changing workplace culture is a long term and often difficult process, requiring consistent leadership, patience and an investment in staff relationships.”

590 Many people who spoke to the Inquiry agreed that the workplace culture in SFC is poor and that this affects staff morale and significantly inhibits the capacity of the organization to achieve efficiency and service delivery improvements.

591 In describing the culture of SFC, staff tend to focus on the failings of management, accusing them of being authoritarian, not communicating, promulgating a culture of blame and not respecting their qualifications and expertise.

592 The following incident described to the Inquiry by a passenger travelling on a recent peak hour service from Rose Bay to Circular Quay

illustrates how the culture of blame can be reflected in the behaviour and demeanour of staff and impact on the quality of customer service:

“On boarding the ferry an announcement was made in an angry male voice, ‘I’m sorry but this ferry will not be going straight to Circular Quay but will now be stopping at Double Bay and Garden Island. This is entirely due to the inexperienced management we have today!’ He did not, in fact, sound sorry at all. His tone was that of a man at boiling point and sounded more like he was blaming someone. Also the outburst made little sense and there was no apology for the now late arrival of the service at Circular Quay.”

593 Managers, on the other hand, tend to attribute the responsibility for the poor workplace culture to the resistance to change by unions and employees. SFC managers have expressed frustration at the difficulties of implementing change in this workplace culture and climate.

594 These different and opposite views of the problem reflect the wide gap between management and staff which was commented on by the Taylor and Medlock Reports.

595 The 2006 OTSI Systemic Report provided some explanation for the divide. OTSI commented that there is a strong sense of organizational identity within parts of the workforce at SFC, with some of the current staff being third generation ferry employees. While this has helped to sustain the service now provided by SFC over the years, it has also led to a strong attachment to the status quo and a *“firmly held opinion among some front line employees that the company can run itself”*. This manifests itself in a lack of regard for formal procedures and resistance to change.

596 A submission from a staff member to the Inquiry said:

“The revolving door of managers and the appointment and retention of unsatisfactory personnel within management does

nothing to encourage or support those who actually operate and maintain ferries.”

- 597 The problem is compounded by the poor communications between management and staff which was discussed above. Some submissions to the Inquiry referred to the didactic and authoritarian nature of communications from management to staff, attributed to the naval background of some members of the management team. In fact there are very few with that background and it does not, at least to the Inquiry, seem to be at all a bar to good management.
- 598 Staff have informed the Inquiry that they want a partnership with management, a partnership in which their experience and expertise is valued and their views and ideas are listened to and considered.
- 599 The rollout of data recorder loggers on vessels was cited as an example. Some Masters perceived that the introduction of the devices was not primarily related to a culture of safety but rather to a culture of blame. Similarly, the recent requirement that ferries not run in fog, was considered by one Master to be a statement by management that he was incompetent to operate the vessel in fog, a sentiment with which he strongly disagreed. Better communication may have avoided these perceptions, although the Inquiry considers that in respect of some employees, their views are likely to remain unchanged.
- 600 The need for clear policies and procedures, which are known, understood and applied by managers and staff alike, has been commented on in internal audit reports as well as external audits by safety authorities and the Auditor-General. The situation is summarised in the 2005 NSW Maritime audit of SFC’s Safety Management System:

“Commitment to modern management is also reflected amongst the senior managers but to some the challenge of converting policy to practice has not been straight forward. This is evident at almost every operational level where the policy is articulated but the procedures either do not exist or are largely ignored. In selectively

circumventing many procedures, senior managers have signalled their tolerance of deviation and established a culture in which the ad hoc is the acceptable standard. This lack of senior commitment to the procedures has been noted by the workforce which subsequently pays lip service to much of it. Comments like 'the system they (Pitt Street) implemented doesn't work so I ignore it' or 'I have no idea where the paperwork goes or what happens to it' were commonplace. The lack of follow up on often fundamental procedures is the cause of some concern."

CONCLUSION

601 While appreciating the challenges of managing SFC as a new SOC, the Inquiry has observed a pattern of ambitious planning and delays in the commencement and implementation of key plans and initiatives to achieve improvements in the financial and operational performance of the Corporation. Recognizing that there is still much to be done in key areas such as IT and communications systems, performance management, workforce planning, organizational communications and culture, the Inquiry notes the recent progress in the implementation of a project management framework, performance management and the finance module of the Integrated Management System. Such initiatives will assist in providing the data and tools to support the Corporation in planning, decision making, monitoring and reporting in order to achieve continuous improvement throughout SFC.

CHAPTER 7

FINANCIAL PERFORMANCE

INTRODUCTION

602 As discussed in Chapter 3, SFC inherited a loss-making business from STA. The financial position of Sydney Ferries had been deteriorating over a number of years.¹²¹ One of the theories of corporatization was that SFC would operate on a more commercial basis and reduce its reliance on the Government for funding.¹²² This was always going to be a difficult task given the factors outlined in the previous Chapters, in particular the aging fleet, the limitations of IT and management information systems, the investment required to address the numerous recommendations made by external bodies and the inherent contradictions in the SOC model.

603 While the Board and the Management of SFC have developed plans and strategies to try to turn this situation around by reducing costs and increasing revenue, these plans and strategies have either not been fully implemented or have not realized the savings or revenue increases needed to improve the financial position of SFC. Costs have continued to increase at a faster rate than revenue and there is little evidence that this situation will change in the foreseeable future. Contrary to the ideal expectations of the SOC model, reliance on Government funding is continuing and increasing.

604 The actual performance of SFC in relation to its key financial performance targets in the financial years 2004-05, 2005-06 and 2006-07 is set out in the following table. The variations between budget and actual performance each year are significant, particularly when

¹²¹ SFC, *Submission to the Independent Pricing and Regulatory Tribunal, August 2004*, p 5

¹²² Ibid; Audit Office of NSW, *Auditor-General's Report to Parliament 2004-05: State Transit Authority*, Volume 5

additional Government funding is taken into account and the effect of accounting treatment changes in relation to depreciation of assets.

Financial Performance Indicator	2004-05 Budget	2004-05 Actual	2005-06 Budget	2005-06 Actual	2006-07 Budget	2006-07 Actual
Earnings before Interest, Tax, Depreciation and Amortisation: EBITDA (\$m)	9.8	13.1	8.0	(35.0)	(3.4)	17.4
Operating Result Before Tax: ORBT (\$m)	(6.7)	(2.6)	(16.7)	(53.5)	(22.3)	(2.3)
Return on Average Assets: ROA	(2.0%)	0.7%	(9.1%)	(39.4%)	(16.1%)	(2.0%)
Return on Average Equity: ROE	(8.3%)	(3.2%)	(22.0%)	(88.7%)	(79.9%)	(6.0%)

605 While the Inquiry appreciates the difficulties involved in operating SFC on a commercial basis, nevertheless, there has been a steady decline in the financial performance of the Corporation since its establishment in July 2004. This is characterized by:

- a. a widening gap between financial performance targets and actual results;
- b. a widening gap between revenue and operating expenses;
- c. a reduction in the value of assets;
- d. an increase in liabilities and debt;
- e. a reduction in equity;
- f. a diminishing return on assets;
- g. a diminishing return on equity;
- h. a failure to realize savings strategies;

- i. an increasing reliance on Government funding to sustain the financial viability of the Corporation; and
- j. reliance on a 'letter of comfort' from the Government to meet solvency requirements.

REVENUE AND EXPENSES

606 SFC's revenue comprises passenger revenue from fares, reimbursement from the NSW Government for subsidized travel for students, pensioners and other concession holders and Government funding for SFC's Community Service Obligation ("CSO") as a public transport provider. In 2006-07, 40.3% of SFC's total operational revenue of \$119.214 million came from passenger revenue and 59.7% from Government.

607 The Corporation's expenses include fleet running expenses, employee benefits, general operating expenses such as insurance, IT and communications, temporary staff and administration as well as other costs such as depreciation and interest. In 2006-07 employee benefits, including wages, salaries and leave accounted for 50.6% of the Corporation's total expenses of \$122.822 million, while general operating expenses accounted for 17.2% and fleet running expenses for 15.7% of total expenses.

608 It is evident that SFC is dependent on funding from the Government. A proper service contract, if in force between SFC and the Ministry of Transport, would state the price to be paid by the Ministry for the delivery of ferry services by SFC.

609 In the absence of a formal service contract, there is no formal document which links SFC's level of funding to its present and future operational obligations and its performance against those obligations.

610 SFC and the Ministry of Transport have been attempting to negotiate a funding agreement since September 2004. The agreement has been in

draft form since December of that year. The most recent draft of the funding agreement was rejected by the Board on a number of bases including the unilateral right of the Director General of the Ministry of Transport to terminate SFC's funding at any time and, what SFC described to the Inquiry, as *"heavily articulated administrative and reporting requirements"*.

611 The funding agreement is not required by statute. The intention of the funding agreement appears to be to identify the level of annual Government funding that is to be provided to SFC and to describe the services for which funding is to be provided, the timing of payments and SFC's financial reporting obligations. These are matters properly dealt with in a service contract.

612 In addition, it is necessary to make some comment about the use of so-called funding agreements in the present context. Whatever use a funding agreement may be intended to serve in relation to fiscal discipline and accountability, it must not purport to cut across any of SFC's statutory obligations under the *SOC Act* or the *PT Act*. Regrettably, the current draft funding agreement appears to do both. Funding agreements undoubtedly have their usefulness, but they must not assume a position that legislation does not allow.

613 Although the attempts by SFC and the Ministry of Transport to negotiate a funding agreement seem to have been informed by goodwill on both sides, in fact, the funding agreement does not serve any particular useful function and no further time or money should be spent attempting to reach an agreement.

FINANCIAL MANAGEMENT CHALLENGES IN SFC'S FIRST YEAR AS A CORPORATION

614 SFC told the Inquiry:

"The Corporation was poorly human and financially resourced at incorporation, requiring prioritization and focus on safety and

operationally critical service delivery issues to the deferment of other business objectives... Given that the organization was under-resourced while part of STA, and in the absence of any major financial injection to provide the new corporation with a proper financial foundation and budget, Sydney Ferries struggled for the first six months following corporatization.”

SFC’s Budget 2004-05

- 615 One of the first challenges of SFC was to establish the financial base for its first year of operation as a Corporation, independent of STA. Key priorities were to finalize the budget for 2004-05, develop the SCI and prepare the Corporation’s first submission to IPART. All of this had to be completed within only a month or two of the Corporation’s commencement and with a new management team and a new Board.
- 616 The Corporation’s first budget was a status quo budget or ‘holding pattern’, while giving the Corporation time to develop strategies to improve service delivery and a program of reform to achieve cost efficiencies. Proposed expenses (\$101.5 million) exceeded projected revenue (\$90.1 million) by \$11.4 million even though the Government’s funding for Community Service Obligations (“CSOs”) in 2004-05 was almost \$15 million higher than the contribution provided to Sydney Ferries in 2003-04.
- 617 While this might have been a reasonable approach given that the State Budget for 2004-05 had already been determined and the Corporation had only commenced operation on 1 July 2004, the acceptance at the outset of a status quo budget, with costs exceeding revenue and a strong reliance on Government funding, did not advance SFC’s objectives, as a SOC, to operate on a more commercial basis.
- 618 SFC told the Inquiry:

“In view of the financial, industrial and human resources challenges experienced by Sydney Ferries at the time of corporatization, the

Corporation found itself in a position in which it needed to allocate the limited resources available to it to the safety-critical and operationally imperative matters. For example, available financial resources were channelled into vessel maintenance work which would ensure that the fleet remained safe and serviceable.”

619 While appreciating the need for some increased expenditure in order to deliver a safe and reliable ferry service, nonetheless, given the aims of the SOC Act, a stronger focus on reducing costs and increasing revenue might have been expected.

SFC’s 2004-05 Statement Of Corporate Intent

620 Initial drafts of the SCI for 2004-05 aimed, *“to increase passenger numbers and accomplish full cost recovery by 2010”* and stated, *“In pursuing this vision, SFC recognizes the need to sustainably grow its business by capturing current and future opportunities in the marketplace. It needs to increase customer value and transform its business into one driven by efficient and commercial practices”*.

621 In a subsequent amendment to the SCI this was deleted and replaced with the aim, *“to provide a safe and viable ferry service and an enjoyable experience for customers”*.

622 Despite the emphasis on safety, reliability and customer experience rather than on commercial operations, a key focus of the SCI was nonetheless on improving the financial performance of SFC. The draft SCI stated that:

“Given the well documented decline in cost recovery over recent years, driven in particular by increasing costs, a key strategy is to review and aggressively reform and improve the cost efficiency of service delivery across all areas of the business.

Strategies to improve the utilisation of existing capacity and to grow the revenue base in ways that improve cost recovery will also be pursued.”

IPART Determination 2004

- 623 In its first submission to IPART, SFC submitted that it had inherited a loss-making operation from STA and that its ferry operations are significantly more complex and inefficient than if they were newly established, largely because of the large number of wharves to which it operates services and the size and diversity of its fleet.
- 624 The certified quality system which SFC inherited was also said to incur a higher than usual degree of expense to maintain, largely because of the scope of the certification encompassing the International Safety Management Code (“ISM code”) for marine operations as well as the ISO:9001 standard (Chapter 9 describes the system in detail). While this added significantly to the costs incurred by SFC, it was essential in meeting the Corporation’s statutory responsibilities in relation to public safety.
- 625 SFC sought a 9% fare increase for 2004-05 to ensure that Corporation could continue to provide a “*financially sustainable, safe and reliable service*”, which patronage growth and business reform alone would be unable to provide.
- 626 Despite SFC’s submission for a 9% increase, IPART determined that SFC could increase all ticket types except TravelPass products by an average of 5%, the effect of which was an average rise overall not exceeding 4.2%.
- 627 IPART had previously indicated that it would be looking for efficiency savings and evidence of service improvement and found that:

“... this level of increase [proposed by SFC] could not be justified as it could not be clearly related to recent increases in its efficient costs, or to a clearly defined business plan that detailed proposed service improvements and their associated costs. However, it considered that an increase above the CPI was warranted in recognition of the fact that SFC has incurred extra expenditure in

implementing the recommendations of the 2001 review of the safety of operations [the Taylor Report] and its low level of cost recovery.”¹²³

628 The Tribunal noted that over the past six years the annual cost of running the ferries had generally risen much faster than its revenues. The outcome has been that the cost recovery ratio had deteriorated sharply since the Olympics year peak of 68% to around 50% in 2003-04.

629 The Tribunal commented that it was not clear what level of cost recovery was appropriate for SFC. The Tribunal noted that a 5% reduction in costs would yield savings in the order of \$5 million whereas a 5% fare increase would only yield \$2.1 million. Given the size of the cost base relative to the farebox, a 1% reduction in costs would have an impact on cost recovery equal to a 2% rise in the farebox.¹²⁴

630 IPART expressed concern about the efficiency of SFC in delivering its services as well as its performance measurement criteria and reporting processes. The Tribunal flagged its intention to consider these matters in detail as part of the 2005-06 fare review and its expectation that SFC would address them in its submission to that review.

631 IPART noted that SFC believed it had made several improvements in its ferry services over the past year but SFC had not provided detailed evidence in support of its view. SFC had simply listed a number of improvements.

632 In relation to performance measurement, IPART commented that the performance statistics provided by SFC to the Tribunal were too broad, the accuracy of their measurement was not quantified, and they were not always relevant to passengers. IPART also observed that the need

¹²³ IPART, *Report on the Determination of Fares for Sydney Ferries*, 12 December 2004, p 1

¹²⁴ *ibid*, p 20

for improved performance measures had also been recommended in the Final Parry Report and in the Government's response to that Report.

Financial Performance of SFC for the Year Ended June 2005

633 Because of the additional funding of almost \$15 million provided by the Government, the actual financial performance for SFC for 2004-05, was better than the budget estimates in relation to all of SFC's key financial performance indicators.

634 However, capital expenditure was consistently underspent during the financial year with the effect that key projects did not commence or were delayed.

635 Compared with a capital budget of \$4.9 million for 2004-05, only \$0.4 million was spent by December 2004. In May 2005, SFC forecast that only \$1.28 million would be spent. The actual expenditure for the financial year was \$0.9 million. However, it is noted that in its July 2005 submission to IPART, SFC said that its capital expenditure for 2004-05 was \$1.3 million.

SFC'S DETERIORATING FINANCIAL POSITION IN ITS SECOND YEAR AS A CORPORATION

636 In its second year Treasury informed SFC that it intended to remove the provision for the payment of dividends to Government. However, in order to achieve a more commercial operating position and balance sheet from 2005-06, the extra funds SFC received in its first year would not be repeated.

637 This provided a catalyst for the development of a Savings Strategy for SFC. However, the reduction in Government funding caused SFC to increase borrowings which in turn led to increased interest rate costs.

638 By the end of that year the Government provided extra funds of about \$10 million.

639 SFC told the Inquiry:

“... funding needs tend to be met by reactive ‘top-ups’ rather than in accordance with agreed business plans and forecasts.

These funding mechanisms have resulted in an inadequacy and uncertainty of funding, as well as a capital structure which does not reflect the current real cost of delivering services. It has also required Sydney Ferries to operate from a position of ever-increasing deficit. As a result, the funding structure does not support financially efficient operations, does not allow Sydney Ferries the flexibility to respond to the need for adjustments to service delivery requirements as and when they arise and has hampered Sydney Ferries in its ability to undertake short and long term business planning.”

SFC’s 2005 Submission to IPART

640 In its July 2005 submission to IPART, SFC again sought fare increases above Consumer Price Index (“CPI”) on the basis of demonstrable efficiency improvements and planned service level improvements to be implemented from the 2005-2006 financial year onwards.

641 The submission outlined its plans to achieve savings across all major cost categories. These included among others:

- a. labour, where SFC was seeking to achieve savings in the area of overtime and sick leave;
- b. procurement, where SFC claimed it had already achieved savings in relation to the tender process for the maintenance and dry-docking of the Freshwater class (as can be seen in Chapter 4, the savings were not to last); and
- c. Balmain Shipyard in the areas of shipyard costs, operations and maintenance management to reduce costs and improve vessel availability.

- 642 Revenue related strategies included the development of a fleet replacement plan to better match vessels with the service required by patrons, a review of routes to better meet customer requirements, and plans to develop strategies against fare evasion.
- 643 SFC told IPART that patronage in core tickets has been growing steadily at around 2.3% per annum from 1998-2005.¹²⁵ Other patronage data provided to the Inquiry by SFC indicates patronage growth of less than 1% since 1996. The difference may be accounted for in differing ticket types counted.
- 644 The Corporation forecast to IPART that in each of the next three years, it would spend \$5.8 million in capital expenditure.

IPART's 2005 Determination

- 645 The Tribunal increased the maximum fares broadly in line with the movement in the Sydney CPI for the 2004-05 financial year. This would allow SFC to maintain or slightly improve its current cost recovery ratio and would not have an adverse impact on customers, patronage, environment or Government funding.
- 646 While IPART recognized that full cost recovery from fares is not an achievable target and that some improvement had been made, it noted, as it had previously, that SFC could improve its cost recovery ratio by pursuing efficiency gains.
- 647 Although noting SFC's planned service improvements, including its plan to improve services by developing a fleet replacement strategy and improving fleet availability from 75% to 80% by improving Balmain Shipyard operations, IPART was not convinced that it could justify fare increases on the basis of these plans as they had not yet been implemented.

¹²⁵ SFC, *Submission to IPART, July 2005*, p 33. Patronage growth figures for 2001 were not available and had been extrapolated from 2002 figures to give an estimate.

648 The Tribunal also noted that the Corporation had experienced some safety related incidents in recent months which SFC claimed would result in additional costs to those outlined in its submission to IPART. It was not clear, however, to what extent these extra costs should be counted as costs of service improvements.

Savings Strategy 2005-06

649 The Savings Strategy identified initiatives and opportunities for savings to reduce the funding deficit. These included among others:

- a. following the KPMG review of the operations of the Balmain Shipyard, which is dealt with in Chapter 11, the implementation of KPMG's recommendations would result in improvements in maintenance practices and vessel availability;
- b. reductions to maintenance expenditure due to the planned re-engining of the First Fleet and RiverCats; and
- c. EBA reforms aimed at improving workforce utilization and reducing overtime coverage of sick leave, which is dealt with in Chapter 8.

650 While a number of these initiatives such as the Balmain Shipyard Report and EBA reform were expected to result in significant savings in the intermediate term, the full financial impact would not be realized until the 2006-07 financial year.

651 The plan also identified risks to the realization of the expected savings including:

- a. patronage growth;
- b. IPART fare increase;
- c. industrial risks for EBA and Balmain Shipyard Reform;
- d. volatile fuel prices;

- e. unanticipated costs associated with the implementation of the 12-hour rosters for crew, due to temporary staff shortages; and
- f. emerging safety requirements and obligations.

652 In its Savings Strategy, SFC noted that overall patronage growth in 2004-05 was around 0.8%. In its SCI it reported growth of 0.6% in 2004-05.

653 In its Savings Strategy SFC set a patronage growth target of 1.2% on average for the 2005-06 financial year. This equated to a \$0.4 million increase in revenue. In its 2005-06 SCI it projected growth of 1% for 2005-06.

654 These patronage growth targets were almost half of the average patronage growth of 2.3% per annum from 1998 to 2005, which SFC had noted in its 2005 submission to IPART, although they were closer to the figure of 1% referred to in Chapter 3.

655 The targeted increase in patronage growth in the Savings Strategy was primarily based upon:

- a. improvements being made to vessel availability;
- b. the implementation of enhanced revenue protection measures;
- c. an advertising campaign targeted at the non-regulated market; and
- d. anticipated population growth.

656 Forecasts are relevant for various reasons including planning of future services and capacity and estimation of financial requirements and net budget outlook. ITSRR suggested in August 2006 there should be a common demand forecasting methodology and framework for all public transport services in Sydney. The Inquiry understands that work is underway in this regard. The Inquiry agrees with ITSRR that:

“Patronage is the fundamental transport policy purpose of service provision and as such should be the building block on which transport policy is based.”¹²⁶

657 SFC told the Inquiry:

“Reliability of patronage data is limited by the ‘rules of thumb’ employed in the EIS algorithms and the allocation of ‘undipped’ tickets across services. Apart from directly recorded validations data, detailed patronage figures are prone to misstatement.

This restricts the analysis of patronage and may not adequately support strategic decision making.

A Key Performance Indication (KPI) for Sydney Ferries is the achievement of 1% growth in patronage per year. Measurement against this KPI may have an error of up to 2% for the reasons outlined above. This undermines the reliability of the patronage growth results reported.

The inherent error in the patronage results is magnified at lower levels of details, such as analysis of patronage by route or service. These results may be polluted by the results of the allocation algorithms performed in the EIS.”

658 The reliability of the data tends to render questionable the capacity of the Corporation to accurately forecast patronage and therefore patronage growth.

2005-06 Capital Expenditure Budget

659 Again SFC had differing projections for capital expenditure. In May 2005, and in its SCI it proposed capital expenditure of \$12.22 million. The State Budget allowed for \$5.835 million and SFC had forecast to IPART capital expenditure of \$5.8 million. The discrepancy is explained

¹²⁶ ITSRR, *Advice to Ministry of Transport on Sydney Ferries*, op cit, p 3

in part by changes in accounting treatment for Major Periodic Maintenance (“MPM”). Previously MPM was show as an expense but in 2005-06 SFC adopted International Accounting Standards which required that SFC capitalize MPM costs and show the relevant depreciation costs as an expense. SFC advised the Inquiry that the State Budget papers and IPART submission did not include an estimate of \$4.4 million for capital expenditure for MPM.

660 Records, including monthly reports for the first half of 2005-06 and reports to Shareholders, show that the capital program was underspent from the outset of the financial year. Numerous reasons were provided by SFC including:

- a. delayed commencement of the Minor Periodic Maintenance Program;
- b. delayed commencement of several IT initiatives including the planned upgrade of passenger signage; and
- c. delayed commencement of the First Fleet and RiverCat re-engining program.

661 Actual expenditure on capital projects at 31 December 2005 was \$4.2 million.

662 In each subsequent month, forecasts for under-expenditure increased and the reasons for the under-spend changed as the months progressed. In May 2006 the Board was advised that the under-spend was largely due to the delayed commencement of the re-engining project and the postponement of a range of IT projects. Subsequently, delayed development application approval, tender and acceptance testing processes were cited as reasons for the under-spend.

663 The actual capital expenditure in 2005-06 was \$8.3 million.

- 664 The progress of the capital expenditure program during 2005-06 illustrates the theme identified earlier of ambitious plans and delays in the implementation of projects.
- 665 Key IT projects including rostering and attendance recording, a new intranet, revenue processing, and patronage capture, were not initiated in 2005-06 as planned and there was under-spending in relation to other capital projects such as the vessel data recording equipment project. The Inquiry notes that revenue processing projects were dependent on the proposed roll out of the Government's integrated ticketing system, Tcard.
- 666 There were also delays in the commencement of the Integrated Management System which was vital to improving the accuracy and reliability of financial data, and the passenger signage project which was important in improving communication to passengers.
- 667 The delays in commencing or implementing these important IT and capital works projects were unfortunate given SFC's comments in submissions to IPART, its SCI, and Business Plan and in responses to the Auditor-General, that these were high priority projects which were necessary to achieve efficiencies and improvements in financial performance and service delivery.

2005-06 Financial Results

- 668 In 2005-06, SFC continued to spend more than it received in revenue and funding and performed poorly as against its budgeted figures.
- 669 Two revaluations, commissioned by SFC of its freehold land and buildings and fleet of vessels, had a combined net result of a decrease in assets of \$30.3 million, and contributed to the operating deficit of the Corporation.
- 670 In commenting on SFC's performance for the financial year, the Auditor-General noted that to ensure its viability, SFC had sought and

obtained the NSW Government's commitment of support to ensure that it is able to meet its operating and financial obligations.¹²⁷

671 The Auditor-General's Report noted that SFC's performance in relation to KPIs was generally below target and that the number of customer complaints, number of significant incidents and number of sick days per employee were above target.

672 In April 2005, SFC acknowledged the "*lack of sufficient and accurate data/KPIs for decision making*", yet in the financial year, the implementation of critical IT projects which would have assisted in rectifying the situation and for which funding was provided, were delayed.

673 The implementation of the finance module of the Integrated Management System which was scheduled for implementation in September 2007 and is expected to be implemented in October 2007, should assist in enhancing the Corporation's financial management capability and performance.

SFC'S THIRD YEAR AS A CORPORATION

2006-07 Budget

674 The development of the Corporation's budget for 2006-07 took place in the context of a deteriorating financial situation with a further cash-funding shortfall of \$15 million projected, in addition to the \$6 million shortfall carried forward from the previous year.

675 In advising the Board, SFC noted that some of the main budget impacts of the situation were:

- a. EBA productivity savings for 2006-07 would not be achieved in full because of delays in implementation of initiatives such as new

¹²⁷ NSW Audit Office, *Auditor-General's Report to Parliament 2006: Sydney Ferries Corporation*, Volume 5

crew rosters (see Chapter 8) and the Balmain Shipyard Review (see Chapter 11), additional crew training requirements, and extra resources needed for the planned implementation of new services;

- b. the impact of EBA pay rate increases and entitlement costs were higher than SFC had previously forecast because of projected pay increases at Balmain in July 2006 (see Chapter 11), across the board increases in January 2007, and the impact of these rate increases on leave liabilities;
- c. fuel costs were significantly higher;
- d. ferry hire costs had been included for the full year on the revised expectation that there would not be a material improvement in vessel availability, due to initiatives such as the re-engining project;
- e. the requirement to strengthen the middle management structure and capability across the Corporation would result in an increase in staff numbers, although this would be partly off-set by a reduction in temporary staff costs and STA fees;
- f. the fleet maintenance program had been revised; and
- g. safety and other initiatives had been carried forward from 2005-06.

676 SFC noted advice from NSW Treasury that additional funding was unlikely to be received until the first half of the 2007 calendar year. This would mean that the existing overdraft facility limit of \$15 million would be exceeded by November 2006 and an application would have to be made to New South Wales Treasury Corporation to increase the facility limit to \$30 million to cover the cash shortfall pending a formal review of the required additional funding.

2006 IPART Determination

677 In its 2006 submission to IPART, the Corporation proposed fare increases of 3.8% to 6.3% on the basis of projected significant increases in labour and fuel costs.

678 IPART determined that SFC could increase its maximum fares by 3.2% before rounding. This would result in an average increase in fares of 3.9%.

679 The Tribunal commented that SFC had failed to demonstrate that its costs were 'efficient costs' or that it had achieved a sustained improvement in its service standards. While welcoming SFC's commitment to improving its efficiency and service standards, there was no evidence that these improvements had actually been achieved.

680 The Tribunal was particularly concerned at the substantial increase in the cost of labour in the last few years, a trend that was expected to continue into the future. The Tribunal expressed concern at the inefficiency of these labour costs and pointed to the report of Grant Thornton, Chartered Accountants, Business Advisors and Consultants, who had been engaged by IPART to conduct a review of the operating and capital expenditure of SFC for the three-year period to 30 June 2009.

681 In the Report dated 10 October 2006, Grant Thornton stated:

"As at the date of this report, SFC represented that the projections for the three year period to 30 June 2009 utilised in our report have to be considered high level projections and that detailed underlying assumptions are not available. We understand that these projections have been superseded by a subsequent detailed version of the projections. SFC have represented that the detailed projections provided in their submission to IPART dated August

*2006 are materially different from the projections included in this report.*¹²⁸

682 In addition, Grant Thornton noted:

*“We note that during the course of our engagement, we received three separate versions of the projections with the last version being received on 12 May 2006. We note that these projections were not approved by the CEO or ratified by the Board of SFC.”*¹²⁹

683 Further, Grant Thornton stated that it had not been provided with any details regarding employees, for example total number, wages and salaries split by function, role and business unit or utilization. Accordingly, Grant Thornton carried out an assessment of labour cost based on SFCs information in the then draft EBAs.

684 While Grant Thornton identified significant potential for cost savings in the Corporation’s operating expenditure for 2006-07 and beyond mostly in the area of labour costs, it had experienced difficulty in obtaining reliable data from SFC, on which to base his conclusions. The savings projections it made need to be considered in this context.

685 IPART recognized that the Grant Thornton savings might be difficult to achieve in the short term but was encouraged by SFC’s advice that it expected to make some efficiency savings in the 2006-07 year through measures such as the introduction of new EBAs and shorter rosters. Noting that SFC had forecast a further increase in its operating costs of \$8.3 million in 2006-07, even if the Thornton savings could be realized for that year, the operating costs would still be some \$2 million more than in 2005-06.

¹²⁸ Grant Thornton Services (NSW) Pty Limited, *Review of the Operating and Capital Expenditure of Sydney Ferries Corporation*, prepared for IPART, 10 October 2006, p 3

¹²⁹ *ibid*, p 7

686 The Tribunal stated in very strong terms that SFC, and its owners the State Government, must take action to realize efficiency savings and that the users of SFC should not be asked to fund inefficient costs.

687 IPART also noted that the extent to which SFC's fare revenue covers the costs of providing its services, had declined significantly over the past six years and commented that the trend of costs increasing at a faster rate than revenue was not sustainable.

688 The Tribunal put SFC on notice that it intended to closely examine its cost efficiency at the next fare review and that it expected to start receiving information on these savings in 2007.

2006-07 Capital Expenditure Budget

689 The capital expenditure budget of \$19.5 million for 2006-07 was more than double the actual expenditure of \$8.3 million for 2005-06. SFC advised the Inquiry that the projection was subsequently increased to \$23.2 million and the actual expenditure was \$22.0 million.

690 The State Budget papers for 2006-07 included \$10.583 million for capital works projects. As previously noted the discrepancy was explained by SFC as the result of the adoption of International Accounting Standards and the treatment of MPM costs as capital expenditure. The latter costs, estimated at \$7.2 million for 2006-07, are not which is not included in the Budget figures.

691 From the beginning of the 2006-07 financial year, the capital program was under-spent. Initial reasons provided by SFC for the under-spend were delivery delays in the re-engining program, delays in acceptance testing of the Vessel Data Recorders and delays in the planning study for the IMS upgrade.

692 The 2006-07 half yearly report to Shareholders showed that expenditure was \$8.7 million against a budget of \$19.5 million mainly because of extended timeframes for tender or contract negotiation processes for significant projects.

693 At the time of the quarterly report to Shareholders for the quarter ending March 2007, the capital program for 2006-07 was reported as under-spent by \$3.1 million primarily due to:

- a. delivery delays in control systems for RiverCat re-engineing;
- b. delays in the CCTV upgrade project;
- c. delays in the IMS upgrade; and
- d. delays in the revenue room relocation project.

694 The program continued to be under-spent in April with SFC advising that in addition to the delays advised to the Board in the previous month, there were also delays in the commencement of Balmain Shipyard Wharf refurbishment project.

695 However, by the end of the financial year actual expenditure was \$2.6 million above budget mainly as a result of increased expenditure on vessels, IT projects and MPM.

Results for the Financial Year 2006-07

696 SFC's financial performance in 2006-07 showed some improvement in relation to revenue generation with farebox revenue increasing from \$45.329 million in 2005-06 to \$48.039 million. The additional \$27 million injected by the Government assisted in mitigating the Corporation's financial loss.

697 At the same time, expenses continued to rise. Although the financial statements show that total expenses in 2006-07 (\$122.822 million) were lower than in 2005-06 (\$142.855 million), this was largely because the fleet valuation adjustments of \$36.504 million which had been made in 2005-06 and appeared as expenses in that year, were not expenses in 2006-07. Excluding these fleet adjustment expenses, total expenses actually increased by \$16.47 million from 2005-06.

698 Employee benefits increased by \$11.76 million from \$50.41 million to \$62.17 million, a much more significant increase than had been projected in previous savings and business plans. These are addressed in Chapter 8.

699 At the end of the third year, the Corporation had not realized the savings projected for 2006-07 in its plans, and most of the initiatives upon which it was relying to deliver efficiency and service delivery improvements had only recently or not yet been commenced. Critical IT projects which would have assisted in realizing these objectives, had been delayed and were not expected to be completed for some time.

SFC'S FOURTH YEAR AS A CORPORATION

700 The trends of the development of ambitious plans and changing financial forecasts appear to have continued in 2007-08.

701 In a paper to the Board in February 2007, SFC proposed a capital works expenditure budget of \$24.87 million for 2007-08, noting that this was a reduction of \$1.45 million from the earlier 2007-08 forward estimate of \$26.32 million.

702 The Board was advised that SFC had 'critically assessed' the deliverability of the complete program given the large number of proposed projects and the resources required to provide effective project management. The Inquiry notes that in May 2007, the CEO expressed the view that the program was very ambitious and his concern regarding the Corporation's ability to complete the program.

703 In considering the proposed budget, the Board noted:

- a. the need for satisfaction that the Corporation had appropriately prioritized capital expenditure projects and has the capacity to complete the program;

- b. the requirement for rigour and due process to be applied in the development of business cases containing financial analysis to support recommendations for expenditure; and
- c. the Board's responsibility to satisfy itself that due process has been applied in developing and recommending business cases and to analyze the benefits.

704 The State Budget for 2007-08 included \$16.817 million for the upgrade and refurbishment of ferry infrastructure and equipment.

705 The draft SCI for 2007-08 prepared in September 2007 proposed a significant increase in capital expenditure in 2007-08, funded largely by borrowings despite the poor financial situation of the Corporation. The projection for the next three years and funding sources are presented in the following table.

Capital Expenditure (nominal \$m)	2007-08 Forecast	2008-09 Forecast	2009- Forecast
Requirements for growth	9.6	5.6	0
Requirements for renewal or maintenance of assets	25.3	12.1	10.4
Capital Expenditure needed for regulatory compliance	3.6	1.8	0.1
Total Capital Expenditure	38.5	19.5	10.5
Source of Funds			
- Budget Funding	12.5	7.7	7.4
- Borrowings	26.0	11.8	3.1

706 The establishment of the Project Management Office should, in the future, lead to some improvements in relation to the achievement of capital improvements.

707 In April 2007, the Board was advised that the Corporation's proposed operating budget for 2007-08 assumes patronage growth of 1% and IPART fare increases of 3%. While it includes provision for a 4% across the board wage increase and flow on to related employee on-costs, it assumes additional EBA productivity savings will not be achieved.

708 Overall the proposed budget forecasts an increase in operating expenses, an increase in the operating deficit, and an overdrawn cash position and a negative equity position if no additional funds are provided.

709 In July 2007 the Board was advised that the Government had confirmed in June 2007 additional funding of \$27 million for 2006-07 and partial funding of \$15 million toward the 2007-08 deficit. IPART had advised that the 2008 Fare Review process would be deferred pending the outcomes of this Inquiry. Based on these factors, the budgeted deficit for 2007-08 included in the September 2007 draft SCI is \$25.9 million.

710 In 2007-08 a new approach to managing costs was proposed by SFC. It involves the organization of the Operating Expenditure Budget into components including baseline operations, special projects, commodities and utilities and a budget contingency pool to facilitate the strategic management of costs. Each component is subject to its own monitoring and management requirements. While this will assist in managing costs, the baseline operations component is very large (\$104.4 million out of a total operating expenses of \$111.5 million) and it encompasses a broad range of functions and costs such as vessel crewing, maintenance, revenue collection and management support.

KEY FINANCIAL PERFORMANCE INDICATORS

711 The quality of SFC's KPIs has been raised in various IPART determinations. SFC's key financial performance indicators are:

- a. earnings Before Interest, Taxes, Depreciation and Amortisation (\$ million);
- b. operating Surplus/(Deficit) (\$ million);
- c. return on Assets (%); and
- d. return on Equity (%).

- 712 The indicators are those required of all Corporations and provide a high level indication of the financial health or otherwise of the organization.
- 713 As a management tool, however, the indicators are quite limited as they are too broad to be useful in providing information on critical components such as revenue and costs. A further issue is that the indicators are different from those used by IPART, such as the cost recovery ratio and cost of wages as a percentage of total costs and total operating expenses.
- 714 The Inquiry notes that the STA Annual Report 2003-04¹³⁰ included a range of financial-related KPIs for Sydney Ferries such as:
- a. total revenue ('000);
 - b. total expenses ('000);
 - c. patronage ('000);
 - d. kilometres ('000);
 - e. staff;
 - f. total revenue per passenger;
 - g. total revenue per kilometre;
 - h. passengers per vehicle per kilometre;
 - i. cost per passenger;
 - j. cost per vehicle kilometre;
 - k. passengers per employee;
 - l. vessel km per employee;
 - m. ferry service reliability (on time); and
 - n. fleet size.

¹³⁰ STA, *Annual Report 2003-04*, p 106

715 These indicators were also suggested by the Corporation's internal auditors.

716 The Inquiry agrees that these indicators would be more informative than the current broader financial key performance indicators.

CONCLUSION

717 Contrary to the expectations of the SOC model, SFC's financial performance has continued to deteriorate. As passenger numbers have not commensurately increased, this trend alone justifies the Government attempting a new approach.

CHAPTER 8

INDUSTRIAL PRACTICES

INTRODUCTION

- 718 Much has been said by way of anecdote as well as authoritative report about the generous conditions enjoyed by employees of SFC and about the influence of the unionized workforce in the management of the organization.
- 719 Employees in essential services such as public transport will always have significant bargaining power, as the withdrawal of their labour will have a considerable impact on the community, an outcome acutely understood by governments.
- 720 It is also the case that the financial health of an organization will be dependent, in large part, on its labour costs and the productivity of the labour force. SFC was burdened from corporatization with significant debt, an aging and diverse fleet and insufficiently sophisticated management tools. According to SFC, it inherited a workforce which enjoyed generous terms and conditions, including entitlements to penalties and overtime, which misused sick leave and which had entrenched inflexible work practices. This Inquiry has not undertaken an historical review of the conditions previously in place. It should not be forgotten that the sequence of negotiations and bargains which produced supposedly generous conditions was at all times a lawful and largely open process. However, what is currently important is that, in the three years since corporatization SFC has accomplished little improvement in its position, and, in particular, its labour costs have increased out of proportion to what are only small measurable gains in productivity.

- 721 The afloat staff employed at SFC are represented by three unions: the Australian Maritime Officers Union (“AMOU”) covers Masters and Inner Harbour Engineers; the Australian Institute of Marine and Power Engineers (“AIMPE”) represents Outer Harbour Engineers; and the MUA represents General Purpose Hands, also known as Deckhands. Each union is a party to a separate EBA. The Balmain Shipyard staff are represented by three unions which combine for the purposes of negotiation. Senior and salaried officers onshore are generally covered by the Australian Services Union.
- 722 There are thus five quite different EBAs in place. One each covering Masters and Inner Harbour Engineers (“the AMOU Agreement”), Outer Harbour Engineers (“the AIMPE Agreement”), General Purpose Hands (“the MUA Agreement”), Balmain Shipyard employees (“the Shipyard Agreement”) and Salaried and Senior Staff (“the Salaried and Senior Staff Agreement”). Appendix G contains a comparison of the key provisions in each of the EBAs.
- 723 This Chapter examines: the labour costs incurred by SFC; how SFC workers compare to others in the industry; the current industrial climate with reference to what was sought to be achieved by SFC in the latest round of EBA negotiations with the afloat staff; what has been gained; and what the process of negotiation reveals about the unions, the workforce and management.

TRENDS IN LABOUR COSTS

- 724 SFC has around 723 staff. In 2004-05, the cost of total employee benefits was \$50.033 million, rising slightly in 2005-06 to \$50.411 million. In 2006-07 costs were significantly higher at \$62.172 million, with wages being about \$4.8 million over budget.
- 725 Reasons given by SFC for the increase include higher overtime costs, including those incurred at Balmain Shipyard and the costs associated with the EBAs entered into in 2006. One or more of the EBAs required back-dated payments and the payment of a sick leave bonus of \$1,000

to 172 staff. In addition, the savings SFC anticipated it would make from the EBAs were generally not achieved. The EBA negotiations and achievements are dealt with later in this Chapter and the overtime at the Shipyard is considered in Chapter 11.

726 SFC told the Inquiry that, "*management has had to hypothesize when making decisions around labour costs and industrial reform (such as the composition of the workforce) rather than being in a position to work from verifiable data*".

Overtime and Days Off Cancelled

727 The cost of overtime to the Corporation has been the subject of critical comment by the Auditor-General since 2005. In that year, he identified a number of practices he considered added to the 'very high' overtime bill. He reported on instances where staff members had worked shifts on consecutive days for several weeks continuously and where some employees were working an overlapping regular and overtime shift and being paid overtime for the regular shift. He made the point that such work patterns have implications for health and safety as well as resulting in high overtime costs.

728 SFC agreed with the Auditor-General's conclusions and reported it was, among other matters, reviewing the rostering process, introducing tighter controls, negotiating the components of the aggregate salary in the three EBAs for operational staff and improving payroll processes. The Corporation advised the Auditor-General that its long term plan was to move to an automated resource management system in which matters, such as excessive use of overtime, would be flagged. This system is not yet in place, although it is expected to be by March 2008.

729 Again in 2006 the Auditor-General noted that, despite SFC initiatives to reduce it, overtime continued to grow from 8% to 12%. SFC advised him that the increase was due to the introduction of 12-hour rosters and the clearance of maintenance backlogs at Balmain Shipyard.

730 The following table sets out the total overtime costs in the last two financial years.

	2005-06		2006-07	
	Operations	Balmain Shipyard	Operations	Balmain Shipyard
SFC Overtime Costs	171,105	464,785	125,480	1,094,107
SFC Days off Cancelled	2,868,736	440,489	2,292,373	178,334
Sub-Total	3,039,841	905,274	2,417,853	1,272,441
TOTAL	3,945,115		3,690,294	

731 By mid 2006, the three EBAs covering afloat staff were in place and provided for aggregate salaries, which included pre-paid overtime as a means to manage the overtime cost. Despite this, high levels of overtime continue to be incurred.

732 SFC's afloat staff are paid an aggregate salary, which includes an amount for being available to work a specified period of possible overtime, known as pre-paid overtime. The AMOU Agreement stipulates a range of work which, when done, will not form part of the aggregate salary and will attract overtime rates. The MUA Agreement also contains restrictions, although fewer, on the work which is considered part of the aggregate salary. Thus, some work in addition to normal hours is paid for as part of the aggregate salary and some work attracts additional overtime payments.

733 According to SFC, payments for 'days off cancelled' occur when an employee has been called into work on a day when he/she is not rostered to perform ordinary duties. Payment can be in the form of pre-paid overtime hours as part of the aggregate salary or paid as additional overtime, depending on the work which is performed.

734 Masters' and Inner Harbour Engineers' hours are between 98 and 104 hours a fortnight, which includes between 22 and 28 pre-paid hours. Deckhands work a four-weekly cycle of 192 hours, which includes 11.6

pre-paid overtime hours. Therefore, there is available to SFC in excess of 570 hours per year for each Master and Inner Harbour Engineer and about 140 hours for each Deckhand which, subject to the EBAs, should be worked before additional paid overtime is incurred.

735 It is therefore disappointing to be told by SFC that employees engaged on the aggregate salary in the financial year 2006-07 worked an average of 135 hours of paid overtime and penalty shifts per employee and only 34 hours of pre-paid overtime. The previous year they had worked an average of 191 hours of paid overtime and penalty shifts per employee and only 34 hours of pre-paid overtime. The Inquiry queried these figures with SFC because, if accurate, they may indicate that some, perhaps many, afloat staff have been paid for more hours than they are actually working.

736 The Inquiry was told that, while the figures are correct, *“the recorded data does not necessarily capture all pre-paid overtime worked by crews in each of the years reported... unfortunately there is no way of determining the actual hours worked in previous years”*.

737 It is of considerable concern that, when compelled to produce a document indicating the amount of pre-paid overtime worked as part of the aggregate salary per employee for the years ending June 2006 and June 2007, SFC, without qualification or disclaimer provided the figures set out above based on data later said not to be accurate.

738 SFC has been subject to much on-going criticism about its overtime costs. In particular, in April 2007 the Auditor-General reported that SFC had no approved policies or procedures for the monitoring or calculation of pre-paid hours.

739 Had SFC introduced a proper system to ensure the pre-paid hours were being worked, its overtime costs are likely to have decreased. Further, if it is the case that most of the additional hours worked fall outside of the aggregate salary, the type of work that should be excluded from the aggregate salary should be reviewed, if only in the next round of EBAs.

Sick Leave

- 740 In 2005-06, the number of sick leave days taken per employee was 9.6 days, a decrease of 0.5 days from the previous year in 2004-05 when 10.1 days were taken. In the last financial year SFC was one day above its target of a maximum seven days.
- 741 During the same periods, average sick leave days taken across the public sector were 6.04 in 2004-05, and 5.8 in 2005-06.¹³¹ In particular comparison, average sick leave days taken by RailCorp employees were 8.82 in 2004-05 and 8.35 in 2005-06. Similarly, in the STA sick leave days taken by staff were 8.36 in 2004-and 7.99 in 2005-06.¹³²
- 742 The three Port Authorities, also SOCs, have much lower incidences of sick leave. In 2004-05 it ranged from 1.75 to 3.05 days per employee and in 2005-06, from 1.87 to 3.77 days.
- 743 In the current MUA Agreement, when an employee reduces his/her sick leave to five or less sick days per annum they are entitled to an 'attendance bonus' payment of \$1,000.¹³³ The Agreement also states that SFC will explore the introduction of income protection insurance in the event sick leave days are reduced to five or less for an 18-month period.¹³⁴
- 744 Sick leave provisions in the AMOU Agreement are similar to the MUA provisions above, where employees are encouraged to reduce their annual sick leave to five days or less per year. There is no attendance bonus payable, however, clause 12.8.9 of the Agreement provides for income protection insurance for long term sickness from 1 July 2006 for at least 75% of salary. This is provided on the basis that sick leave is reduced to five days or less per employee per year (with a three month qualifying period). If this is not achieved the insurance will be revoked.

¹³¹ NSW Workforce Profile Collection 2004-06, unpublished data

¹³² Ibid

¹³³ Clause 12.3.11

¹³⁴ Clause 12.3.14

745 This provision will only be implemented when the new rosters commence, about which more will be said later in this Chapter.

746 The Shipyard and Salaried and Senior Officers Agreements reduced existing employees sick leave entitlement from 15 to 12 days and do not provide any incentive for further reductions. The AIMPE Agreement also does not provide for incentives to reduce sick leave from the 15-day entitlement.

747 SFC has achieved a reduction in sick leave, however, it is clearly at a price. One can only presume that appropriate calculations have been performed to ensure that the payment of bonuses and insurance is both economically sensible and consistent with maintaining the health and safety of employees.

Impact of Regulatory and Operating Environment

748 SFC has contended to the Inquiry that its labour costs are affected by various regulatory requirements. First, it draws attention to the NSW Government Wages Policy which requires it to consult with the Public Employment Office (“PEO”) and NSW Treasury prior to entering into negotiations. The Inquiry does not understand how this requirement can have increased SFC labour costs. There is no evidence to this effect.

749 The consultation process provides rigour in demanding productivity savings be identified and in limiting base wage increases. As indicated later in this Chapter and in the following Chapter, the information provided by SFC to the PEO was overly optimistic and, in respect of Balmain Shipyard trade utilization rate, inaccurate. Few of the savings stipulated were in fact achieved. Further, the discipline required by this process contrasts with the idiosyncratic grant by SFC of an unsolicited 10% pay rise to selected members of the workforce without consultation, which is dealt with later in this Chapter.

750 Secondly, SFC cites crew-manning requirements. However, the Inquiry understands that the *Commercial Vessels (Certificates of Competency*

and Safety Manning) Regulation 1986, which determines such matters, has not been relevantly amended since July 2004.

- 751 In addition, SFC refers to two disputes in which two unions ‘campaigned’ or ‘demanded’ higher than regulation required crew levels. In each of those cases, a dispute was notified and resolved, at least in the short term, in favour of the outcome sought by the Union. The extent to which these two matters adversely impacted labour costs is not known.
- 752 Thirdly, SFC asserts that labour costs are impacted by the limited interchangeability of crews because of the diversity of the fleet, thus affecting rostering and resulting in, among other matters, increased overtime. The Inquiry does not doubt the importance of this constraint; however, again the fleet has not become more diversified since corporatization.
- 753 Finally, SFC refers to ‘recommendation overload’, which has resulted in an increase in the number of management personnel and labour costs generally. It is accepted that the implementation of a large number of recommendations made about SFC’s operations has impacted on labour costs.
- 754 SFC has also contended that organizational and operating factors have adversely affected labour costs. It referred to the absence of electronic systems in relation to time and attendance keeping, payroll and rostering, the need for GPHs to sell tickets on a number of routes and the low utilization rates at the Shipyard. All of these matters have impacted on labour costs, however, it is also the case that SFC has been slow in remedying these system deficiencies (see Chapters 6 and 7). While much good work has been done at the Shipyard, it is clear that the available data in 2007 do not allow any confidence that trade utilization has increased. This matter is addressed in the following Chapter.

- 755 A telling example of the cost of inadequate systems is as follows. Prior to the current MUA Agreement covering GPHs, casual employees were entitled to a particular penalty for performing work on a Saturday. According to SFC the current EBA removes this entitlement. In December 2006, SFC became aware that its payroll provider had continued to pay the penalty, notwithstanding the relevant employees had not been entitled to the payment since March 2006. The Union disagreed with SFC's interpretation of the clause and industrial strife occurred when SFC sought to ensure the payments were no longer made.
- 756 SFC told the Inquiry that to, "*avert industrial action*" it agreed to pay the penalty rate until the end of February 2007.
- 757 Finally, SFC advised that staff training results in additional labour costs. It was the intention of SFC to reduce those costs through the introduction of the new rosters by having all training undertaken during ordinary hours, with no payment of overtime. Again, the failure to agree to rosters has resulted in this initiative not being achieved.

WAGE AND CONDITION COMPARISONS

- 758 The Inquiry was frequently told that GPHs and Masters employed by SFC were '*over paid*'. To test this sweeping assertion, SFC asked each of the relevant unions and SFC to provide a list of comparable organizations and positions. Not surprisingly, their lists differed.
- 759 The Inquiry then sought information about wages and leave conditions enjoyed by employees in a number of public and private sector agencies. Public and private ferry and cruise operators, Port Corporations and companies engaged in tugs and shipping provided details of the qualifications, key duties, hours worked, annual average remuneration ("AAR") and annual and sick leave entitlements of employees engaged in work similar to that performed by GPHs, Masters and Engineers at SFC.

760 Annual average remuneration was chosen as that figure represents the amount each worker, on average, took home and the cost to the employer of each employee.

761 There are some limitations to the information gathered. First, the Inquiry did not take into account superannuation benefits. Secondly, while SFC afloat staff receive an aggregate salary, a number of others do not. Finally, while the precise shifts worked are not known, each employee worked shift work. These limitations caution against dogmatic inferences from inexact comparisons.

762 Appendix H contains the information provided. The Inquiry has concluded as follows from that material.

General Purpose Hands/Deckhands

763 SFC GPHs take home higher pay than Deckhands employed by Newcastle Ferries and the private ferry and cruise operators. They also have higher equivalent qualifications and generally work or are available to work greater hours.

764 However, SFC GPHs earn less than the Port Corporations' employees who require similar qualifications. Those employees engaged in tug and shipping work generally are more highly qualified and earn more than SFC GPHs, although their working conditions are considerably different.

765 In relation to annual leave, those employees who work on tugs and vessels which operate in the open seas, generally have extensive leave.

766 It was explained to the Inquiry that such leave arrangements are usually granted to those engaged in 'blue water' work which requires them to be at sea for considerable periods of time.

767 SFC GPHs enjoy 25 days of additional leave each year, described as 13 days leisure leave and 12 days maritime leave. Their work, however,

is restricted to Sydney Harbour and the Parramatta River and does not require them to be away from their homes overnight.

768 GPHs at SFC gained the 25 days leave through legitimate negotiations involving real trade-offs. In 1982 the STA agreed to an additional 13 days of leisure leave for maritime employees. This occurred when working hours were generally reduced from 40 to 38 hours. Maritime employees continued to work 40 hours and 'banked' the extra two hours, amounting to 13 days of leave per annum.

769 In addition, according to the current EBA covering GPHs, the maritime leave entitlement of 12 days per annum was negotiated in 2001 in lieu of an 8% wage increase over three years.¹³⁵

770 Maritime employees working for the Ports Corporations generally do not have this benefit.

Masters

771 SFC Masters generally earn more than Masters employed at the same level by private and private ferry and cruise operators, although they generally earn less than Masters employed by the Port Corporations and considerably less than the shipping operators.

772 SFC Masters receive the same additional leave as GPHs. As with GPHs, 13 days were granted in 1982. An extra 12 days was negotiated as part of the previous AMOU EBA in lieu of a 5% wage increase.¹³⁶

773 Masters engaged in shipping also receive generous leave, however, that leave is generally not provided to ferry and cruise operator employees nor to Masters with the Port Corporations.

¹³⁵ Clause 12.2.5

¹³⁶ Clause 12.4.5 of the AMOU Agreement

Engineers

774 On average, Inner and Outer Harbour Engineers at SFC earn more than comparable engineers employed by other ferry and cruise operators, and less than those engaged in shipping or port activities.

775 SFC Engineers also received 13 days additional leave in 1982 and most receive an extra 12 days on the same basis as the Masters. A small number was granted that leave in 2001 in return for Engineers foregoing a 5% wage increase.

776 As with Masters, Engineers engaged in shipping also receive generous leave. However, that leave is generally not provided to ferry and cruise operator employees nor to Engineers with the Port Corporations.

Sick Leave

777 SFC GPHs, Engineers and Masters receive the most generous sick leave entitlement relative to the maritime industry employees to whom they were compared, with the exception of Newcastle Ferries' and ASP Shipping employees.

Wage Movements

778 Information was obtained from NSW Treasury and the Department of Premier and Cabinet to identify broader trends in relation to wage movements and wage outcomes in the private and public sectors in NSW.

779 The following table represents average annual wage movements for the private and public sectors over the last three financial years and the pay increases received by Masters, Engineers and GPHs over the same period.¹³⁷

¹³⁷ NSW Treasury ABS 6345.0, Labour Price Index, June Quarter 2007 (Tables 3b & 4b), and SFC wage increases

	Average Annual Wage Movement (%)		Wage Increases (%)
	Public Sector	Private Sector	SFC Afloat Staff
2004-05	4.3	3.3	3-4
2005-06	5.2	3.7	4-5
2006-07	4.3	3.6	4-14 ¹³⁸

780 In the last financial year, SFC GPHs, Inner Harbour Masters and Inner Harbour Engineers received 4% pay increase, Outer Harbour Engineers received 4.9% and Outer Harbour Masters received 14%. Each increase was generally in keeping with public sector wage movements and slightly above those in the private sector, with the exception of the additional 10% pay rise granted to Outer Harbour Masters.

781 Data on average annual remuneration, overtime and penalty payments for the public sector generally, public transport and selected maritime authorities was provided by the PEO and is set out in the following table.¹³⁹

¹³⁸ Outer Harbour Masters received an additional 10% increase from 1 January 2007. Further details are provided later in the Chapter

¹³⁹ NSW Workforce Profile Collection, NSW Department of Premier and Cabinet, 2007, unpublished data

SELECTED PUBLIC SECTOR AGENCIES: REMUNERATION JUNE 2005 & JUNE 2006

	As at JUNE 2005 ¹⁴⁰		As at JUNE 2006	
	Overtime/ Penalties ¹⁴¹ (average per person)	Average Annual Remuneration ¹⁴² (including overtime/ penalties)	Overtime/ Penalties ¹⁴³ (average per person)	Average Annual Remuneration (including overtime/ penalties)
State Transit Authority	16,344	58,864	15,242	59,461
All Public Sector	4,997	62,082	5,323	64,890
RailCorp	15,551	65,005	15,668	71,168
Sydney Ferries Corporation	7,830	73,961	19,903	89,014
Newcastle Port Corporation	4,609	87,492	1,354	90,410
Port Kembla Port Corporation	5,712	97,686	1,392	94,199
Sydney Ports Corporation	2,288	93,000	210	97,759

782 The payment of overtime and penalties to SFC staff in 2006 is the highest of the selected public sector agencies. While the annual average remuneration is above the average enjoyed by the public sector, it is below that paid to Ports Corporations.

783 By way of social context (but not realistic comparison), school teachers earn an average annual remuneration of \$62,155, although their paid working week is about 31 hours.¹⁴⁴

¹⁴⁰ The Workforce Profile is a census collection and therefore average annual remuneration is identified at a point in time, that is, June of each year

¹⁴¹ The NSW Workforce Profile estimated penalty payments by subtracting each employee's base salary and overtime payments from their total gross earnings

¹⁴² Average Annual Remuneration is an average of Total Gross Earnings for all classifications, including the Senior Executive Service (SES) in the agencies above

¹⁴³ The NSW Workforce Profile estimated penalty payments by subtracting each employee's base salary and overtime payments from their total gross earnings

¹⁴⁴ NSW Workforce Profile Collection, NSW Department of Premier and Cabinet, 2007, unpublished data

CONCLUSION

- 784 All of the conditions and wages enjoyed by those employed at SFC are as a result of a legitimate bargaining process sanctioned by the relevant industrial authority.
- 785 The MUA, particularly in relation to those GPHs who work entirely ashore, have been successful in negotiating generous pay and leave entitlements.
- 786 If the Masters, Engineers and GPHs work all or most of the hours for which they are paid, it appears they work longer hours than most with whom they were compared.
- 787 The MUA provided information to the Inquiry in which the Union compared SFC Deckhands with NSW Maritime Environmental Officers and employees of Tug Operators. The Union told the Inquiry:

“Arguably, GPH employed by Sydney Ferries require greater skills and responsibilities as a result of the nature of the operations of Sydney Ferries. The operation necessitates the tasks of dealing with passengers, selling tickets and providing information relating to services and timetables.

GPH employed by Sydney Ferries also undertake significant additional training obligations not required of persons employed in the classifications listed in the table above, including security and bomb threat procedures, customer service training, regular crew resource management drills and extensive vessel familiarization training.”

- 788 Public and private ferry and cruise operators deal with passengers, sell tickets and provide information. Crew resource management and vessel familiarization to some extent, must be the subject of training for crews of all the agencies with whom the Inquiry has sought to compare SFC GPHs. The cogency of this ‘arguable’ explanation is not overwhelming.

NEGOTIATING THE CURRENT ENTERPRISE BARGAINING AGREEMENTS

Introduction

789 As indicated earlier, there are five quite different EBAs in place. The EBA for the Balmain Shipyard workers is dealt with in Chapter 11.

790 A common EBA for afloat staff has been identified as important since at least 2001.

791 The Taylor Report¹⁴⁵ found that there were significant areas of difference in the then Agreements which while reflecting legitimate bargaining outcomes, compounded the complexities involved in running a ferry service.

792 That Report recommended that:¹⁴⁶

“Sydney Ferries and its unions should consider moving over time towards a common Enterprise Agreement with greater commonality across the organisation including a common set of core terms and conditions. While these may reflect legitimate differences between occupational groupings, Sydney Ferries and its employees will benefit from improved organisational and operational effectiveness.”

793 This is clearly the case and, unfortunately, in 2007 it is far from being achieved. However, in its submission to the Inquiry, the MUA advised that it was *“willing to explore the possibility of a single enterprise Agreement”* to cover afloat staff. SFC told the Inquiry that AMOU had indicated to SFC that it supports a common Agreement for mariners. From this and related material, some confidence is justified that these two key unions do not adopt an obstructive positions against a reform so obvious as a common afloat EBA.

¹⁴⁵ Taylor, M *Review of Operations of Sydney Ferries*, op cit 1, p 74

¹⁴⁶ Ibid recommendation 6.6.1.2

THE NEGOTIATIONS

- 794 The negotiations for the current EBAs commenced in January 2005 and concluded in August 2006. This seems to be a very lengthy period of time, particularly in relation to the AMOU Agreement, which was the last to be finalized in August 2006. There can be little doubt that the process was hampered by the number of unions involved and the desire of each to ensure that the conditions enjoyed by its members were not less than those achieved by other unions.
- 795 The Inquiry understands that at one stage the Minister of Transport became involved at the request of the MUA and recommended the appointment of a third party mediator. Industrial action was taken by one union and the Australian Industrial Relations Commission (“AIRC”) intervened in respect of disputes with two of the unions.
- 796 SFC wanted to achieve from the EBAs, among other matters:
- a. a reduction in overtime generally and by way of new rosters and the greater use of hours within the aggregate salary;
 - b. crew-based rostering;
 - c. fewer sick leave entitlements; and
 - d. the introduction of a performance review system.
- 797 Crew-based rostering is essential to improving and maintaining the safe and reliable operations of SFC. Vessels should generally be crewed by Masters, Engineers and Deckhands who are familiar with the vessel, each other and the procedures to be followed. Numerous reports have decried the lack of crew-based rosters. SFC has long recognized the benefits to be gained from such an approach as does each of the afloat unions. It is not yet in place.

WHAT WAS ACHIEVED?

798 After completing negotiations, SFC was required to consult with the then PEO and NSW Treasury about the costs which would be incurred and the savings achieved under the proposed Agreements.

799 Appendix I sets out the information provided by SFC to the PEO in about July 2006.

Masters and Inner Harbour Engineers

800 SFC identified that the AMOU Agreement would cost just under \$5 million, the principal cost being a wage increase of 4%. The 4% comprised a base increase of 3% which was in line with Government policy and a further 1% said to be in exchange for productivity savings. The PEO was told that just under \$3 million would be saved, primarily as a result of a reduction in overtime and penalty costs and sick leave and associated costs.

801 In addition, merit-based recruitment selection and a performance review management system would be introduced, a commitment was secured to crew-based vessels, a new roster was to be implemented and it was proposed to standardize hours of work and salaries for all Masters and Engineers.

802 SFC claimed that about 60% of its increased costs would be offset by savings under the Agreement. As Government policy required 25% of SFC costs to be offset under the Agreement, it appeared that SFC had done well out of the negotiations.

803 Twelve months later, a different tale emerges.

804 Vessels are not crew-based, no roster has been agreed, hours of work and salaries have not been standardized and a performance review management system has not been introduced. The costs of the 4% pay increase have been incurred, as have the Public Holidays and the training allowance, however, the costs associated with the introduction

of the annual salary and the income protection insurance, a relatively modest \$282,000, have not.

805 In relation to the savings benefits, of the \$1.153 million estimated to be saved over the life of the Agreement in overtime costs, only \$88,183 was realized. Sick leave costs increased, rather than decreased, although there was a saving from the reduction in accrual of sick leave entitlements. About 5% of the costs savings in training estimated to be achieved over the life of the Agreement were achieved and only about one-half of the savings associated with the abolition of public holiday entitlements were made.

806 SFC advised the Inquiry that the savings in overtime and penalty costs were not achieved because new rosters have not been introduced.

10% Increase for Outer Harbour Masters

807 On 2 August 2007, SFC granted a wage increase of 10% to Masters when operating Freshwater vessels (Outer Harbour Masters). That increase was back-dated to 1 January 2007.

808 SFC told the Inquiry that, in late 2006, it was concerned that Outer Harbour Masters were selected on the basis of seniority, rather than merit, that there was no career progression for such Masters, that there was no performance management regime and, finally that Outer Harbour Masters were paid only about \$2,500 more than Inner Harbour Masters.

809 In order to deal with those concerns, the CEO met with a representative group of Outer Harbour Masters on 9 November 2006. He offered, unsolicited, and it was accepted, that a grading adjustment or surcharge equivalent to 10% of wages would be paid when serving as a Freshwater Master. In addition, full control would be given to SFC in selecting Outer Harbour Masters and a performance assessment process would be introduced.

810 Ultimately, a Deed of Agreement incorporating these terms was signed in July 2007. It was expressed as a Schedule to the EBA. Before granting the increase, SFC did not consult with the PEO and NSW Treasury as it should have done.

811 The result of the pay increase was to increase the wages bill by about \$200,000 in the first year.

812 While the goals sought by the SFC are commendable, it does appear to the Inquiry that they may have been achieved under the EBA which was then in force.

813 In relation to the selection of Outer Harbour Masters, clause 5.5.2 of the AMOU Agreement states that SFC is committed to recruiting the best person for the job through the SFC merit selection procedure and process. Clause 5.7.2 states that the parties agree with the principle that a vacancy will be filled according to length of service within a classification and suitability.

814 Further, SFC advised the Inquiry that the merit-based recruitment selection provision of the EBA had been implemented on 7 August 2006 with the comment, "*introduced without issue*". This statement is at odds with one of the reasons given for the 10% increase.

815 Notwithstanding the terms of this clause and its earlier advice to the Inquiry, SFC said that it wished to remove from the AMOU, "*the absolute control which it had over the selection of Masters to fill internal vacancies*" and thus made the offer.

816 Rear Admiral Smith told the Inquiry:

"The actual application of that provision in effect as opposed to possibly the legal intent of it was that management up to this point had very little control over the selection of that pool and the selection of the successful person."

817 And as to whether benefits have flowed:

“In this year, on two occasions and possibly three but I definitely know of two, where we have had to fill vacancies on the Outer Harbour, we have called for people who would like to volunteer to do that and through that process, we have declined to accept two nominations who otherwise would have probably got it under the old regime because they were pretty senior.”

- 818 In relation to performance management, the EBA provides that SFC would consult on the proposed performance management procedures. The Schedule containing the Agreement with the Outer Harbour Masters was silent as to performance management.
- 819 The process followed by SFC in giving the pay rise was that its Board was not made aware of the offer made by the CEO, although the CEO had discussed it with the then Chair. The Board now considers that it too should have been made aware of the proposed offer.
- 820 This increase was granted at a time when SFC was in protracted negotiations with the AMOU over the introduction of new rosters. The AMOU covers Outer Harbour Masters. SFC contends that the pay rise was back-dated to 1 January 2007 because the agreement in November 2006 was that it would commence in January 2007. However, the reason for the delay was, *“internal tensions between AMOU officials”*.
- 821 Rear Admiral Smith told the Inquiry that SFC is closer to agreement with the Outer Harbour Masters on rostering, an achievement he relates to the 10% pay increase.

General Purpose Hands

- 822 The MUA Agreement comprised a 4% per annum wage increase and sick leave bonus, costing just over \$6 million. To the PEO, in about July 2006, SFC identified that, over the life of the Agreement, about \$4.5 million would be saved through reducing overtime and sick leave expenses. It appears much of the overtime would be reduced through

increasing the work to be included in the aggregate wage. It was calculated that savings would offset 73% of increased labour costs.

823 In addition, merit-based recruitment selection and a performance review management system would be introduced and a commitment was secured to crew-based vessels.

824 What actually occurred over the first full financial year after the Agreement was implemented was that the anticipated costs were incurred and the estimated benefits were largely not achieved. Overtime savings of just over \$300,000 were achieved and sick leave increased. Again, SFC told the Inquiry that the failure to achieve savings in overtime was due to the failure to introduce new rosters.

Outer Harbour Engineers

825 The projected savings and costs for this relatively small component of the workforce, covered by the AIMPE Agreement were more modest, with about one-half of the cost of the pay increases being offset by changes, primarily by additional duties being performed. The projected savings for 2007 were achieved in that year.

WHAT WENT WRONG?

The EBA Provisions

826 As has been seen in earlier Chapters, SFC's ability to accurately forecast costs is limited. Its optimism to the PEO was misplaced. Appendix G sets out a comparison of the key provisions in the EBAs. Given the differences between them, achieving common rosters was not going to be easy. As it transpired, the failure of management and the unions to agree on this matter is the main reason for SFC's failure to achieve the benefits it anticipated.

827 Each of the three Agreements covering afloat staff contain different and inconsistent provisions. As the General Manager, Operations, said:

“The difficulty we had right from the outset – even before the first roster workshop – we had a little management group meeting to try to list all the parameters in the three enterprise Agreements to try to figure what were the boundaries to developing new rosters, so AMOU 200 days, MUA 180-hours per four weeks, et cetera.

What we’ve found along the way is that it is almost impossible to get the three—it’s a bit like a Rubik’s cube. It’s a bit hard to get absolutely everything to come into place. So we worked on the principle that the amount of time you physically work people was the big parameter—not exceeding the number of days or the number of hours, et cetera, and the rest we would fit as best we could. One of the parameters, certainly in the AMOU one, was not only to have the number of days, et cetera, but to have fairness in the rosters so that, in the end, people would work, as near as possible, close to the same amount of time.

The current rosters that the AMOU work to have huge variance in them. Some have very, very generous rosters and others work a lot longer.”

828 The AMOU Agreement states that, *“the parties are committed to working together to establish and reach Agreement and soon as possible on new rosters for the purposes of introducing the Maritime Officer Annual Salary”*.

829 The hours of work were prescribed as 38 hours. The ordinary, maximum hours worked per fortnight (including pre-paid overtime) under the aggregate salary are as follows:

- a. Outer Harbour Masters 98 hours;
- b. Inner Harbour Masters 104 hours; and
- c. RiverCat Masters 102 hours.

- 830 The AIMPE Agreement does not require the agreement of the Union to implement rosters and provides for a 38-hour week, although 98 hours per fortnight are worked by Outer Harbour Engineers.
- 831 By contrast, the MUA Agreement covering the Deckhands provides for a 192-hour four week cycle. It also does not require the agreement of the workers to set the rosters. The working time for Deckhands is based on hours worked while for Masters it is day-based.
- 832 The effect of these provisions is that crew-based rostering cannot be achieved under the current EBAs without the hours of work of at least one of the crew being altered from that contained in the Agreement. SFC should have appreciated the difficulties into which it was placing its operations when it agreed to such differing terms.
- 833 There have been clear detrimental effects, in particular in relation to training and safety as a result of the organization and some in its workforce failing to agree on what must be a basic element in a workplace which operates 18 hours a day, namely who will work when to ensure complete coverage.
- 834 It is recommended that the Portfolio Minister give a written direction to the Board pursuant to sec 35K of the *TA Act* or sec 20P of the *SOC Act* on the grounds of public safety or that it is necessary for the public interest that SFC take all steps necessary for it to obtain one EBA with all afloat staff.

The Roster Negotiations

- 835 Under the AMOU Agreement, the parties agreed to work towards establishing rosters by October 2006.
- 836 Among other matters, rosters were to be prepared on a four or six weekly cycle based on a maximum 12-hour, minimum six-hour shift. In addition, each Maritime Officer was entitled, over 365 days per year within an agreed roster, to a minimum of 165 days free of duty and up to 200 days of duty. The hours of work were to be based on a 38-hour

ordinary working week. The provisions of the earlier EBA were to apply until the new agreed rosters were put into operation. Those provisions appear to be limited to requiring an average maximum of 102 hours per fortnight.

837 Soon after the Agreement was signed, SFC convened a number of Roster Workshops with delegates of each of the afloat unions, AMOU, MUA and AIMPE. At the first Roster Committee meeting each of the unions present made a commitment to achieve crew-based rosters. It will be recalled that the MUA and AIMPE Agreement permitted rosters to be imposed without agreement. Thus, the AMOU was the only union with which SFC had to negotiate.

838 By September 2006 the interpretation of the clause setting the maximum number of days available to work in any one year, that is days of duty, emerged as a key issue.

839 SFC believed the 165 days free of duty comprised 104 rostered days off (the equivalent to a weekend, or two days off for each of the 52 weeks of the year); 11 public holidays and all the leave to which staff were entitled; that is, 25 days annual leave, 12 days maritime leave and 13 days leisure leave. The AMOU's position was the 165 days did not include all the leave to which its members were entitled.

840 It must be said that if the AMOU's proposition were correct, that is, that some or all of the leave is subtracted from the 200 days referred to in the EBA, many may well work less than half the days in a year. Each Master and Engineer who gave evidence denied that his intention was to increase his leave beyond the stipulated ten weeks. However, this would be the effect.

841 The various witnesses who gave evidence were unable to adequately explain how the words of the EBA could be read to justify their position that 165 days did not include all of the leave to which they were entitled.

- 842 It appears that at least some delegates and other members of the Union took the position that their existing rosters did not include leave, therefore, the new rosters should not. One of the delegates agreed that regardless of the wording of the EBA he would only negotiate on the basis that the old rostering patterns remain the same. This is clearly unacceptable. While it may be a common feature of industrial negotiations, it renders the 18 months over which the EBA was negotiated a near waste of time and resources.
- 843 By expressly negotiating with SFC on the basis that the clause should be interpreted so that 165 days did not include all the leave, the delegates adopted an untenable position which is not supported by the words used in the EBA.
- 844 Roster Workshops were convened on two days in October 2006 and on each occasion the AMOU representatives did not attend. At each meeting SFC distributed its proposed rosters. A further Roster Workshop was scheduled for 13 November 2006 and was cancelled after the AMOU delegates indicated that they would not attend. In November 2006 the AMOU delegates told SFC they refused to attend any further meetings until the leave issue had been resolved.
- 845 It could be concluded that the conduct of those AMOU delegates was obstructionist and designed to prevent proper negotiations. It should be noted that the President of the Union agreed that this conclusion could be drawn.
- 846 In March 2007, following dissension within the AMOU, the Union official representing the Union in the negotiations changed from Michael Fleming to Fred Ross. When Fred Ross took over at the end of March 2007 he did not seek to obtain the history of the negotiations from either the delegates or Mr Fleming.
- 847 Mr Ross told the Inquiry that he was of the opinion that the 165 days off referred to in the EBA included leave. He understood that the delegates' position was that it did not include leave.

- 848 It is clear from his evidence that at no stage did Mr Ross, either in writing or orally, repudiate to SFC the claim that the 165 days did not include leave. He said he did not do so because, *“it would have caused another turmoil within the Union”*. However, he told the Inquiry that he had made it clear to the members that they were wrong in their interpretation of the clause in the Agreement.
- 849 Mr Fleming was also of the view that the position taken by the delegates that 165 days does not include leave was incorrect. He also had not informed SFC that the Union was wrong to assert the opposite.
- 850 Notwithstanding commitments to the contrary, AMOU did not provide SFC with its preferred rosters until May 2007. Shortly prior to that, SFC had notified a dispute to the AIRC concerning the failure to reach agreement on rosters. SFC is currently appealing a finding of the AIRC that it does not have jurisdiction to arbitrate the dispute by imposing rosters on the parties.
- 851 SFC commissioned Booz, Allen and Hamilton to analyze the impact of the rosters put forward by each of the AMOU and SFC as at May 2007. In its Report dated May 2007, the consultants noted that the different roster options met SFC policy requirements to varying degrees, with the proposed SFC rosters best achieving most policy objectives.
- 852 In particular, the consultants stated the SFC proposal required 87 floating crews encompassing 291 floating staff, while the AMOU rosters required 99 floating crews, encompassing 332 floating staff. Booz, Allen and Hamilton also found that crew productivity and annual days worked were significantly lower under the AMOU proposal.
- 853 In addition, the consultants expressed the view that the SFC proposed rosters were team-based, improved staff utilization to 93% and provided a good rotation of Drill Packs through Inner and River rosters and met all the Agreement provisions. By contrast, the AMOU proposed rosters were not team-based, reduced staff utilization to 71% of available

annual days, required an additional 60 staff, did not meet enhanced training opportunities and failed to meet all Agreement provisions.

854 Negotiations effectively ceased between May and August 2007. In the last couple of months there have been various meetings between management and a new set of delegates. It is understood that the Masters and Inner Harbour Engineers are still unable to agree with management on the rosters they should work.

855 It is clear that communications within the Union, that is between paid officials of the Union and between the Union and delegates and between delegates and other employees, were poor and contributed to the failure of the Union and its representatives to enter into good faith negotiations with SFC over rosters.

856 For example, one employee had not been made aware by the Union that one purpose of the rosters was to secure crew-based rosters, another did not know that his representatives had failed to attend a number of roster committee meetings, Mr Ross and Mr Fleming did not share information about the history of negotiations or indeed correspondence from the Special Commission to the Union and most witnesses were of the view that Mr Ross and Mr Fleming shared the delegates' interpretation of the clause.

857 A stark illustration of the deficiencies in the internal workings of the Union can be found in a submission which was received by the Inquiry in the name of the AMOU. It was intemperate, contained some unsustainable propositions and was plainly inaccurate in some respects. The person who delivered it to the Inquiry and admitted authorship, said he was writing it on behalf of the delegates on instruction from Mr Ross and had sent Mr Ross a copy before submitting it. Mr Ross denied any knowledge of the submission including its content and denied the author was authorized to make it. The President was not aware of the submission. Subsequently, the Union repudiated the submission and its author wished it to be

withdrawn. The result is that the Inquiry has not had the benefit of the views of the Union by way of a general written submission. It did receive a submission on the question of funding ferry operations.

858 Following receipt of the submission, the Inquiry, through correspondence with the Union, offered to meet with Masters and Inner Harbour Engineers. No meeting was arranged by the Union.

859 However, it should not be thought that fault lies only with the Union. It was clear to SFC as early as September 2006 that there was a significant point of disagreement with the Union as to the days to be worked. It should have been clear to SFC that the Union's position was unsustainable in terms of the plain reading of the words of the EBA.

860 SFC's General Manager, Industrial Relations, was asked why SFC did not, earlier than May 2007, resort to the AIRC for the matter to be resolved. She was unable to provide a satisfactory reason. She agreed that, in retrospect, the way in which the Union proceeded with the negotiations was simply walking away from the EBA.

861 As at August 2007, the rosters put forward by SFC were based on an eight or 12-week cycle which was inconsistent with the provisions of the EBA which provided for a four-six week cycle. The evidence indicates that rosters based on a four-six week cycle are not impossible to achieve, although apparently such a short cycle will create inequities between employees. If that is the case, one must ask why SFC agreed to an EBA with such a provision.

862 While the rosters remain in dispute, SFC's ferries do not all have crews who usually work together, there has been no significant reduction in overtime and considerable management time has been spent on negotiations spanning more than 30 months.

863 This situation reflects poorly on the AMOU and management. Its resolution should be a priority and the result must be crew-based.

RELATIONS WITH UNIONS

- 864 As indicated earlier, SFC's workforce is represented by eight unions and five EBAs are in force. It is clearly resource intensive to separately consult and negotiate with each union and the recommendation was made earlier in the Chapter that there be one EBA for all afloat staff.
- 865 SFC has provided the Inquiry with voluminous material in relation to past and current disputes with unions. It is fair to say that most disputes arise with the MUA, representing the Deckhands. It is the case that this Union represents more employees than any other. The Inquiry is not an industrial tribunal and has not sought to determine the rights and wrongs of each dispute. It has also not carried out a comparison between similar sized Government agencies and SFC to ascertain whether SFC is more or less burdened with industrial disputation.
- 866 What is clear is that disputes when they arise tend to be protracted, often involve an industrial tribunal which tends to conciliate rather than arbitrate and, from some correspondence viewed by the Inquiry, are on occasions conducted with intemperate and inflammatory language. The rostering dispute with the AMOU referred to earlier in the Chapter is an illustration, as is the following dispute over the disciplining of a GPH.
- 867 SFC received information that on 9 March 2007, a GPH may have permitted customers to board the Manly ferry without paying for a ticket. The General Manager, Operations, then proposed to interview the GPH with a view to considering whether to take disciplinary action against him. He emailed Glen Wood, Acting Branch Secretary of the MUA on 19 March inviting a delegate of the MUA or another Union official to accompany the GPH to the interview.
- 868 The same day, the General Manager, Operations, received a phone call from Mr Wood which he described as follows in an email to the General Manager, Industrial Relations:

“Glen Wood called me this morning. He said he has directed [the GPH] not attend a meeting with me. He repeated his past statement that the action [the GPH] took on 9 March was at his direction. Glen Wood went on to state that if I insisted on [the GPH] attending a meeting I would be very sorry for what he would do. He added words to the effect of ‘Just wait and see what will happen’. ‘The Special Commission won’t be very impressed with what will happen.’”

869 Later that day, the General Manager, Operations, received the following email from Mr Wood:

“Regarding your request for a meeting with [the GPH]. May I reinforce my comments to you again in relation to this matter? [The GPH] will not attend any meetings on this matter, nor will any delegates or Union officials.

As we consider this matter has been resolved. So stop this crap, and get on with running Sydney Ferries like you have been employed to do.”

870 In evidence, both the Secretary of the MUA, Pdraig Crumlin and Mr Wood agreed that, in general, a meeting of the kind that the General Manager, Operations, proposed to have with the GPH was both proper and appropriate. Mr Crumlin stated that, *“it is management’s prerogative to meet with their employees”* and that the invitation by the General Manager, Operations, for the GPH to be accompanied by a delegate or union official was, *“the better end of practice in industrial relations”*.

871 Mr Wood told the Inquiry that he had directed the GPH not to attend a meeting with management because he understood that there had been a discussion between the General Manager, Industrial Relations, and two MUA officials on 15 March 2007 and that the matter was resolved. Mr Wood was not present at the discussion and was unable to tell the Inquiry how the matter had been resolved on 15 March 2007 or whether

any disciplinary action had been taken against the GPH at that time. Mr Wood explained that the tone of his email:

“... was because of [the General Manager, Operations] constantly saying, ‘I want to talk to the GPH. I want to talk to the GPH.’ I kept on saying to him, ‘It has been resolved. There's no more matter there... It has been resolved on 15 March. Why do you want to keep bringing this on and on and on all the time? ...Every time you spoke to [the General Manager, Operations] about an issue on Sydney Ferries he'd say, ‘Oh, by the way, I still need to talk to the GPH’, and that's what caused that response.”

872 Mr Crumlin had not seen the email sent by Mr Wood to the General Manager, Operations on 19 March until he was shown it by the Inquiry. Mr Crumlin described it as, *“an unambiguous email that was likely to result in a worsening of the relationship between the Union and the management at Ferries”*.

873 Mr Crumlin was asked whether, drawing on all his experience, he could think of any justification for the General Manager, Operations's requirement to meet with the GPH being met with opposition by the Union. Mr Crumlin told the Inquiry, *“These things happen when relationships break down. I've been broadly aware that there have been very poor industrial relationships between the management of Sydney Ferries and my Union for a period of time”*.

874 Mr Wood was more blunt, *“it's a bad relationship...[it is] very brittle”*.

875 A key complaint of the unions appears to be a lack of consultation. By contrast, SFC points to significant opportunities having been given for consultation, not all of which are taken up by the unions.

876 The unconstructive relationship has impacted on the ability of management to implement reforms and contributed to the poor culture of the Corporation.

RECOMMENDATION

877 It is recommended that the Portfolio Minister give a written direction to the Board pursuant to sec 35K of the *TA Act* or sec 20P of the *SOC Act* on the grounds of public safety or that it is necessary for the public interest that SFC take all steps necessary for it to obtain one EBA with all afloat staff.

CHAPTER 9

SAFETY SYSTEM

INTRODUCTION

- 878 The principle objective of SFC is to deliver safe and reliable Sydney ferry services in an efficient, effective and financially responsible manner.¹⁴⁷
- 879 SFC operates in a highly regulated environment with respect to matters of safety. There are numerous provisions in legislation which prescribe its operations to ensure that they are conducted safely. Its vessels must be surveyed and it must comply with any conditions of survey permits, the number and qualifications of crews are stipulated, it must comply with speed limits and distance off rules and with the *International Regulations for Preventing Collisions at Sea*. In addition, it has developed an externally audited Safety Management System (“SMS”), which is based on international standards and which complies with Guidelines prepared by NSW Maritime.
- 880 Further, SFC is required to report incidents and accidents to NSW Maritime and is subject to investigations by not only its regulator, NSW Maritime, but by OTSI. Recommendations made and directed to SFC by bodies such as NSW Maritime and OTSI are regularly audited by NSW Maritime and ITSRR to ensure appropriate implementation.
- 881 Given this context, the Inquiry has not sought further and separate expert assistance to conduct an analysis of the components of SFC’s SMS, by way of expensively second guessing the experts already engaged. It has, however, inquired into SFC’s compliance with those

¹⁴⁷ *TA Act* subsec 35B

externally imposed standards. This task has been rendered more difficult by the variable reliability of data held by SFC.

882 Other Chapters of the Report also concern matters which contribute to or detract from the safe operations of SFC. It is inevitable that the age and diversity of the fleet, the timetables with which the vessels and their operators should comply, the lack of standardization of the wharves, the operations of the maintenance facility at Balmain, the financial health of the organization, the way in which it is managed and the relationship between employees and management all impact on the safety of its operations.

883 In this Chapter, emphasis is placed on training and on the incident reporting system in place at SFC, the latter because of its importance to the organization in obtaining reliable data from which it can analyze its performance, take appropriate action and communicate the lessons learned.

SAFETY MANAGEMENT SYSTEM

884 The key method by which SFC has sought to achieve its objective of delivering safe ferry services has been the adoption and implementation of a SMS.

Quality, Safety and Environmental Management System

885 The Taylor Report recommended that Sydney Ferries (as it then was), *“in consultation with its employees and their unions, develop and implement a relevant safety management system in accord with the philosophy of the ISM Code, designed to meet the needs of Sydney Ferries across all areas of operations.”*¹⁴⁸ In addition, it recommended that it operate under a system accredited by a single agency which would also be responsible for monitoring and reporting on continuing safety performance.

¹⁴⁸ Taylor, M, *Review of Operations of Sydney Ferries*, op cit, p 5

- 886 In response to that recommendation, in 2002 Sydney Ferries adopted a Quality, Safety and Environmental Management System (“QSEMS”) which met the requirements of the International Standards Organisation Standard for Quality Management Systems ISO 9001:2000 (“the ISO Standard”), ISO 14001 and the ISM Code.
- 887 Effectively, the QSEMS requires documented procedures covering vessel operations, maintenance and all business management services. It requires management commitment, document control, responsibilities and accountabilities to be defined, lines of communication to be established, training to be undertaken and recorded and a monitoring, measurement, analysis and improvement process to be in place.
- 888 It consists of a Procedures Manual, which is supported by various operational manuals, each of which contains detailed procedures relating to the area covered, for example, Balmain Shipyard, finance, vessels and shore-based operations.
- 889 The QSEMS is required to be and has been regularly externally audited and SFC accredited by Anglo Japanese American Registrars Limited (“AJA Registrars”), about which more will be said later. Suffice to note that the QSEMS is not fully compliant with the standards on which it is based.

NSW Maritime Guidelines

- 890 In 2004, the *PT Act* was amended to provide that SFC must have, and implement, a documented SMS which:
- a. identifies any significant risks that arise from providing the service;
 - b. specifies the controls (including audits, expertise, resources and staff) that are to be employed to manage the risks and to monitor safety outcomes; and

- c. complies with any requirements prescribed by the regulations or set out in NSW Maritime Guidelines.¹⁴⁹

891 The NSW Maritime published Guidelines in September 2004. They are also based on the ISM Code. Other elements have been derived from the OH&S legislation requirements, the Australian Standard for OH&S Management Systems AS4801:2001, the Protection of the Environment Operations legislation, the International Standard for Environmental Management Systems ISO14001:1996 and from the *PT Act*.

892 The Guidelines require a safety and environmental protection policy, instructions and procedures to ensure safe operation of the vessel and defined levels of authority and lines of communication between vessel and shore-based personnel. Procedures for reporting accidents and non-conformities, to prepare for and respond to emergency situations and for internal audit and management review are also required.

893 NSW Maritime audits SFC pursuant to its Guidelines. The Guidelines are significantly less prescriptive in the manner in which the objectives are to be achieved than the QSEMS. However, the objectives are similar, not surprising because they are both based on the ISM code. As at February 2007, NSW Maritime was satisfied that the QSEMS addressed all the elements required under the Guidelines, although it identified a number of deficiencies in the SMS which will be dealt with below.

ADEQUACY OF THE SAFETY MANAGEMENT SYSTEM

Independent Audits

AJA Registrars

894 A key component of any safety system is that it be regularly, independently and internally audited.

¹⁴⁹ *PT Act* subsec 53D(2)

- 895 The QSEMS requires SFC to undergo a surveillance audit to determine the extent of ongoing conformance with the requirements of ISO 9001:2000. There have been a number of audits performed since November 2002 by AJA Registrars Limited. Some of the audits have been unscheduled and others have been scheduled.
- 896 The first major deficiency was identified by AJA in May 2004. It related to SFC's processes for dealing with non-conformity reports ("NCR"), that is a report identifying an area of the system which required improvement. The auditor found that many were not investigated to determine the cause and that the system was not ensuring that the essential requirements of evaluating the need for action to ensure that the NCRs do not reoccur, determining and implementing action needed were being met. The auditors advised SFC that they could not be recommended for re-certification against the requirements of ISO 9001:2000.
- 897 When asked by the Inquiry, SFC was unable to advise what action it had taken in relation to the May 2004 audit findings. It provided a general overview of the steps it had taken since corporatization relating to its system for managing internal and external corrective action reports.
- 898 However, in a report to the Board's September 2004 Safety, Environment and Security Committee, SFC advised that, *"essentially the quality section was overwhelmed by inappropriate use of the system and was reduced to conducting a record keeping function rather than the required analysis and advisory task"*.
- 899 A further major deficiency was identified by AJA in November 2004 concerning the absence of internal audits over the previous six months. It was considered appropriately addressed in the next audit undertaken in May 2005. Subsequent audits were carried out in December 2005, April, July, October and December 2006. A number of minor matters were raised by the Auditors, many of which remain unaddressed.

- 900 The most recent surveillance audit occurred in June 2007 and the resulting report determined that there were 11 major deficiencies, the most adverse finding since SFC adopted the system.
- 901 The audit found that, in effect, the OTSI investigations into the fatal accidents in 2007 and this Inquiry have had an adverse effect on SFC's capacity to properly allocate sufficient resources to close out the previously raised deficiencies. It identified as a weakness that SFC did not undertake adequate management review in strict accordance with the standards, which may have identified a resource issue.
- 902 The areas covered by the audit included:
- a. deficiencies in internal audits;
 - b. ineffective training in a number of areas including the absence of a procedure to ensure unqualified staff are not rostered to vessels and in incident reporting;
 - c. inadequacies in the vessel operations manual;
 - d. no evidence of the evaluation of the awareness of staff of the relevance and importance of their activities and how they contribute to the achievement of quality objectives; and
 - e. inconsistent testing of emergency equipment across the fleet.
- 903 It concluded that SFC has a large amount of uncontrolled documentation which if 'implemented' into the management system would immediately address many of the deficiencies raised in the audit.
- 904 This conclusion indicates that most of the defects are those of form. It is also the case that many of the deficiencies were treated more seriously by the auditors because SFC did not rectify them within a set period of time.

905 SFC advised the Inquiry of the status of its responses to AJA recommendations: few have been completely implemented, most are stated to be 'in progress'.

NSW Maritime Audits

906 In October 2004, NSW Maritime conducted an audit it described as a, "*desk top audit assessment in terms of safety management system requirements*".

907 The audit found that a safety management system was in evidence and that there was a comprehensive documentation and a system for reporting and addressing non-compliances. Among other matters, it noted that incidents were reported and immediate action taken, but also concluded that like incidents were re-occurring. It concluded that the SMS procedures were documented, but not easily accessed and would prove unwieldy to use operationally.

908 A further audit was conducted in October 2005, which included observing the vessel in operation. It noted that themes identified in earlier reviews persisted including lack of feedback and closure of system problem reports, limited assessment of the Shipyard performance, delays in addressing work requests, poor communications between management and staff and problems with emergency training of crews.

909 It also noted that the AJA audits reflected similar concerns highlighting the complexity of the quality system, documented procedures not being followed and training for emergency situations being compromised by the time available and the absence of some crew through the rostering system. The audit described the culture being driven by a number of factors including Government ownership and history of SFC and its strongly unionized workforce.

910 The audit found that the system problem reports formed an essential element in identifying and managing risk, however, they were often not

closed down for long periods of time. Feedback was often scant and rarely disseminated to all those concerned. There was no attempt to follow up on solutions and subsequently measure the effectiveness of solutions adopted. There was no formal record of identified risks as might be found in a risk register and no formal management plan.

911 It was also critical of the standard operating procedures and emergency operating procedures.

912 Rear Admiral Chris Oxenbould, Chief Executive Officer of NSW Maritime, gave evidence that the October 2005 audit was carried out because of the spate of ferry incidents at that time. Previously its work as a safety regulator was in the areas of surveying vessels and certifying crews. Rear Admiral Oxenbould does not see NSW Maritime's role as a regulator to carry out practical tests on SFC and he believes that the formation of the Fleet Standards Group within SFC will effectively perform that function which is described later in the Chapter.

913 In March 2006, NSW Maritime conducted an audit into crew resource management of the Freshwater class vessels and found that, generally, the operating procedures were adequate, however, more frequent training than the current three monthly training was necessary to retain the required skills.

914 In April and May 2006, NSW Maritime conducted two technical audits with favourable results.

WalterTurnbull

915 In August 2006, WalterTurnbull who provides internal audit services for SFC carried out an internal audit of what it called the Quality Management System ("QMS"), called in the report the QSEMS.

916 WalterTurnbull concluded that management's commitment to the maintenance and further development of the QMS which was certified in November 2002, had been undermined in the last two to three years by factors such as significant business transformation including new

management structures, high turnover of senior management and a number of safety incidents and impediments to service reliability that lead to a re-focusing of efforts on safety and reliability.

917 It concluded that the QMS did not fully conform with the eight quality management principles that underpinned the ISO Standard. Key findings included:

- a. all the policies, processes, procedures, people, tools and equipment and other resources necessary are not in existence;
- b. limited communication processes to employees in relation to the QMS;
- c. lack of ownership of the quality management system at operational levels;
- d. the quality manual has not been updated since June 2004;
- e. the QMS is a paper-based system which is labour intensive and cumbersome;
- f. documents are not well controlled;
- g. records management process is not well developed;
- h. systemic approaches to key areas of management are not at the expected standards;
- i. lack of mature and integrated business systems; and
- j. SFC has not established mutually beneficial relationships with suppliers.

918 WalterTurnbull recognized that Lloyd's Register has been engaged to develop a risk management framework.

Conclusion

- 919 It is acknowledged by SFC that the QSEMS has been inadequately communicated to staff and management and is too broadly based and cumbersome.
- 920 In early 2006, after receiving the October 2005 audit conducted by NSW Maritime, the Board approved a Safety Plan which had as its first priority to review and amend the QSEMS. As at October 2007, the review is still incomplete.
- 921 The Inquiry understands that one of the more significant changes proposed by SFC is to cease to be accredited and, therefore, audited by reference to the ISM Code, a task currently carried out by AJA Registrars. SFC proposes to continue to be audited and accredited by the reference to the ISO standard. SFC is required to be audited by NSW Maritime in relation to compliance with its Guidelines which are based on the ISM Code.
- 922 The General Manager, Operations, gave evidence that if the Corporation did not seek certification under the ISM code they would probably formalize the audit regime with NSW Maritime. SFC's SMS *"will look like and feel like an ISM Code because that is how the NSW Maritime Guidelines are written"*.
- 923 The current system is not well implemented and not sufficiently understood by staff. It is clear that the internal audit process, until recently, was not functioning as intended and had suffered from upheaval in staffing. Its importance in gauging the effectiveness of a safety system is obvious and resources should be provided to ensure this occurs.
- 924 Any modifications to the SMS should be the subject of consultation with NSW Maritime. While it is a matter for SFC and NSW Maritime, the ultimate system adopted by SFC must be the subject of consultation with staff and rigorous and regular external scrutiny. It is noted that

Rear Admiral Oxenbould gave evidence that NSW Maritime's role as regulator does not ordinarily extend to scrutiny of the kind the Inquiry believes is necessary. SFC must have a robust and effective incident reporting system which permits analysis and timely corrective action and flags when the latter does not occur.

INCIDENT REPORTING

925 It is self-evident that any organization, which has as its principal objective the delivery of a safe service, should have a system which requires the identification and reporting of incidents, investigation or the taking of other appropriate action, the collation of data and trends and the communication to staff and others of lessons learned.

926 SFC is obliged to do so to comply with its accreditation under the ISM Code and with NSW Maritime Guidelines. However, its system is unwieldy and tends to be somewhat confusing.

The Procedures

QSEMS Procedures Manual

927 There is a general requirement in the QSEMS Procedures Manual for employees to identify incidents, hazards, occurrences or customer complaints, and a specific requirement to report vessel incidents. Each is to be reported on a Hazard and Incident Report form.

928 In some cases, a form called a System Problem Report form is to be used, however, it is not clear by whom this form is to be completed nor its ultimate purpose.

929 The manual refers to 'measurement data' being collected and analyzed by the Director, Safety, Environment and Risk, who then is then to report on that analysis and determine trends and benchmarking of performance and competitiveness. Finally, monitoring and measuring the performance of SFC is to take place through, among other tools, internal audits.

QSEMS Operational Manuals

- 930 Each of the Vessel Operation Manuals also deals with incident reporting. Each requires that incidents which are not defined other than to include near-misses, are reported on an incident report form. It is not clear whether this form is the same as a Hazard and Incident Report form. Any investigation is to be conducted by a supervisor or manager. The General Manager, Safety, Environment and Risk, (now called Director) then conducts a risk assessment. The incident data is then entered into what is called the Quality System database.
- 931 The Ferry Operations Manual contains two sections relevant to incident reporting. One section deals with risk assessment, incident reporting and workplace inspection report forms. It indicates that risk assessment reports should be completed in relation to identified safety related issues, incident reports in relation to incidents, and workplace inspection reports in relation to periodic safety inspections. Incidents are not defined in that section of the manual.
- 932 The second section deals with accident and incident investigation and reporting, and sets out responsibilities and instructions for investigations. The resulting report is then reviewed by a Review Panel. Each incident is to be entered in what is called the Incident database.
- 933 The Emergency Management Plan, the Balmain Shipyard Emergency Response Plan and the Shore Emergency Response Plan each refer to the 'incident log' as the primary method of recording all information and action taken in the event of an incident.
- 934 The Ferry Emergency Response Plans for each of the seven classes of vessels, notes in the introduction that, "*all emergencies that might occur at Sydney Ferries are referred to collectively as incidents*". It also refers to the 'incident log'. The document then describes how incidents are to be categorized and who is responsible for managing various categorized incidents. The incidents are categorized based on the level at which they can be effectively managed.

- 935 The Shipyard Operation Instructions Manual does not define ‘incident’, however, the objective of reporting incidents is said to be to ensure that all, “*incidents or near-misses*” are reported for information collation and, if required, further investigation by internal or external interested parties.
- 936 In addition, a temporary memorandum was issued in October 2006 in the Vessel Day File entitled ‘Reporting of Incidents’. That document notes that SFC must report any incidents that involve one or more SFC vessels while any of the following applies:
- a. there is loss of life;
 - b. there is a loss of a person from vessel;
 - c. a person is injured on or because of the vessel and requires professional medical assistance;
 - d. the vessel sinks or capsizes;
 - e. the vessel runs aground or makes temporary contact with the seabed or a submerged obstruction;
 - f. the vessel collides with another vessel or object, including a wall;
 - g. the vessel becomes disabled while underway and requires external assistance with recovery;
 - h. there is a dangerous near miss incident with another vessel, object or wharf;
 - i. there is a fire onboard;
 - j. the vessel sustains damage estimated at more than \$5,000;
 - k. there is a loss of control or machinery failure that has caused or is likely to have caused degradation in manoeuvrability or the ability to stop; and

I. the environment is damaged.

937 The procedures provide for some form of investigation from SFC. However, SFC does not have documented formal criteria against which it determines which incidents are investigated.

Conclusion

938 It has to be concluded that the system for reporting incidents is unduly complex, confusing and inconsistent and is not best suited to produce the sound data on which safety improvements can be made. Further, on the evidence available it simply does not work as intended.

939 As found in other reviews many of the incident reports are incomplete and causes involving human error are not well documented.¹⁵⁰

940 There is no guarantee of feedback, and little indication that it routinely occurs. SFC has no system which records any feedback or which encourages, permits or otherwise provides for confidential reporting of incidents.

941 SFC has recognized for some time that its incident reporting system is deficient and confusing. At a Board meeting in 2004, the CEO noted that historical data on safety were inconsistent and unreliable. Throughout 2004 and 2005 the CEO and senior officers were recorded in minutes as referring to deficiencies in and reviews of the incident reporting and management system. By November 2005, there was still reference to the development of a new database regarding its operational safety related incidents.

942 At the April 2006 Board meeting it was noted that NSW Maritime was introducing an incident recommendation database and that compatibility of SFC and Maritime databases would be more efficient and thus the

¹⁵⁰ See Global Maritime Consultancy Limited, *Sydney Ferries Corporation: Report on the Freshwater Class Ferries*, October 2005 and Lloyd's Register Rail, *Risk Register Development Report for Sydney Ferries Corporation*, 2006

decision in relation to database development had been delayed following NSW Maritime's decision as to its preferable system.

943 As at October 2007, SFC does not have an electronic system which permits the control of incidents and provides assurance that follow up actions are taken to resolve and prevent occurrences. Further, it has no comprehensive trend analysis capacity.

944 SFC has three separate safety related databases including a recommendations database. It acknowledges that this current system creates duplication of effort, gives poor search facilities, is not easy to cross reference and has no provision to ensure that incidents are followed up.

945 SFC advises that an operational electronic system is scheduled to be implemented during 2007-08. It advises that that system should permit an audit trail of all quality costs of the entire incident, availability of search functionality to enable high risks areas and allow cause analysis, establish an electronic scaling of significant and reportable incidents and implement accountability for actions and closure with high visibility within the organization.

946 It should have been introduced much earlier.

Reporting to NSW Maritime

947 There are various pieces of legislation which oblige SFC or Masters to report incidents. The *Maritime Services Act 1935* imposes obligations on a Master of a vessel of less than 30 metres in length that is involved in an accident in any port or navigable waters, to, among other things:

“... if such accident has resulted in the death of or injury to any person, or in damage to a vessel or to any other property to an extent apparently exceeding one hundred dollars... as soon as practicable and in any case within twenty-four hours after the

*accident, forward to the Board in writing, [particulars of the accident].*¹⁵¹

- 948 Under the *Navigation Act 1901*, whenever a ship over 30 metres has suffered or caused any accident occasioning loss of life or serious injury to any person, the Master of the ship shall, within 24 hours after the accident or as soon as practicable thereafter, forward to the Minister in writing a report of the accident which includes details of the probable cause of the accident, the name of the ship, the place at which the ship is registered and the place at which the accident occurred.¹⁵²
- 949 Other Acts authorize the investigation into maritime accidents by other agencies.¹⁵³
- 950 The *MS Act* is intended to consolidate marine safety legislation, by repealing and replacing the *Navigation Act*, *Maritime Services Act*, *Marine Pilotage Licensing Act*, *Commercial Vessels Act*, and all regulations under those Acts. However, the *MS Act* is only partially proclaimed and, at present, none of the Acts listed previously, have been repealed. The CEO of NSW Maritime, Rear Admiral Oxenbould told the Inquiry that there is currently before Government a Cabinet Minute to make amendments to the *MS Act* and to make regulations thereunder, with a view to the Act being fully proclaimed.
- 951 The objects of the *MS Act* include to provide for the investigation of marine accidents and for appropriate action following any such investigation.¹⁵⁴ Part 8 of the *MS Act* deals with marine investigation and enforcement. ‘Marine accident’ means any of the following events involving a vessel operating in navigable waters:
- a. loss of life of, or injury to, any person on board the vessel;

¹⁵¹ Subsec 30G(2)(e)

¹⁵² *Navigation Act 1901*, subsec 120(2)

¹⁵³ *Ports and Maritime Administration Act 1995*, sec 11; *PT Act* sec 46AA, sec 46BC and sec 46BA

¹⁵⁴ *MS Act*, sec 3

- b. loss of a person from the vessel;
- c. loss of life or injury to a person that is caused by the vessel;
- d. loss, or presumed loss, of the vessel (including the sinking or abandonment of the vessel);
- e. capsizing, grounding or flooding of the vessel;
- f. collision of the vessel with another vessel or with any object;
- g. vessel being disabled at sea (in any case in which it requires assistance);
- h. any fire on board the vessel;
- i. any damage being caused to the vessel (including any structural failure);
- j. any damage to the environment caused by the vessel or by any substance on, or discharged from the vessel; and
- k. any incident that causes danger of any of the above.¹⁵⁵

952 Division 2 of Part 8 sets out the duties of Masters and owners of vessels in case of marine accidents. It is not yet in force.

953 'Notifiable occurrences' are to be reported to NSW Maritime under the *PT Act*.¹⁵⁶ There is no definition of such an occurrence.

954 The Inquiry has been informed of a proposed Regulation which will include a clause to prescribe 'Notifiable Occurrences' for the purposes of sec 46B of the *PT Act*. The definition proposed is based on a national definition of a marine incident contained in the National Marine Safety Data Collection Reference Manual, Data Standards and Definitions for Marine Incidents published by the National Marine Safety Committee in

¹⁵⁵ *MS Act* Part 8 subsec 94(1)

¹⁵⁶ *PT Act* sec 46B

2007. The proposed definition of notifiable occurrences differs from reportable incidents in particular, near-misses are not required in the latter.

955 The making of the Regulation in the terms proposed by NSW Maritime, with an inclusion that incidents be reported to the Chief Investigator, is supported.

956 In addition, the Chief Investigator of OTSI has established the Confidential Safety Information Reporting Scheme, a system for voluntary reporting by transport safety employees of matters that may affect the safety of a public ferry service.¹⁵⁷ He told the Inquiry that of the reports received about rail, bus and ferry services, OTSI has received the lowest number of reports about ferry services.

957 In order to clarify SFC's reporting obligations, a Memorandum of Understanding ("MOU") between Waterways Authority (as it then was) and STA (when Sydney Ferries was a division) sets out what 'reportable incidents' should be reported to NSW Maritime by SFC. They are as followed:

- a. a fatality or injury to any person that requires medical assistance by a qualified doctor or nurse; or
- b. damage to Sydney Ferries vessel exceeding \$5,000; or
- c. damage to any other vessel or property exceeding \$5,000; or
- d. any grounding or dangerous near-miss situation of another vessel, object or walls; or
- e. any significance breach of specified legislation; or
- f. any control machinery failures; or

¹⁵⁷ *PT Act* subsec 46E(1)

- g. anything that either party may deem to be reportable after assessing the circumstances.

Conclusion

- 958 It is clear that SFC is subject to overlapping and differing requirements in relation to external reporting. SFC has informed the Inquiry that the intention of the MOU is to “clarify” the circumstances in which an incident is to be reported to it. That MOU was entered into before SFC was corporatized and apparently an updated MOU is being drafted.
- 959 Unfortunately, the draft MOU that has been provided to the Inquiry contains a definition of reportable incidents which differs from the current definition and the proposed definition of notifiable occurrences. It is understood that it is NSW Maritime’s intention that there is consistency in the finalized MOU.
- 960 Laudable though it might be to seek to clarify SFC’s reporting obligations, a MOU does not replace SFC’s reporting obligations under legislation. While the MOU deals with the requirements under the *Navigation Act*, the *MS Act* requires accidents resulting in damage exceeding \$100 to be reported. While that it a remarkably small amount, it nevertheless remains a legislative requirement. It is clear that the re-drafted MOU needs to encompass all legislative requirements.

TRAINING

- 961 In order to ensure safe operations, staff must be adequately qualified, trained and an accessible and accurate record of staff training must be kept. The *Commercial Vessels (Emergency Procedures and Safety of Navigation) Regulation (1986)* sets the qualifications of afloat staff and the manning requirements for the vessels.
- 962 The SFC Director of Training and Development told the Inquiry that, “prior to corporatization, there was an absence of structured and/or appropriately resourced training”. According to SFC, it inherited a significant training deficit from the STA whereby training programs were

limited and ad hoc, they were not based on the development of specific competencies and standards, they lacked rigorous competency assessment, training resources were inadequate and record keeping was close to non-existent.

963 The Director of Training and Development told the Inquiry that, when she commenced in the position in 2004, training, “*was very, very inadequate*”. These observations accord with those made in the Taylor Report, the Medlock Report and by OTSI, all of which identified significant limitations in the training regime that existed at Sydney Ferries prior to corporatization.

Training Achievements

964 SFC has made significant progress in developing its training program since corporatization. According to SFC, since 2000 approximately 170 recommendations have been made by external bodies in relation to training at Sydney Ferries. The majority of these recommendations have been implemented. A detailed review of the training curricula for maritime and maintenance staff has been conducted and a competency-based training and assessment program has been developed.

965 In February 2005, SFC implemented Safety Refresher Training for all maritime and maintenance personnel. In October 2005, following a series of collisions, Critical Control Systems Failure/Crew Resource Management Training was introduced for all afloat staff to provide crews with the technical knowledge and skills to respond appropriately to a critical control failure on board a vessel. A series of emergency drills has been developed for afloat staff. Customer Service Training has also been introduced.

966 Specific training is also provided in a range of areas including Global Positioning Systems, Vessel Data Recording Systems for Masters and Engineers and Greaser and Helmsman Training for GPH.

967 In 2007, SFC was accredited as a Registered Training Organization. This means the standard of training provided by SFC is required to meet nationally recognized training standards.

Obstacles

968 SFC has made significant progress in relation to training, notwithstanding a series of obstacles that limit SFC's ability to develop its training program. Fleet complexity means that it is not feasible for crews to train on a 'training' vessel. Rather, crews must train on various types of vessels. SFC cannot train 'generically' but must plan for an opportunity when a vessel from a particular class (which may be a single vessel, such as the *Collaroy*, *Borrowdale* or *Alexander*) is available. This is time consuming, expensive and inefficient.

969 It also places pressure on the training calendar, particularly in relation to classes of vessels that are in high demand from an operational perspective (such as the two HarbourCats and two Lady class vessels, which are relied on extensively in the timetable because of the high level of mechanical failure across the fleet and cannot easily be taken out of service for the purpose of conducting a training drill).

970 Low levels of fleet availability also constrain SFC's ability to carry out its planned training program. SFC told the Inquiry that, "*finding a time to take a vessel out of service for several hours to conduct a training drill is a complex logistical exercise*". According to SFC, it is not unusual for up to 70% of planned training to be postponed or cancelled as a result of vessel unavailability.

971 SFC's training program is crew-based. The availability of crews to participate in training courses as a crew (rather than individually) is affected by the current rostering dispute. The current rostering processes establish a different 'line' of roster for GPHs, Masters and Engineers, which results in differences between the start and finish times for the shift of each of these three types of crew members.

972 In its Systemic Report, OTSI stated that:

“In the absence of crew-based rostering and programing issues over time, the standard of delivery of drills has varied significantly, with some drills being practised frequently and some crew members frequently participating, while other drills and crew members have received little attention.”¹⁵⁸

Office of Transport Safety Investigation Systemic Report

973 In preparing its Systemic Report OTSI:

“... spent significant time reviewing training arrangements within Sydney Ferries. It met with Sydney Ferries’ training staff and the AMOU, AIMPE and MUA, observed classroom and sea-based training and reviewed training packages. Moreover, it was contacted by, and met with, a number of individual Masters and Engineers who were concerned about the limitations of their own knowledge, and expressed strong reservations about what they considered to be a failing training system. While opinions varied widely, there was agreement on some key issues, particularly that training packages in use throughout the period October 2004 to October 2005 were not sufficiently developed, and the delivery of drill packages and CRM training was sub-optimal.”¹⁵⁹

974 OTSI found that limitations in the competencies of some individuals had been exacerbated by inadequate crew training and that crew resource management was below best practice and had been affected over time by, amongst other things, inadequate training. The absence of structured emergency training was also criticized.

975 In particular, OTSI found that training packages were in varying stages of evolution, rostering and working hours were having a significant

¹⁵⁸ OTSI, *Systemic Report*, op cit, p 20

¹⁵⁹ OTSI, *Systemic Report*, op cit, p 18

impact on access to training, in the absence of crew-based rostering there was a variance in the standard and frequency as well as participation in drill delivery, and SFC exercised limited control over emergency drill training.

976 The net effect of these limitations according to OTSI was that SFC had less influence over the conduct of training and that crew competencies and confidence had declined.

977 OTSI acknowledged that many of the training issues it identified had their origins in arrangements inherited from the STA.

978 A number of recommendations were made in relation to training. The most significant of these were:

- a. SFC should pre-program a regime of specified training drills, supported by relevant scenarios and training material, to be undertaken by all crew members during normal rostered hours;
- b. SFC should expedite the delivery of critical incident training to all crew members;
- c. all drills that are part of emergency/critical incident training should be evaluated by the Fleet Standards Group and this Group should conduct check 'rides' to validate training;
- d. SFC should ensure that 'lessons learned' from accidents, incidents, exercises, drills and risk assessments are formally distributed to crews and relevant staff members; and
- e. those responsible for crew rostering should be provided with read-only access to the qualifications database to ensure that those being rostered hold the required qualifications and that they are current and that Masters should be provided with the means to allow them to satisfy themselves that those being rostered onboard the vessel they will control hold appropriate and current qualifications.

979 Several of these recommendations have still not been fully implemented.

A Regime of Specified Training Drills

980 SFC has developed 'packaged' sets of training drills, known as Drill Packs 1, 2, 3 and 4. The drills are conducted on board vessels and led by Masters, either in the company of a training team (Drill Pack 4) or without a training team (Drill Packs, 1, 2 and 3).

981 SFC's Emergency Drills Policy requires afloat staff to participate in a minimum of eight on-board drills each year in order to remain current in their competency to work on a particular class of vessel. Masters who are certified to work on more than one type of vessel are required to complete a minimum of eight emergency drills per year for their primary vessel class and to maintain their currency for their secondary class(es) of vessel each 180 days.

982 SFC told the Inquiry that crew members who need to complete a drill are identified by the Training and Development team in advance and provision is made in the roster for the necessary training to occur.

983 While SFC is to be commended for developing Drill Packs 1, 2, 3 and 4 in accordance with OTSI's recommendation, it is not clear that those drills meet, and are being conducted to be in accordance with, relevant legislative standards.

984 Under the *Uniform Shipping Laws Code* ("the Code"), SFC is required to conduct certain mandatory training drills in relation to each of its vessels. Section 15 of the Code requires each of the vessels operated by SFC to conduct four types of drills, described in detail in Schedule 2 to the Code:

- a. 'Crew Emergency Practice Procedures' must be conducted at intervals of not more than one month (cl 5.1);

- b. 'Survival Craft Drills' must be conducted at intervals of not more than two months (cl 7.4);
- c. 'Crew Fire Drills' must be conducted at intervals of not more than two months (cl 8.2); and
- d. 'Crew Collision Drills' must be conducted at intervals of not more than two months (cl 9.2).

985 Section 15 the Code has force of law, by virtue of cl 5 of the *Commercial Vessels (Emergency Procedures and Safety of Navigation) Regulation 1986*.

986 Training requirements under the Code are defined by reference to the vessel itself rather than the individual members of the crew who man the vessel. The Code assumes that each vessel has a fixed and permanent crew, such that, each time the training drills are conducted on a vessel, all crew participate in the drill. SFC does not have fixed and permanent crews. Consequently, mere compliance with the Code, would not ensure that all afloat staff at SFC are regularly undergoing training drills. In light of this, NSW Maritime has recommended that, in addition to complying with the Code, SFC ensure that all staff complete training drills no less than once in every 90-day period.

987 According to SFC, its training plan is directed to meeting the 90-day training target for crew members set by NSW Maritime. SFC does not, however, appear to monitor its compliance with the requirements of the Code.

988 The Inquiry asked SFC to indicate whether it presently delivers each of the drills specified in the Code on each of its vessels at the intervals required:

- a. In relation to Crew Emergency Practice Procedures, SFC indicated that in doing Drill Packs 1, 2, 3 and 4 crews would meet the requirement of participating in Crew Emergency Practice

Procedures and that SFC aimed to have crews participating in at least one of Drill Packs 1, 2, 3 or 4 each month. SFC did not say whether Crew Emergency Practice Procedures are carried out once a month on each of its 31 vessels as required.

- b. In relation to Survival Craft Drills, SFC told that Inquiry that, *“Sydney Ferries vessels do not carry survival craft per se. They are fitted with life jackets for passengers and crew and ‘Carly’ floats... Sydney Ferries complies as closely as possible with Schedule 2 of the USL Code...”* SFC did not say whether drills closely resembling Survival Craft Drills are carried out on each of its 31 vessels once every two months as required.
- c. In relation to Crew Fire Drills, SFC indicated that these were conducted as part of Drill Pack 2. It would appear that crews participate in Drill Pack 2 approximately every four months. SFC did not say whether Crew Fire Drills are carried out on each of its 31 vessels once every two months as required.
- d. In relation to Crew Collision Drills, SFC indicated that these are conducted as part of Drill Pack 1 and possibly Drill Pack 4. It would appear that crews participate in Drill Pack 1 or 4 approximately every two to four months. SFC did not say whether Crew Collision Drills are carried out on each of its 31 vessels once every two months as required.

989 SFC has been aware since February 2006 that its Drill Training Program may not meet the requirements of the Code. A Risk Assessment conducted for SFC by Ferriby Marine in February 2006 identified that, *“on the basis of the objective evidence collected, that type-rating and drills training requires improvement to fully meet the legal requirements of the USL and to adequately prepare the crews for incidents which they are likely to encounter.”*¹⁶⁰

¹⁶⁰ Ferriby Marine, *Risk Assessment for Sydney Ferries Corporation*, February 2006, p 46

- 990 In the database of training related recommendations provided to the Inquiry by SFC, the status of Ferriby's recommendation that SFC improve its drills to, relevantly, comply with the Code, was simply left blank.
- 991 Whilst the Inquiry appreciates that the training requirements set out in the Code, being vessel-based, do not translate perfectly to SFC's operating environment, those requirements have the force of law and must be complied with.
- 992 A National Standard for Commercial Vessels ("NSCV") is currently being developed that will ultimately replace the Code. The NSCV is less prescriptive in relation to frequency of emergency drills. It requires the frequency of emergency preparedness training to, *"be sufficient to maintain crew competency at a level needed to ensure the crew's rapid and effective response to emergencies at all times"* (although notes to the NSCV state that for optimum training value, the period for repetition of emergency preparedness training should not exceed two months). The training requirements in the NSCV are not vessel-based in the same way as the Code. However, at present the NSCV has no legislative force in NSW and the Code remains binding on SFC.
- 993 At present, SFC classifies OTSI's recommendation in relation to training drills as 'closed'. The recommendation should be reclassified as 'open' until such time as any discrepancy between SFC's training drills and the legislative requirements are remedied.
- 994 The conduct of drill packages is currently the responsibility of the Training Department, however, SFC intends for the Fleet Standards Group to assume full responsibility for all drills by the end of 2007. It is noted that the Fleet Standards Manager is presently reviewing the Code and NSCV requirements. This should be completed and any changes to the content and timing of drills necessary to comply with the statutory framework implemented as soon as possible.

Critical Incident Training and 'Lessons Learned'

995 CCF/CRM is now incorporated in induction training and Drill Packs 1, 2, 3 and 4, in relation to four principal emergency scenarios: collisions, fire, flooding and man-overboard. According to SFC, CCF/CRM aims to equip staff with the technical and communication skills to respond well to emergencies and critical control failures on board SFC vessels.

996 While OTSI's recommendation in relation to critical incident training appears to have been effectively implemented, as SFC told the Inquiry:

"These training programs represent a significant change in crews' understanding of competency-based safety management principles and is expected it take another three to five years to become normalized at all levels within the organization."

997 A Fleet Standards Group was recently created. The Inquiry understands that the primary functions of the Fleet Standards Group will be to:

- a. plan and conduct emergency drills;
- b. develop standard and emergency operating procedures;
- c. set standards in crew competence, ferry cleanliness, uniforms, personal appearance, customer service and professional seamanship and conduct internal audits and investigations to verify whether the standards are being met; and
- d. conduct 'check rides', that is, travel on vessels to observe ordinary work practices and provide on the spot technical guidance.

998 SFC expects that the Fleet Standards Group will or, to some extent has, implemented the two OTSI recommendations relevant to it. Each of the OTSI recommendations is classified as 'open' which is appropriate. Implementation of these recommendations should be closely monitored by NSW Maritime.

999 The Inquiry notes that NSW Maritime made a similar recommendation, that SFC introduce independent assessment of operational training. In March 2007, NSW Maritime classified this recommendation as 'closed', with the comment that, "*Fleet Standards Group is an excellent solution*". This recommendation should be reclassified as 'open'.

A Qualifications Database

1000 The Student Course Administration System ("SCAS"), is a computerized record keeping system that was implemented by SFC in 2005 to enable access to up-to-date training records for each employee. SFC told the Inquiry in May 2007:

"When Sydney Ferries became a Corporation the training record keeping was an area awaiting improvement. The organization now has a very robust, reliable and user friendly training record system. It is called [the Student Course Administration System] SCAS."

1001 SFC subsequently told the Inquiry that:

"SCAS provides Sydney Ferries and specifically the Operations and Engineering Divisions with timely records regarding qualifications and all other training and assessment outcomes.

SCAS daily provides the Control Room, rosterers and daily crew assignment staff with ready access to each employee's training records in order to ensure that each crew member is appropriately qualified.

SCAS also identifies the dates on which training was last completed and has a 'flagging' mechanism by which SFC can alert staff to the need for recertification for external qualification or roster those staff to training where the requirement is internal...

Persons responsible for rostering have access to SCAS which enables them to ensure that each crew member holds the appropriate current qualifications. Masters have access to the daily

crew assignment staff and ferry controllers, each of which have access to SCAS.”

1002 On 8 June 2007 SFC reiterated to the Inquiry that:

“[SCAS] enables access to up-to-date training records for each employee. This means, amongst other things, that the competency of an individual crew member can be readily determined and appropriate decisions concerning the composition of a crew can be made.”

1003 However, on 23 July 2007, SFC told the Inquiry that, despite the SCAS being in place, there are circumstances where staff are assigned to vessels notwithstanding that they do not have current drill certification for that class of vessel.

1004 On 10 August 2007 SFC told the Inquiry:

“The data in SCAS is critical for the safe operation of Sydney Ferries. There have been numerous problems with the development and implementation of this database.

The recent Pitt Street Upgrade has left Jetty 3 users, who are the critical interface with the database in terms of making decision in relation to who to assign to vessels, with either no or limited access. There have been many attempts to correct this situation and still there are difficulties ensuring reliable access to the information on a needs basis...

There have been a number of problems with the automatic uploading of data within the system...

Additionally, Training and Development is not sufficiently resourced to deal with the volume and complexity of data input or the monitoring of the data to target more effectively staff that are becoming out of date.”

1005 On 2 October 2007, SFC told the Inquiry that SCAS had a number of limitations, the principal limitation being that it is not particularly user friendly and conceded that SCAS:

“... is adequate for a corporate record of qualifications and training status but is not well suited to a fast moving, dynamic environment in which available staff are shuffled at short notice in order to keep services running.”

1006 SFC maintains that SCAS is capable of providing reports that indicate the training currency of staff against a range of revalidation requirements. However, the Inquiry repeatedly sought to ascertain whether SFC is able to verify, by reference to SCAS, the currency of training for all afloat staff as at a particular date. Each time, instead of answering the question directly, SFC provided a voluminous report of unanalyzed data generated by SCAS. The Inquiry found these reports most unhelpful. SFC’s apparent inability to distil the data contained in the reports into a meaningful assessment of the training currency of its afloat staff raise questions as to the usefulness of SCAS.

1007 In evidence, the Director of Training and Development was asked, *“As things stand at the moment, that is today, are you in a position to say whether the workforce afloat is all current in relation to its training reorients?”* The answer given was *“No.”* The Director of Training and Development told the Inquiry that the shortfall in training currency *“is within tolerance. It is not desirable but it is closely managed.”* She accepted, however, that the link between training currency and availability to work at SFC was *“loose”*, particularly compared to the aviation and rail industries.

1008 It is also noted that in June 2007, the AJA audit found:

“No evidence found of procedure to ensure unqualified staff are not rostered to vessels including how the human resource and training departments interface with operations to manage this process.”¹⁶¹

1009 SFC presently classifies OTSI's recommendations in relation to a qualifications database as 'closed'. The status of those recommendations should be reclassified as 'open' until the limitations of the SCAS system are resolved and it is being utilized on a routine basis to ensure that staff are only rostered to vessels for which they are appropriately trained.

1010 It is not currently the case that crew are only rostered on vessels in relation to which they have completed all current training requirements. The Director of Training and Development told the Inquiry:

“If [an individual] reports that he’s not confident to continue, then I’ll certainly recommend that he be taken out of roster but that might result in a service being cancelled. Indeed if I was to enforce that strictly, a lot of services would be cancelled and I don’t believe the executive would support that.”

Conclusion

1011 It is important that the obstacles to training identified above are resolved. The factors listed above significantly impede SFC's ability to reap the full benefit of its training program and ultimately compromise the safety of SFC's operations. As the Director of Training told the Inquiry:

“Within the current systems and the constraints we have in relation to vessel classes, current rostering systems, current monitoring systems and current organizational structure I think that we are operating as safely as possible.”

¹⁶¹ AJA, QMS Surveillance Audit Report: 18-22 June 2007, op cit, p 6

1012 The acquisition of a new fleet will significantly improve SFC's ability to train its crews. In addition, OTSI has recommended that SFC consider simulator training for Masters and SFC is currently preparing a business case for the acquisition of a simulator. However, in order for SFC's training programs to be delivered, it is critical that crew-based rosters be implemented as soon as possible.

CHAPTER 10

SAFETY PERFORMANCE

BENCHMARKING SFC'S SAFETY PERFORMANCE

1013 SFC has four priority areas of focus, of which safety is the first. Attempts have been made by some agencies to benchmark SFC's safety performance against other modes of transport and, internationally, against ferry operations. It is not an easy task.

Independent Transport Safety and Reliability Regulator

1014 Under the *TA Act*, ITSRR is expected to report on safety performance across the three transport service modes of rail, bus and ferry. In its *2005-06 Annual Report*, ITSRR did not provide such a comparison because the operating environments are quite different and, *"therefore a direct comparison would not be valid"*.¹⁶²

1015 However, the Inquiry asked ITSRR to consider available data on accidents which have involved a SFC ferry with a view to benchmarking the safety performance of SFC. That data can be found in this Chapter.

1016 From the information ITSRR provided it can be concluded that, firstly, SFC has a higher rate of injuries per passenger journey than those that occur in NSW rail journeys and a lower rate than experienced by NSW buses, although, of course, the operating conditions of rail and bus differ markedly from ferries.¹⁶³

1017 Secondly, the available international data only permitted ITSSR to carry out a comparison of the safety of the high-speed catamarans used by

¹⁶² ITSRR, *Annual Report 2005-06*, op cit, p 170

¹⁶³ In 2005-06 and 2006-07, SFC experienced a rate of 1.86 injuries per million passenger journeys. In 2004-05 and 2005-06, Sydney buses had a rate of 2.07 injuries and NSW rail 1.46 injuries

SFC, that is the HarbourCat, SuperCat, RiverCat and JetCat. SFC has experienced over twice as many injuries and fatalities since 1991 than the average for high-speed catamarans reported in international marine accident safety databases. If the five fatalities which occurred this year are excluded, the record for SFC's high-speed catamarans is slightly lower than the average.¹⁶⁴

1018 Thirdly, comparing the rate of accidents which have required independent investigation, SFC's rate was significantly higher than that of British Columbia Ferries ("BC Ferries").¹⁶⁵

1019 Finally, the number of passenger injury claims arising from BC Ferries is greater than SFC's number of injuries per million passenger journeys.¹⁶⁶ This is a reflection of passenger safety rather than general public safety and is comparing claims against injuries.

Office of Transport Safety Investigation

1020 In 2006, OTSI reported that based on data between October 2004 and October 2005, the frequency of collisions involving an SFC ferry was less than one per 5,000 trips or less than 0.02%. It concluded that the

¹⁶⁴ The actual historical risk for high-speed catamarans is 0.017 equivalent fatalities per vessel operating year. The actual historical risk for SFC high-speed catamarans is 0.042 equivalent fatalities per vessel operating year. Excluding the five fatalities this year, the risk for SFC was 0.016.

¹⁶⁵ SFC has a rate of three to four incidents per year which require independent investigation. ITSRR compared SFC to British Columbia Ferries, an organisation which SFC advises is one of two international operators with which it is comparable. BC Ferries had eight accidents which warranted investigation by the Transportation Safety Board over the period 1995-2006 and seven divisional inquiries between 2000 and 2006. There are comparable aspects of SFC and BC Ferries: a similar number of vessels and routes, however, its fleet is quite different, it carries cars, has larger vessels and does not have high-speed catamarans. According to ITSRR, on initial inspection the types of occurrence that lead to investigation appear to be similar. Further, the Transportation Safety Board has a similar remit to OTSI: it conducts independent investigations into a range of modes of transport, makes recommendations in relation to safety deficiencies and it reports to Parliament

¹⁶⁶ A report by George Morfitt in January 2007, *Safety and BC Ferries, A Review of Operational Safety at British Columbia Ferry Services Inc* provided to the Inquiry by ITSRR, found that BC Ferries has 2.4 claims per million which ITSRR compared with SFC 1.75 injuries per million passenger journeys.

frequency of incidents is very low statistically and reflects a record of generally safe operations.¹⁶⁷

1021 The Chief Investigator of the OTSI told the Inquiry that this statement was based on:

“... a function of relativity – relative to the history of... incidents post World War II, only within the context of Sydney Ferries... given the number of transit journeys, the number of berthings and what have you, the qualitative opinion of this office is that it is very low.”

1022 The OTSI Chief Investigator said SFC’s safety performance is not worse than the historical record. He said that it is, “*very, very difficult*” to benchmark SFC performance against other ferry operators because of the different criteria that have to be applied.

1023 In 2001, the Taylor Report considered incident data held by Sydney Ferries which indicated that over the period July 1997 to February 2001, there had been one reported incident every 6,898 trips.¹⁶⁸ It is not now possible to compare that figure with OTSI’s conclusion, as the criteria by which incidents were reported up to 2001 is not sufficiently clear.

Conclusion

1024 Unfortunately, the data are not available to conclude with any certainty whether SFC compares favourably or otherwise with other public transport modes in NSW or internationally with ferry operators concerning its safety performance. However, on the information available:

- a. prior to 2007, the safety performance of the high-speed catamarans was slightly better than average, however, since the five fatalities which occurred in 2007, it is relatively poor;

¹⁶⁷ OTSI, *Systemic Report*, op cit, p viii

¹⁶⁸ Taylor, M, *Review of Operations of Sydney Ferries*, op cit, p 36

- b. SFC's safety performance is not significantly worse than that of other modes of public transport in NSW;
- c. by reference to a reasonably similar ferry operator in Canada, SFC has significantly more accidents which require independent investigation; and
- d. prior to the accidents in 2007, it provided a generally safe service.

INCIDENT DATA HELD BY SFC

1025 Ensuring safe operations depends upon collecting and recording incident data and making improvements where that data reveal deficiencies. As indicated in the preceding Chapter, the system in place at SFC for incident data management is poor. Necessarily it follows that any analysis of that data will be of limited benefit to the organization.

1026 However, with that significant qualification in mind, the Inquiry has sought to draw some conclusions from the data held by SFC and the work done by the Corporation, NSW Maritime and OTSI in determining trends in incidents involving SFC ferries.

Key Performance Indicators

1027 Pursuant to its Performance Agreement with the Minister, KPIs have been adopted to measure SFC's safety performance. They are as follows:

MEASURE Safety	DEFINITION	Target 2004/05	Actual 2004/05	Target 2005/06	Actual 2005/06	Target 2006/07	Actual 2006/07	Target 2007/08
No. of significant incidents per year	Incidents resulting in loss of life, life-threatening injury or injury to multiple persons, and/or damage over \$100,000.	Nil	3	Nil	2	Nil	2	Nil
No. of reportable vessel incidents	Marine accidents reportable to NSW Maritime.	N/A	89	70	69	60	68	55
No. of passenger injuries	Injury requiring medical attention that occurs as a result of ferry operations.	N/A	11	18	17	16	35	14
No. of reportable environmental incidents	Reportable incidents under section 10 and 20 of the <i>Marine Pollution Act 1987</i> (NSW) and Part 5.7 of the <i>Environment Operations Act 1977</i> (NSW).	N/A	8	8	12	7	6	6
Lost time injuries incidence rate (injuries per 100 employees)	The number of injuries resulting in one shift or more time lost from work per hundred employees.	4.8	5.9	5	6	4	8.1	3.5
Lost time injury frequency rate (per million hours worked)	The frequency of injuries resulting in one shift or more time lost from work per million hours worked.	26	33.8	30	49	25	55	20

1028 KPIs are widely used as a means of monitoring performance and assessing compliance with minimum standards. The Inquiry agrees with the comments in the Interim Parry Report that:

“For KPIs to be useful as a regulatory tool they need to possess the characteristics of measurability, relevance, comparability with other regimes and comprehensiveness. They must be able to identify and communicate the things that tell whether an operating regime is complying with its regulatory obligations.”¹⁶⁹

1029 IPART has been critical of what it refers to as the performance criteria of SFC. In its 2003 report it said:

“The current performance criteria and reporting processes for Sydney Ferries should be improved in order for the Tribunal to make a more detailed assessment of service quality. Performance statistics provided to the Tribunal are too broad and not always relevant for passengers. The Tribunal raised similar concerns last year.”¹⁷⁰

1030 In its 2005 report IPART expressed the opinion that the quality and reliability of these statistics and their relevance to passengers might be further improved. In that year SFC provided to IPART the number of:

- a. ‘major’ vessel incidents per year;
- b. passenger injuries per million passenger journeys;
- c. minor vessel incidents per hundred services;
- d. lost time injury incidence and frequency rate;
- e. major incidents of environmental damage per year; and

¹⁶⁹ Parry, T, *Interim Report*, op cit, p 103

¹⁷⁰ IPART, 2003, p 27

f. minor reportable environmental incidents.

1031 IPART noted that SFC intended to extend its list of monitored KPIs and repeated its earlier comments about the service KPIs in its 2006 determination. It also noted that SFC had set “*fairly high*” targets for its performance against those key indicators. In its 2006 submission to IPART, SFC provided the following safety KPIs:

- a. significant incidents per year;
- b. passenger injuries per million passenger journeys;
- c. reportable vessel incidents; and
- d. customer complaints and satisfaction index.

1032 RailCorp reports on, among other matters reportable safety incidents per million passenger journeys in the categories of collision, derailment, fall, strike or fire or explosion as well as signal passed at danger and fatalities, the latter distinguishing between accidents due to train operations and other causes such as trespass and suicides. It also reports on lost time injury frequency rate and average time lost rate.

1033 The Inquiry agrees with IPART that SFC can and should report a broader set of safety KPIs. It is recommended that SFC categorize the significant and reportable incidents by reference to:

- a. the nature of the incident, for example, collision with wharf, collision with other vessel, collision with submerged object, other collision, grounding, near miss etc;
- b. whether any injury or fatality resulted and the seriousness of any injury;
- c. whether any damage to property including a vessel occurred and if so, the seriousness of any damage; and
- d. minor vessel incidents including near-misses.

1034 'Significant incidents' are defined in the Performance Agreement as set out in the table above. However, in a response to a question as to the definition of 'significant incident', the Inquiry was directed to the Fleet Emergency Response Plan to obtain a definition of those incidents deemed significant. It stated as follows:

"... if an incident can be managed at site level but requires substantial additional resources from the outside the work group or has substantial impact..."

1035 Clearly, that latter definition is of little assistance. It is assumed that SFC reports on those matters which fall within the definition in the Performance Agreement, the numbers reported suggest so.

1036 The definition of 'reportable incidents' is provided in the preceding Chapter. The target of a maximum of 60 reportable incidents was determined by reference to history rather than any scientific evaluation.

1037 During the period 2006-07, there were 68 reportable incidents as against a target of 60 and two significant incidents when the target was nil. The number of passenger injuries was more than double the number set and each of the lost time injury set rates was exceeded. Environmental reports were within the desired range.

1038 As can be seen, the trends over the last two or three financial years indicate little change in the actual number of incidents, although a considerable increase in the number of passenger injuries. There has been an increase in the frequency of injuries but not the number.

1039 The Inquiry understands that SFC is proposing to increase the type of indicators against which it measures its safety performance to include the percentage of staff who are 'current' in relation to safety related training requirements and the number of audits undertaken compared with those scheduled. These measures should be introduced.

SFC Incident Report Register

- 1040 SFC created an Incident Report Register in 2004. About 1,300 incidents have been recorded between July 2004 and April 2007. Injuries to staff are the most recorded incident. About 10% of the reported incidents concern close quarters or near-misses with another vessel and a further 10% report a collision, usually with another vessel. Given the conflicting instructions given to staff as to the matters to be reported, the only key message from these data is that employees are willing to report near-misses.
- 1041 The only detailed analysis of incidents found by the Inquiry in the documents provided to it by SFC, was prepared in 2005. It analyzes incidents which occurred between January 2004 and March 2005. It concluded that there were six incidents per 100,000 berthings and human factors and technical failures each accounted for one-third of the incidents. Of all the classes of vessel, the Freshwater class ferry was involved in most incidents, except near-misses.
- 1042 In response to a request from the Inquiry, SFC provided the following data representing the number of collisions involving a SFC ferry between 1 July 2004 and 30 June 2007:

Vessel class	Number of collisions
Freshwater	19
First Fleet	17
SuperCat	15
RiverCat	31
HarbourCat	11
Lady Class	6
JetCat	4
Total	103

1043 SFC advised that *“these figures were obtained through a manual review of the Hazard and Incident Reporting Database. The Hazard and Incident Reporting Database records incidents that have been reported by Sydney Ferries’ employees or passengers. It is possible that some incidents were not recorded in this way. SFC also recognizes that its records for the period of 2004 to 2005 are not as accurate as its more recent records. The figures identified above should therefore be treated as approximations of the numbers of collisions between 1 July 2004 to 30 June 2007.”*

1044 In addition, SFC has commissioned a number of risk assessments, each of which has performed some form of trend analysis based on incident data held by SFC. Primarily, these have been in relation to the Freshwater class. In 2006 SFC commissioned Lloyd’s Register to prepare a risk register. It primarily based its work on 743 events reported in the SFC Incident Report Register during the period June 2004 to May 2006. The most frequently reported incidents, other than injuries to staff, were marine incidents involving a third party vessel or caused by human error.

1045 SFC told the Inquiry that it has recorded 226 reportable incidents, that is, incidents which must be reported to NSW Maritime, that occurred between July 2004 to 30 June 2007. This figure comprises 89 in the

first financial year, followed by 69 in the year ended June 2006 and 68 in the year ended June 2007.

1046 SFC said that the source of these figures was as follows:

“These figures are the numbers of ‘reportable incidents’ that were presented to the SFC Board of Directors for the respective financial years. Sydney Ferries has been unable to verify the accuracy of the figures recorded for the period of 1 July 2004 to 31 December 2005.”

1047 SFC also informed the Inquiry that, *“SFC, however, does not have comprehensive records indicating whether these incidents have been reported to NSW Maritime. There may therefore be variances between the figures cited below and figures recorded by NSW Maritime”*.

1048 Since July 2006, SFC has recorded the classification into which reportable incidents fall. Between 1 July 2006 and 30 June 2007 about half of all incidents reported to NSW Maritime were close quarters or near-misses and about one-quarter were collisions. The remainder include groundings, fires and control system failures.

DATA HELD BY NSW MARITIME

1049 NSW Maritime advised that, between January 2001 and 30 June 2007, 202 separate incidents involving a SFC ferry have been reported to it. 115 of those occurred between 1 July 2004 and 30 June 2007.

1050 In relation to ‘reportable incidents’ as defined above, NSW Maritime advised that, during the period 1 July 2004 to 30 June 2007, it recorded around 120 ‘reportable incidents’ concerning a Sydney ferry. These figures are not consistent with information provided by SFC.

1051 When asked to explain the discrepancy, SFC advised that it and NSW Maritime probably used *“differing criteria”* to determine whether a particular incident is a ‘reportable incident’.

1052 NSW Maritime acknowledged that, *“there are a number of challenges facing [it] with respect to data management as a maritime safety regulator. Many of these issues, such as the appropriate capture and recording of all incidents, the rationalization of database systems, and developing a common understanding of terms used under the legislation and the MOU, are being progressed”*.

1053 The proposed electronic system should, when expeditiously introduced, ensure accurate and timely reporting by SFC to NSW Maritime. However, it seems appropriate that NSW Maritime and SFC clarify the matters which need to be reported. The draft MOU would provide the perfect vehicle to do so.

1054 NSW Maritime has carried out a number of analyses of incidents reported to it. Key findings have included the following:

- a. reports of near misses are common;
- b. reports of collisions, most being with a fixed object, other than a wharf, are common;
- c. in a significant proportion of incidents, the SFC vessel was not at fault; and
- d. in less than 10% of the incidents, Master error was the major cause.

DATA HELD BY THE OFFICE OF TRANSPORT INVESTIGATIONS

1055 Since February 2004, OTSI has produced 10 investigation reports into incidents involving an SFC ferry. Nine concerned individual collisions and one, titled a Systemic Report, was based on 34 collisions, 11 of which were with Freshwater class. The Systemic Report considered accidents occurring between October 2004 and October 2005.

1056 Currently, in progress are reports into the 22 March 2007 collision in Darling Harbour in relation to the vessel *Sirius* and the 28 March 2007 collision on Sydney Harbour with the vessel *Pam Burridge*.

1057 Of the nine investigations completed into individual collisions:

- a. three of those collisions occurred in 2004, four in 2005, one in 2006 and one in 2007;
- b. four collisions involved a RiverCat, three concerned the Freshwater class and one each was a collision with a Lady class and a SuperCat vessel;
- c. seven of the accidents involved collisions with wharves or occurred while berthing. Two investigations involved collisions with other vessels;
- d. one collision resulted in a death to an occupant of the vessel collided with and two of the collisions resulted in passengers being hospitalized, while most of them involved no or minor injuries; and
- e. there was damage to the vessel and relevant wharf in most cases.

1058 The main causes of these accidents were a combination of technical failure and error by the Master. The training of the Master was the subject of criticism in most of the accidents, in particular, in relation to crew resource management and communication among those on board the vessel. A common theme was that SFC did not adequately identify and manage risk. In a number of cases OTSI was critical of the manuals used by SFC. Maintenance was identified as a contributory cause in a small number of the accidents.

1059 In relation to the Systemic Report into collisions, OTSI concluded that the majority were caused by human error while berthing and were initiated by a control failure of the vessel or a perception of such. OTSI identified an absence or lack of observation of standard operating procedures, inadequate emergency responses and poor crew resource

management including communication. It was also critical of the absence of recent structured emergency training and an insufficiently developed capacity to identify and manage risk. In addition, OTSI reported on the existence of a limited system for recording and classifying reportable incidents.

1060 OTSI acknowledged a significant number of initiatives by SFC to improve its vessel operations and organizational efficiency in 2005 and 2006. Those initiatives included reorganizing the Operations Division, re-structuring its approach to training and assessment including reviewing initial training of Masters and the training of GPHs and upgrading its delivery of crew resource management. A further initiative was the Drills Review Project and revising standard operating procedures.

1061 The only trend the Chief Investigator told the Inquiry that he could discern from figures produced by OTSI of serious incidents was that there were increases during the summer months. He told the Inquiry:

“... reliable data is very, very difficult to come by when it comes to... Sydney Ferries and its predecessor organizations, that is, the record of incidents, the nature of incidents and their frequency is almost non-existent... I think there was a history and culture of under-reporting up until the time that OTSI came into existence. There was reporting for the various forms of maritime regulators from time-to-time but my observation would be there was no consistent application of reporting and it was very much a matter of a decision taken by a Master whether this was a matter that should be reported or not.”

CONCLUSION ON DATA

1062 The data are not sufficiently reliable to draw firm conclusions. However, even with this limitation, the level of analysis of incident data by SFC revealed in the documents provided to the Inquiry is remarkably low. More attention should have been directed to this area.

1063 While most of the available data refer to events prior to 2006 and significant changes have been since made, particularly to training, the key themes appear to be as follows:

- a. crew-based rostering is essential for the safe operations of SFC. Crews of Masters, Engineers and Deckhands should work and train together to develop the communication and operational skills necessary to deal effectively with emergencies;
- b. operational information should be conveyed in a form most conducive to being understood and acted upon. Electronic data is essential, as is the involvement of staff in the creation of this material;
- c. a comprehensive risk management system is needed to identify and act upon identified risks, and
- d. staff should and do actively report near-misses.

1064 Crew-based rostering is not in place for the reasons set out in Chapter 8. The provision of information to staff is under-developed in part because of the failure to implement an appropriate IT system. A risk management system is in place but to be appropriately applied, SFC will need to direct resources to it and closely monitor its development.

1065 SFC has, however, a culture in which near-misses are reported. It cannot be known whether there is under-reporting in this area, however, the number reported suggests a real awareness by afloat staff of the significance of near misses.

SAFETY RECOMMENDATIONS

1066 As has been indicated earlier, on corporatization, SFC inherited a plethora of recommendations from the Taylor and Medlock reports and three OTSI reports. Since July 2004, subsequent investigations and reviews have resulted in hundreds of recommendations directed to

SFC. Most of these recommendations concern the safe operations of SFC.

1067 SFC sought to manage these recommendations by creating, in December 2005, a safety recommendations database. In so doing, SFC endeavoured to capture those recommendations made by external agencies reporting independently, such as OTSI, NSW Maritime and AJA and those which had been commissioned by SFC to perform specific tasks. Examples of the latter include KPMG in its review of the operations of the Balmain Shipyard, surveys carried out by John McAuley and Associates and risk assessments performed by Ferriby Marine and Lloyd's Register. The database does not include non-safety related recommendations such as those arising from financial audits.

1068 Some of the recommendations are very general including, "*housekeeping should be substantially improved*" and "*encourage staff ownership of vessels*". By contrast some are very detailed, "*the annual fire certificate should be posted in a prominent position*" and "*window seals damaged*".

1069 The database includes self-generated reports and subsequent status reports, which duplicate the recommendations made earlier. It also records separate components of the one recommendation as separate recommendations. Comments and suggestions are also included.

1070 1,173 recommendations made since 2001 are recorded, of which 687 were made by McAuley about the state of the fleet. Because of the nature of the fleet, that is 31 generally aging vessels, many of McAuley's recommendations concerned minor issues, replicated across the fleet. Thus, "*cleanliness*", "*seats being unstylish, old and worn*", "*dirty windows*" and the like account for a significant number.

1071 The database identifies 148 recommendations as being closed, in the sense that they have been acted upon to the satisfaction of SFC. When the McAuley recommendations are taken out of account, 339 or about one-third remain unaddressed.

1072 The Inquiry has concentrated on those recommendations made by external bodies for which safety was a prime focus, namely OTSI, NSW Maritime and the Taylor Report.

Office of Transport Safety Investigation

1073 Of the 100 recommendations made by OTSI since February 2004, most have been verified by NSW Maritime as closed with 17 remaining open. That includes six recommendations arising from the report of the January 2007 collision. Many recommendations concern training, risk management and the technical operations of vessels, in particular, the Freshwater class. The key training recommendations have been dealt with in the previous Chapter.

1074 Key areas in which improvements have been made include commencing the fitting of data logging equipment, although it is noted that this was first recommended in February 2004. A safety risk management framework has been developed, although it too has not yet been implemented.

1075 Work is still be done on finalizing the development of an Asset Management Plan and implementing Technical Maintenance Plans for each class. The former is a significant omission, although as noted in Chapter 12, a fleet replacement strategy has been devised. Technical Maintenance Plans are essential to increased productivity in the Shipyard and are in the process of being put in place. As with many other aspects of the Corporation's operations, the lack of appropriate technology has hindered progress.

NSW Maritime

1076 The 38 recommendations made by NSW Maritime since November 2005, concern similar themes to those apparent in the OTSI reports. Many still require action, in particular in relation to the Lady Class vessels. The need for effective crew resource management and ensuring all crews have attended emergency drill training within a 90-

day period are highlighted. In relation to the latter, NSW Maritime has sought from SFC the training status of crews every three months.

1077 There are a number of forums, external to SFC in which the implementation of safety related recommendations made to SFC are monitored.

1078 First, the Transport Regulators Executive Committee, which is an initiative of ITSRR and comprises the Chief Executives and certain Senior Executives of ITSRR, NSW Maritime and the Ministry of Transport.

1079 Its role includes ensuring consistency in regulation across rail, bus and ferry sectors, safety initiatives and safety reform. It has overseen the implementation of relevant Waterfall Inquiry¹⁷¹ recommendations and continues to monitor SFC's response to OTSI recommendations. Significant reforms which were introduced as a result of the Waterfall Inquiry included the planned installation of the data loggers, provision of alcohol and drug testing, ensuring periodic medical examinations, implementing a safety management system with guidelines developed by NSW Maritime and enabling accident investigations through OTSI.

1080 Secondly, NSW Maritime, through its Commercial Vessels Incident Review Committee and by various ad hoc assessments, monitors implementation of safety recommendations. The Committee itself has made two key recommendations, one of which has led to the suspension of ferry services when fog is present, and another in 2004 required SFC to review its procedures to ensure that all incidents are reported.

1081 Two recommendations arising from the OTSI Systemic Report have been verified by NSW Maritime as closed. They are as follows:

¹⁷¹ *Special Commission of Inquiry into the Waterfall Rail Accident*, Final Report, Volume 1 and Volume 2, prepared by The Honourable Peter Aloysius McInerney, QC, January 2005

- a. *“Ensure that there is a uniform understanding of its vessel incident reporting requirement throughout SFC and establish a single database to capture such occurrences and factors that caused or contributed to them”*; and
- b. *“Provide masters with the means to allow them to satisfy themselves that those being rostered onboard the vessel they will control hold appropriate and current qualifications.”*

1082 NSW Maritime has verified that the first recommendation has been implemented on the basis of the temporary memorandum issued in 2006, and referred to in the previous Chapter, specifying the requirements for incidents to be reported to NSW Maritime. This is not an adequate response to the recommendation. As indicated above, the system for the reporting of incidents is poor, certainly not uniform and there is no single database which captures such occurrences let alone the factors that caused them.

1083 NSW Maritime should ‘re-open’ and closely monitor the implementation of this recommendation.

1084 In relation to the second recommendation, NSW Maritime was satisfied as to its implementation on the basis of an interrogation of the SCAS system. For the reasons set out in the previous Chapter, the Inquiry, and SFC recognizes the limitation of that system. It is recommended in that Chapter that SFC reclassify that recommendation as ‘open’.

The Taylor Report

1085 The Taylor Report made a series of recommendations, some of which had a safety focus. Many of the safety issues identified remain valid six years later. For example, it recommended that the SMS should be supported by inspection and audit processes and performance monitoring and reporting, that a reliable record of ferry incidents should be maintained, the need for effective, direct communications processes, and the availability of vessels for training purposes.

1086 While many of the recommendations have been officially recorded as 'closed' the underlying issues have not been adequately addressed. This is apparent from the remarks and recommendations subsequently made by NSW Maritime and OTSI.

1087 It may be that there is a tendency to 'close' recommendations without adequate work being done to ensure that real change has been effected.

REGULATION ON THE HARBOUR

1088 Sydney Harbour is a complex operating environment. One of the means of coordinating the various uses of Sydney Harbour is the Navigators Committee which includes representatives of the Sydney Ports Authority, NSW Maritime, NSW Police Force Marine Area Command, Royal Australian Navy, SFC, Commercial Vessels Association, Adsteam Marine Limited, Australia Maritime Services Pty Limited, the Australian Customs Service and Sydney Pilot Service Pty Limited. It is chaired by the Harbour Master.

1089 SFC has identified conditions on the Harbour and the Parramatta River as presenting a risk to staff, passengers and third parties primarily because of the erratic and unpredictable character of the waterways traffic. It raised issues including speed restrictions, a lack of separation of traffic, increase in volume of traffic and additional commercial vessels.

1090 It is noted from 1 August 2007, a speed limit of 15 knots has been imposed between the Opera House, Blues Point and under the Harbour Bridge on all vessels.

1091 Regulation on the Harbour is primarily the responsibility of NSW Maritime and other agencies. Through its membership on the Navigators Committee and its regulatory relationship with NSW Maritime, SFC has opportunities to contribute to discussion and decision making about matters relevant to the operation of ferries.

1092 A number of issues concerning the use of the Harbour including speed limits, the activities of recreational boating and whether all SFC ferries should have priority over sailboats, were raised with the Inquiry. However, given the complex nature of the operating environment, the Inquiry has taken the view that these matters are best dealt with by those with particular expertise, primarily NSW Maritime.

SAFETY CULTURE

1093 Professor James Reason is Professor Emeritus at the University of Manchester where he was Professor of Psychology from 1977-2001. His main research area has been the contribution of human and organizational factors to the breakdown of complex technological systems. He has written books on absent-mindedness, human error, aviation human factors, managing the risks of organizational accidents and managing maintenance error.

1094 In his 1997 book *Managing the Risk of Organizational Accidents* Professor Reason said:

“A safety culture is not something that springs up ready-made from the organizational equivalent of a near death experience, rather it emerges gradually from the persistent and successful application of practical and down to earth measures. There is nothing mystical about it. Acquiring a safety culture is a process of collective learning, like any other. Nor is it a singly entity. It is made up of a number of interacting elements, or ways of doing, thinking and managing that have enhanced safety health as their natural by-products.”¹⁷²

1095 He described a safety culture as an informed culture, that is one in which, *“those who manage and operate the system have current knowledge about the human, technical, organizational and environmental factors that determine the safety of the system as a*

¹⁷² Reason, J, *Managing the Risk of Organizational Accidents*, 1997, p 192.

whole".¹⁷³ In his view, a safety information system must be in place which collects, analyses and disseminates information from incidents and near-misses as well as from regular pro-active checks on the systems vital signs.

1096 Professor Reason posits four components of safety culture. First, a reporting culture in which people are prepared to report their errors and near-misses. Professor Reason identifies factors which are important in determining the quantity and quality of incident reports, including, as far as practicable, indemnities against disciplinary proceedings, confidentiality or de-identification and the separation of the agency collecting and analyzing the reports from those bodies with the authority to institute disciplinary proceedings and impose sanctions, the ease with which reports can be made and the "*rapid, useful, accessible and intelligible feedback to the reporting community*."¹⁷⁴ Professor Reason notes that few things will stifle incident reporting more than the perceived absence of any useful outcome.¹⁷⁵

1097 Secondly, a just culture where there is an atmosphere of trust in which people are encouraged, even rewarded for providing essential safety-related information but where a clear line exists between acceptable and unacceptable behaviour. He describes this culture as depending upon how an organization handles blame and punishment.

1098 Thirdly, a flexible culture which generally involves, "*shifting from the conventional hierarchical mode to a flatter professional structure where control passes to task experts on the spot and then reverts back to the traditional bureaucratic mode once the emergency has passed*". According to Professor Reason, such adaptability depends on respect for the skills, experience and abilities of the workforce.

¹⁷³ *ibid*, p 195

¹⁷⁴ *ibid*, p 197

¹⁷⁵ *ibid*, p 200

1099 Finally he believes an organization must possess a learning culture which has, *“the willingness and the competence to draw the right conclusion from its safety information system and the will to implement major reforms when the need is indicated”*.¹⁷⁶

1100 In addition to the four components described, Professor Reason quite correctly asserts that a safety culture is far more than the sum of its parts. He then considers a number of other matters which, in his view, are relevant to the presence or absence of a safety culture including the role of the Board in safety matters, the seniority of the person responsible for safety and the disciplinary process which is prescribed.

A Reporting Culture

1101 SFC does not have an adequate safety information system. While near-misses are reported, the instructions and procedures for reporting incidents are unduly complex, the reports which are made are often incomplete, feedback is not systematically given and the organization has given insufficient attention to issues of confidentiality.

1102 While more recently work has been done towards creating and implementing a risk management framework, the quality and reliability of the underlying data is poor. It must be concluded that SFC has significant work to do before it can assert a reporting culture.

A Just Culture

1103 It cannot be said that an atmosphere of trust exists at SFC. The survey recently done by ChangeDrivers, and reported in Chapter 6, attests to this. In addition, many of the submissions received from staff at SFC refer to the existence of a ‘blame culture’.

1104 The Director, Safety, Environment and Risk, gave evidence that SFC does not have a blame-free approach but believes that it should have such an approach and is unaware why it does not. He is not aware of

¹⁷⁶ *ibid*, pp 195-196

the Protective Disclosures legislation. As to whether there is currently action at Board or managerial level to adopt an approach similar to the “*just culture*” approach advocated by Professor Reason, he said there was but was unable to indicate when an outcome may be achieved and said that there was no detailed proposal being considered by management at this stage.

1105 SFC does not exhibit the characteristics of a just culture, as defined by Professor Reason.

A Flexible Culture

1106 Significant work has been done in SFC in the area of training, however, all the expected gains have not been achieved, in large part, because of the absence of crew-based rostering. Flexibility is more likely to be attained when crews are familiar with each other and the vessels and the tasks required of each of them in an emergency.

A Learning Culture

1107 Without a proper incident reporting system and crew-based rostering, SFC is severely hampered. The delays in implementing these and other systems (see Chapters 6 and 7) speaks against a real willingness to implement major reforms when needed.

Other Matters

1108 In relation to the involvement of the Board, from its early meetings, the Board of the SFC took an active interest in safety matters. It established a Safety, Environment and Security Committee at its second Board meeting in 2004 which until its demise in September 2005 regularly sought and received information about the specific remedial action being taken in respect of the non-conformances identified by the AJA and recommendations made by other agencies. In February 2006, it appears to have been replaced with the CEO Safety Committee which, as at February 2007, comprised all relevant senior managers and others with particular responsibility as well as union representatives.

- 1109 Data on injury rates and incidents was provided to the Board from March 2005 until mid August 2006. From August 2006 the data was limited to the monthly figures by reference to the KPIs. Currently, SFC does not cost the losses caused by incidents, although it has indicated that the proposed IMS system will have the capacity to do so.
- 1110 The key person responsible for safety reports to a General Manager, who reports directly to the CEO, and has four staff.
- 1111 The disciplinary procedure in place at SFC empowers the General Manager to take disciplinary action and there is no provision for peer or union involvement in the process. There is no internal appeal process specific to matters of discipline, however, there is an external appeal process. While the policy requires the employee to be made aware of the incident the subject of the disciplinary action and is to be given an opportunity to put his or her case, there is no requirement that the person be advised in writing.

CONCLUSION

- 1112 SFC has made considerable progress since corporatization. Training is provided more systematically and comprehensively than previously, a review of its QSEMS is underway and the newly formed Fleet Standards Group should enhance the safety of its operations.
- 1113 It is, however, hampered by its inadequate IT systems, the poor workforce culture and its failure to negotiate EBAs which require crew-based rostering.

RECOMMENDATIONS

- 1114 It is recommended that, in consultation with NSW Maritime, SFC review the safety management system to achieve the following goals:
- a. an integrated safety information system which;
 - i captures all hazards, OH&S incidents, audit results, non-compliance findings and near-miss reports ('incidents');

- ii guarantees and delivers feedback;
 - iii permits confidential reporting;
 - iv enables the costs of incidents to be calculated and reported upon;
 - v consistently defines incidents which are to be reported within SFC;
 - vi permits the accurate reporting of 'reportable incidents' to NSW Maritime which are required to be reported pursuant to legislative obligations and the MOU;
 - vii enables the implementation of corrective action to be monitored;
 - viii permits measurement of outcomes; and
 - ix is capable of systemic analysis.
- b. a just culture in which there are clear lines drawn between acceptable and unacceptable behaviour and which encourages and rewards the provision of essential safety-related information;
 - c. document control;
 - d. effective communication of lessons learned from incidents;
 - e. robust and scheduled internal audits;
 - f. regular external audit; and
 - g. effective tracking of training undertaken by staff to ensure only those fully and up-to-date qualified to crew vessels, do so.

1115 It is recommended that, in relation to its KPIs, SFC categorize the significant and reportable incidents by reference to:

- a. The nature of the incident e.g collision with wharf, collision with other vessel, collision with submerged object, other collision, grounding, near miss etc;
- b. whether any injury or fatality resulted and the seriousness of any injury;
- c. whether any damage to property including a vessel occurred and if so, the seriousness of any damage; and
- d. minor vessel incidents including near misses.

CHAPTER 11

BALMAIN SHIPYARD AND FLEET MAINTENANCE

IMPACT OF THE AGING AND DIVERSE FLEET ON MAINTENANCE

- 1116 Effective maintenance of the fleet is essential to the safe and reliable operation of ferry services. Without an adequately maintained fleet, timetables may not be met, services may be cancelled and the safety of passengers and staff may be compromised.
- 1117 As referred to earlier, there has been inadequate attention paid to fleet replacement. As a consequence, SFC is faced with the unenviable task of maintaining a fleet of 31 vessels with an average age of 17 years. While there are seven classes (see Chapter 3 for details), the vessels within each 'class' are not necessarily uniform, with the result that, for the purposes of maintenance there are 14 distinct classes of vessel.
- 1118 Each sub-class of vessel requires its own spare parts supplies, operating and maintenance procedures, planned maintenance programs, training requirements, crew complements and maritime survey. As an example, there are 24 diesel engine types from 10 different manufacturers.
- 1119 The number of classes and engine types increases the cost of spares and effectively limits the ability of SFC to hold spare engines. For most classes, SFC does not have a spare engine. Consequently, when an engine needs repair, the vessel has to be docked, sometimes for an extended period, awaiting engine overhauls or engine replacement. This can have a significant impact on vessel availability. Further, the older the vessel, the greater the risk of a critical failure.

1120 Comments in the 2001 Taylor Report remain pertinent today, “a *comprehensive suite of skills and equipment is required to keep the various types of vessel at a high state of availability*”.¹⁷⁷

BALMAIN SHIPYARD

1121 Balmain Shipyard (“the Shipyard”) is situated at Mort Bay, an ideal location given the routes serviced by SFC. It performs the majority of the maintenance work for SFC. Engineers carry out some maintenance work on board and contractors are used for more specialized tasks such as full engine overhauls, communication equipment repair and areas where facility limitations exist.

1122 The General Manager, Engineering, has responsibility for managing and maintaining the fleet, overseeing servicing, repairs, performance monitoring and work practices for all engineering related activities, maintenance of facilities and assets, including the three wharves at the Shipyard. The current occupant is the third person in the position since corporatization.

1123 The Shipyard performs the following functions:

- a. the planning and performance of scheduled vessel maintenance and undertaking of breakdown repairs;
- b. routine servicing and re-supply of consumables including provisions;
- c. ferry berthing, bunkering, bilge pump-out, and sewage and waste water pump-out; and
- d. logistic support through the supply of parts for maintenance.

1124 The Shipyard is one of only two operational repair and maintenance facilities within Sydney Harbour that utilizes a dry dock. It enables dry-

¹⁷⁷ Taylor, M, *Review of Operations of Sydney Ferries*, op cit, p 48

docking of all vessels except for the *Collaroy* and the three Freshwater class vessels. SFC use Garden Island and other contractors for maintenance work on these vessels. This is the main limitation of the Mort Bay facility.

1125 There are 86 staff engaged at the Shipyard, including trade staff, apprentices, administrative staff and management. According to SFC, the number of staff has remained stable since corporatization.

1126 There are currently 66 trade staff working in six main trade groups directly employed by SFC including seven apprentices, namely boilermakers, plumbers, electricians, fitter machinists, painters, shipwrights and ship repair assistants. There are three trade unions: AMWU, Construction, Forestry, Mining and Energy Union (“CFMEU”) and the Communication Electrical Plumbing Union (“CEPU”).

1127 There are 20 employees in management and administration and a number of contractors.

1128 One multi-union Industrial Agreement covers the workforce.

SHIPYARD IMPROVEMENT

1129 In 2001, the Taylor Report recommended improvements to the maintenance system at SFC. By 2004, the Medlock Report reported satisfaction that SFC had addressed each of the recommendations made in the Taylor Report and had developed a more planned and systematic approach to maintenance management.

1130 The author noted, however, that the benefits of this approach were yet to be seen in consistently improved vessel performance and that further improvements could be made. The Medlock Report made recommendations primarily aimed at the collection of performance data.

1131 Since the Taylor and Medlock reports there have been a number of reports, which have included comments on the operation of the

Shipyard. The most significant review was performed by KPMG in 2005 and is addressed below.

1132 Other relevant studies include the October 2005, NSW Maritime audit which was critical of work practices at the Shipyard and concluded, *“there is little effective supervision at any level, productivity is extremely poor and vessel availability would be unacceptable in any commercial enterprise”*.¹⁷⁸

1133 In the same month, Global Maritime reported on the Freshwater ferries and concluded that the planned maintenance system for those vessels was poor, and the maintenance responses were inadequate.¹⁷⁹

1134 In May 2006, SFC commissioned a survey of the fleet. A significant number of recommendations were made (see Chapter 10). With respect to maintenance, the principal finding was that SFC’s maintenance regime was reactive when a proactive or planned approach was needed. Consistent with the widely held view that crew-based manning of vessels is desirable, the survey found that vessels with a permanent crew were generally better maintained than those without.

KPMG REPORT

1135 In December 2004, SFC engaged KPMG to review the operations at Balmain Shipyard. The object was to assess the Shipyard’s efficiency and its value to SFC. In its July 2005 report, KPMG concluded that:

“[The review] highlights that shipyard performance poses significant risk to Sydney Ferries Corporation achieving its corporate intent. Shipyard costs, even accounting for the increased age of the fleet, have grown at 20% per annum over the past seven years, and are considerably higher than commercial arrangements and fair market

¹⁷⁸ NSW Maritime, *Sydney Ferries Corporation Audit Report*, October 2005, p 4

¹⁷⁹ Global Maritime, *Sydney Ferries Corporation: Report on the Freshwater Class Ferries*, op cit, p 36

rates. At the same time Shipyard output barely meets operational requirements. Fleet availability is low, averaging around 75%, often necessitating chartering of vessels to make up for shortfalls in capacity.”¹⁸⁰

1136 KPMG made the following key findings:

- a. the Shipyard had the capabilities and capacity to provide the maintenance functions needed to support SFC operations;
- b. SFC maintenance costs increased as a percentage of total costs but at the high end in comparison to other ferry operators;
- c. maintenance costs are high due to inefficiency in the use of the Shipyard workforce, and in the control of spare parts, materials and external services;
- d. the underlying causes of Shipyard performance are associated with current organizational arrangements, maintenance processes and systems;
- e. the current management structure provides limited accountability for coordination and Shipyard performance, except at Fleet Manager level;
- f. the Shipyard Information System (“MIMS”) provided adequate functionality, although it was not being used to its full capability. Data inaccuracy was a key criticism; and
- g. outsourcing would achieve only marginally greater cost savings than an improvement of Shipyard effectiveness.

1137 In particular, KPMG noted that the portion of paid hours used to maintain vessels was low and concluded that overall labour utilization was less than 60%. It found that the effective ‘charge out’ rate for the Shipyard based on actual hours booked in 2003-04 was \$170 per hour.

¹⁸⁰ KPMG, *Operations Review – Balmain Shipyard*, Final Report, June 2005, p4

The rate is primarily driven by low labour utilization and was considered high on the basis that commercial rates at the time were \$100 per hour.

1138 The rostering arrangements posed a number of issues according to KPMG.¹⁸¹ The rosters aimed to provide Shipyard coverage over the bulk of the daily ferry operations, that is, from 5.30am to 8.00pm and to reduce weekend overtime levels by having two ten hour shifts and a roster for Saturday coverage. This coverage resulted in expense generated by shift loadings and extra annual leave entitlements and, while most breakdowns occurred in ordinary operating hours, all staff worked shifts.

1139 KPMG recommended changes in the following areas: first, the structure of the workforce; secondly, the work request process; and finally the establishment of process measures and development of performance reviews. KPMG particularly noted that these changes required significant behavioural change.

1140 According to KPMG, potential cost savings of between \$2.4 million and \$3.4 million per annum could be achieved if these recommendations were implemented.¹⁸²

Implementing the KPMG Recommendations

1141 SFC adopted the KPMG report recommendations and subsequently KPMG was engaged from December 2005 until July 2006 to assist the SFC in the development and implementation of the Balmain Shipyard Improvement Program.¹⁸³

1142 As at July 2006, KPMG stated that the Balmain Review and Shipyard Improvement Program had been successful:¹⁸⁴

¹⁸¹ *ibid*

¹⁸² *ibid*, p5

¹⁸³ KPMG, *Balmain Implementation Support: Handover Report*, July 2006, p 1

¹⁸⁴ *ibid*, p 6

“... in setting the tone and direction required by Sydney Ferries Senior Management for the improvement of the maintenance operation at Balmain Shipyard. Most of the project objectives have already been achieved with the remainder due to complete and report over the next six months.”

1143 KPMG also noted that in addition to the stated objectives, ownership and morale in the Shipyard had tangibly improved and envisaged that this would continue as the remaining work was completed. The new EBA and the roster arrangements received positive comment.

1144 As at April 2007, SFC had implemented a range of changes, including to its management structure, the rosters and work order and request procedures. It also introduced a library of key performance indicators, known as the Dashboard.

1145 Work that has not yet been completed includes preventative maintenance planning, inventory procedures and an asset register. Each requires technology which is not yet in place.

MEASURING THE SHIPYARD'S PERFORMANCE

1146 The Performance Agreement between SFC and the Minister nominates two KPIs specifically covering the work of the Shipyard: Fleet Availability and Vessel Reliability.

1147 'Fleet Availability' is the percentage of the fleet available for scheduled services, that is, the days the fleet is available as a percentage of total working days. The performance target for this indicator is 80% fleet availability. Fleet availability data have been collected since July 2005 in line with this definition.

1148 SFC operates to three distinct areas: Manly, the Inner Harbour and the Parramatta River. Generally, a different class of vessel operates in each area and there are varying numbers of vessels in each class. As a general principle, SFC has more vessels than is required to meet its timetables, to accommodate vessels being repaired, being used for

training and unexpected breakdowns. Accordingly, the target of 80% is set recognizing that at any given time, six or so of the vessels will be unavailable.

1149 However, it depends on which vessels are unavailable as to whether 80% availability will be sufficient to meet all timetables. For example, the vessels required to operate the scheduled services to Manly are three of the four Freshwater class ferries and two of the three JetCats. However, if all other vessels were available and three Freshwater ferries and three JetCats were not, the performance indicator would be met while no services were able to operate to Manly.

1150 'Vessel Reliability' is the percentage of available vessels that remain in service without withdrawal as a consequence of mechanical failure. The performance target for this indicator is 95% fleet reliability.

KEY PERFORMANCE INDICATORS				
	KPI	Target	Result	
1	Vessel Availability:		2005/06	2006/07
	Total Fleet	80%	71.0%	77.0%
	Freshwater		74.4%	80.0%
	JetCat		65.6%	73.0%
	First Fleet		77.3%	79.9%
	Lady class		65.2%	87.6%
	RiverCat		65.6%	74.0%
	HarbourCat		59.0%	68.2%
	SuperCat		73.1%	71.0%
2	Vessel Reliability		2005/06	2006/07
	Total Fleet	95%	91.1%	93.0%
	Freshwater		80.0%	90.8%
	JetCat		82.1%	84.2%

KEY PERFORMANCE INDICATORS				
	KPI	Target	Result	
	First Fleet		86.6%	85.9%
	Lady class		70.0%	93.0%
	RiverCat		79.3%	83.0%
	HarbourCat		72.7%	76.8%
	SuperCat		85.4%	82.3%

1151 SFC's performance has improved in relation to each indicator, although it has not met the target in either case. SFC publicly reports on availability and reliability by reference to the fleet as a whole. However, the above figures clearly indicate that there is significant variation between classes. A user of any of the catamarans would be understandably confused by the information that SFC is close to its target when the vessels he or she relies on are significantly less available and reliable than the rest of the fleet.

1152 It is recommended that these performance indicators be disaggregated to properly understand whether there are sufficient vessels available to service all routes, and if not, which routes will suffer.

1153 As part of KPMG's work implementing its recommendations, KPMG developed and SFC adopted the additional key performance indicators, referred to as the Dashboard. The Dashboard is set out in Appendix J. Those for which data were not available, mainly training and OHS matters, have not been included.

1154 The key areas in which performance is measured is: first, operating costs, including overtime and the use of contractors; secondly, staff utilization; thirdly, the work order system and finally, time taken to repair vessels.

Operating Costs

1155 In addition to the SFC target of operating costs not varying from the budget, KPMG recommended that SFC reduce Shipyard operating costs by \$1 million per annum through expenditure reductions in relation to contractors and improved labour productivity.

1156 SFC has not met either of these targets in 2006-07. In fact, its operating costs have increased by almost \$6 million and were 40% above budget. Further, in the month of June 2007, its expenditure on contractors exceeded the target of \$5,000 by \$145,000.

BALMAIN SHIPYARD COSTS					
Cost Element (\$000)	2003/04	2004/05	2005/06	2006/07	FY 2007/08 Budget
Direct Staff Costs					
Wages and allowances	3,791	4,713	4,826	5,387	5,842
Wages On-costs	1,056	1,028	1,766	2,303	2,195
Sub-Total Direct Labour Costs	4,847	5,741	6,592	7,689	8,037
Indirect Staff Costs					
Wages, Salaries and Allowances	1,127	834	1,036	1,724	1,447
Payroll On-costs	314	88	175	352	285
Sub-Total Indirect Labour Costs	1,441	921	1,211	2,075	1,732
Labour Capitalization (Changed Accounting Policy Correction)		(1,784)	(2,566)	(3,798)	(3,644)
Total Labour Costs	6,288	6,662	7,803	9,765	9,769
Total Materials Costs	9,963	10,396	9,596	13,043	15,461
Other Expenses					
Fleet Maintenance Other	85	71	90	394	58
Other Expenses	1,518	2,093	2,348	2,410	2,470
Total Other Expenses	1,603	2,164	2,438	2,804	2,528

BALMAIN SHIPYARD COSTS					
Cost Element (\$000)	2003/04	2004/05	2005/06	2006/07	FY 2007/08 Budget
Depreciation/Amortisation	521	505	506	580	1,041
Total Costs	18,375	19,727	20,343	26,192	28,800

1157 Accurate year-to-year comparisons of Shipyard costs are difficult to make given there have been changes to SFC's accounting methods. According to SFC, at the time of the KPMG Review, Shipyard costs to major periodic maintenance were expensed as operating costs. The adoption of the International Accounting Standards in 2005-06 required SFC to report this expenditure as a capital item for statutory financial reporting. In short, the effect is that SFC's expenditure appears lower than it actually was.

1158 The appropriate starting point to understand the operating costs at Balmain Shipyard is the EBA, which was entered into by SFC with the Shipyard workers in August 2006. As noted in Chapter 8, SFC was required to consult with the then PEO and NSW Treasury before finalising EBAs.

1159 SFC advised the PEO in July 2006, that under the proposed EBA Balmain Shipyard workers were to receive two 4% wage increases over the life of the Agreement. In addition, a 20.59% increase in base rates was to be paid as a result of including in the base rate morning and afternoon shift loadings. These increases were calculated to amount to about \$1.4 million.

1160 SFC advised that savings were to be made in a number of areas. First, sick leave savings of \$61,000 were to be made by reducing the entitlement from 114 hours per annum to 91.2 hours. Secondly, savings of about \$1.182 million would be achieved in the reduction of overtime as a result of roster changes and the replacement of staff on sick leave. Finally, further savings valued at \$1.526 million were to be achieved from increasing the utilization of hours worked from 58% to 70%. The

basis of this increase was given as moving from four 10 hour shift days per week to five eight hour shifts per week.

1161 Twelve months on, the costs incurred under the Agreement in the year ended June 2007 were about \$1.2 million. Instead of reducing by \$1.182 million, overtime increased by about \$410,500 and rather than saving \$61,000, sick leave costs increased by about \$50,000. Savings of about \$61,000 were achieved from the reduction of accrued sick leave entitlements.

1162 SFC asserted that it achieved the productivity saving by a 22% increase in the utilization of hours which it valued at \$1.27 million. This statement is at odds with other data provided by SFC. SFC told the Inquiry that as at the end of June 2006, shortly before the date when SFC was reporting to the PEO, the utilization rate was 70%. As at the end of June 2007, it was 65%.

1163 According to these data, there has been no increase in utilization, indeed, there has been a 5% decrease. More will be said later about the reliability of these figures. There was no saving of \$1.27 million.

1164 SFC has given various reasons to the Inquiry and stakeholders for the increase in operating costs. The principal reason is the increase in labour costs as a result of the EBA, including overtime and the use of contract labour.

Labour Costs

1165 Labour costs at the Shipyard increased from \$7.8 million in 2005-06 to \$9.76 million in 2006-07. In particular, there has been an increase in overtime payments of more than 50% between 2005-06 and 2006-07, that is, from \$464,785 to \$1,094,107.

1166 High overtime costs can occur for a number of reasons. The approval process of overtime can be inadequate and it can call into question whether the work is being efficiently performed in ordinary hours. Each of these matters was the subject of comment by the Auditor-General in

his Interim Management Letter for the year ending June 2007.¹⁸⁵ Further in its May 2007 meeting, the Directors of the Audit Committee of the SFC Board are recorded as noting the absence of a formal pre-approval process for overtime.

1167 There may be insufficient labour to perform the work during normal hours or the rosters may render it inevitable because of the lack of coverage at certain times.

1168 It is obvious that high overtime can have serious effects on safety and health and reduce productivity, in particular where its allocation is not equitable.

1169 SFC has provided various reasons for the increase in overtime payments at the Shipyard:

- a. to clear backlogs;
- b. to quickly repair breakdowns;
- c. the delivery of improved vessel availability and reliability performance;
- d. to complete a large number of main engine overhauls and major modifications;
- e. the age of the fleet has produced unanticipated defects in the vessels which has slowed the rate at which the improvement programs can be completed and led to an unexpectedly high number of regular breakdowns and maintenance issues with the vessels;
- f. the commencement of the re-engining project;

¹⁸⁵ Draft Management Letter to SFC on the Interim Phase of the Audit for the Year Ending 30 June 2007, The Audit Office of New South Wales, 1 June 2007

- g. the new roster does not cover Saturday and the daily periods between 5.30am and 7.30am and 3.30pm and 8.00pm and the maintenance requirements in these periods are now covered by overtime;
- h. the nature of the work dictates that call outs and last minute overtime requirements arise frequently at all hours;
- i. the 'new timetable' has led to the introduction of new services which has required additional maintenance to be performed on vessels;
- j. the increase in the availability of vessels has resulted in these vessels being used for training and drill purposes which has generated further maintenance work;
- k. there has been a significant skill shortage at the Shipyard. This has produced difficulties in obtaining skilled contractors to perform various roles. At times, permanent Shipyard staff have had to work overtime to compensate for this lack of resources; and
- l. increase in number of trade employees.

1170 It is accepted that there may be a variety of reasons for the increase in overtime, however, as the current levels are very high, it becomes imperative to accurately determine the causes in order to set about trying to reduce the costs to the Corporation. If, in fact, high levels of overtime are generally incurred performing the day-to-day work of the Shipyard rather through an atypical increase in work or an unexpected reduction in the workforce, a different approach is needed.

1171 It appears to the Inquiry that most of the reasons advanced by SFC for the increase in overtime relate to the tasks expected to be performed at the Shipyard. An obvious exception is the re-engineing project, the labour for which was apparently not taken into account by KPMG in its 2005 review.

- 1172 For example, the backlog is more truly described as chronic given the aim to reduce it from some 1,600 work orders needing completion to 1,000. It is unlikely to be cleared. Overtime has been done by staff to improve the availability and reliability of the vessels. As each of those measures has not yet reached its target, it must be assumed that labour usage, through overtime or some other method will continue. Similarly, training and drills will continue. Unplanned maintenance is unlikely to decrease in an aging fleet. Dockings are scheduled and, therefore, SFC should be able to plan its workforce to accommodate the work required.
- 1173 Further, the new rosters do not cover Saturday and six hours during the day. These periods are now worked as overtime. The overtime payments are higher than the shift penalties which previously applied, being based on a wage rate increased by 20.59%. But, in addition to the higher overtime rate, staff still effectively receive the shift allowance by way of the increase in the base pay.
- 1174 The Chief Financial Officer agreed that this *“sounds like a double whammy”*.
- 1175 It is noted that the claim that there has been an increase in staff, is at odds with other information provided to the Inquiry that numbers at the Shipyard have been stable since corporatization.
- 1176 When asked whether SFC has undertaken comparisons between the cost of overtime and the cost of contracting out and whether there is optimal staff at the Shipyard, the Chief Financial Officer said that for several years the focus has been on increasing the utilization of existing staff so there would not be a need for increases in staff. She stated that according to benchmarking that was done two to three years ago, SFC considered that there may be a decrease in staff.
- 1177 By contrast, the General Manager, Engineering, told the Inquiry that unexpected maintenance requirements and labour intensity due to the aging nature of the fleet means that the permanent workforce should be marginally increased.

1178 The CEO said:

“We need more people at the yard either by permanents and contractors or, whatever combination you see is the cost effective way of doing it, I want to get away from the overtime because the overtime is killing us at the moment financially.”

1179 It is noted that the Shipyard EBA contains a clause on the use of contract labour.¹⁸⁶ It provides that:

“In accordance with the Balmain Shipyard Improvement Plan, SFC shall inform and discuss with workplace delegates its intention to engage contract labour. While SFC is committed to ongoing permanent employment, there may be a requirement to cover short term shortages of labour or special projects with labour supplied by labour hire companies. In such circumstance SFC agrees that it will only engage supplementary labour from reputable companies.

Contractors may be engaged for periods of not less than one day and not greater than six continuous months without review by SFC to determine whether there is an opportunity to engage the contractor as an employee.”

1180 The AMWU told the Inquiry that there are instances of trade staff employed as labour hire for up to three years and believes this is an indication of the understaffing of the Shipyard. The Union believes that a relatively modest investment in on-site infrastructure is required to enable full-time trades people to undertake most work on site that is currently outsourced, and the benefits of this would reduce the cost to the budget. There is obvious merit in this approach, depending on the reliability of the data.

1181 Whether SFC has sufficient staff to meet its maintenance requirements, is not a matter this Inquiry can resolve, although it is noted that had

¹⁸⁶ Clause 5.5

SFC developed a completed workforce plan, it would be in a better position to provide an answer. SFC should give careful consideration to the adequacy of the labour at the Shipyard and review the economies of overtime, contract labour and casual and permanent employees.

Staff Utilization

1182 According to the General Manager, Engineering, SFC has set a target of achieving 75% staff utilization which means 75% of hours worked by staff as measured against total available hours.

1183 In arriving at a labour utilization rate in 2005, KPMG examined the number of work orders completed and calculated a labour charge out rate. This rate indicated an effective utilization rate of 45%.

1184 SFC was of the view that work orders were not diligently completed for each job and thus these were not a reliable indicator of hours worked. It then, on the basis of the hours it believed were worked, 'adjusted' the KPMG figure to 65%.

1185 When asked about the basis on which this adjustment was made, the General Manager, Engineering, said that it was found that a lot of hours were actually not booked to work orders. The hours were worked but were not recorded on job cards and staff were not rigorous in submitting job cards.

1186 When asked how he knew hours were not being recorded he stated that, *"[You] see how much labour you had for the day, see who submitted job cards and see whether the total hours tally up to the total hours that they were present in the yard"*.

1187 He conceded this could be a result of both the loss of recorded hours and a lack of efficiency.

1188 Thus, according to SFC, the labour utilization rate in 2004-05 was 65%. It rose to 70% in the following year and in 2006-07 it dropped back to

65%. The data relied upon to reach this calculation can fairly be said to be lacking in full reliability.

1189 On these figures, there has been no material improvement in productivity as measured by labour utilization since corporatization.

1190 However, there is obvious confusion in SFC as to the appropriate labour utilization rate. First, when responding to questions from the Inquiry about a contention by the AMWU that the number of labour hire workers indicates that the Shipyard is significantly understaffed, SFC said that the new rosters at the Shipyard have increased effective labour utilization and productivity to approximately 70% from an average of 45%, as evidenced by timesheets. In other communications with the Inquiry, SFC has moved away from the figure of 45%.

1191 Secondly, in July 2006, when advising the PEO on the benefits expected from the then proposed EBA, SFC advised that savings valued at \$1.526 million were to be achieved by increasing the utilization of hours worked from 58% to 70%. At that time, July 2006, the rate was already 70%, according to SFC data.

1192 Thirdly, SFC told the Inquiry that the increased pay rates and new rosters have, *“delivered increased productivity and utilization, increasing the effective hours delivered at the Shipyard”*. This is not really supported by SFC’s own data.

1193 Further, according to the General Manager, Engineering, the current plant maintenance planning system is 14 years old and is highly unreliable. The planners cannot do a proper analysis because they cannot access the data. Every hour that has been spent working on a vessel over the past years has been estimated. He is unable to tell whether the work involved skilled or semi-skilled labour worked at normal or overtime rates:

“If we talk about efficiency of labour, for instance, utilization I am talking about, the current figure we use is, in essence,

fundamentally flawed because all we say is that it is the amount of time that is allocated to work orders. If that's 95%, utilization is 95%. If you write all your time to a job number, then you are 100% utilized for that day. In fact that might not be effective; you might not have done your job effectively so that's not true utilization."

1194 Without a proper understanding of staff utilization it becomes almost impossible to properly plan a workforce, including reducing dependence on overtime.

1195 SFC told the Inquiry that a revised system will be in place by June 2008 which will, among other matters, improve reporting, costing and accountability for regulatory, analytical, planning and reporting purposes. Without it, few conclusions can be drawn about productivity at the Shipyard.

Work Order System

1196 The KPMG quantitative objective for this area is ensuring 95% of all work is covered by a work order. The Dashboard KPI is to reduce the number of outstanding work orders to 1,000.

1197 As can be seen, as at June 2007, the number of outstanding orders was 1,677 against a target of 1,000. While a decreasing trend is evident, the forecast of SFC that labour costs will not increase over the next financial year appears overly optimistic given the need to further reduce these orders.

1198 The work order is the prime document used to manage maintenance tasks. It includes information such as a description of the work required, the task priority, the job instruction, the parts, materials, tools and equipment required to complete the task, the labour hours, costs and materials consumed to complete the work.

1199 Work orders are automatically generated by MIMS, the planned Maintenance Management System, based on vessel running hours or at set periods of time. Work requests are used to record breakdowns,

defects, requested improvements, repairs and inspections. Once approved these are prioritized and entered into work orders.

1200 At the time of the KPMG review, MIMS was used only to record the requests. The raising, approving, closing and reporting of work orders were paper-based.¹⁸⁷ This is still the case.

1201 SFC states that it recognizes the difficulties relating to the current work request system. It contends that with the roll-out of the new information management system all ferries will have computers and connectivity with the SFC computer network. This will make it possible for Masters and Engineers to know the status of work requests relevant to their vessel.

1202 The General Manager states:

“... at the moment the financial system is separate. If you ask for financial analysis, the financial person will come up with a different figure than I will from my MIMS system... at the moment the payroll system is separate as well. This will also be integrated so I can then start giving some true life cycle costs or historical maintenance costs.”

Repair Time

1203 The Shipyard Dashboard has a number of KPIs which measure, in broad terms, the time taken to repair vessels and have them available for service.

1204 First, it measures actual hours versus scheduled hours for both dockings and planned maintenance with the target being 1:1. Both indicators have varied significantly since May 2006, when data were first collected, however, a clear decreasing trend is not evident. Each is currently reflecting that actual time spent when a vessel is docked or being maintained exceeds the time that it was thought it would take.

¹⁸⁷ KPMG, *Operations Review – Balmain Shipyard, Final Report*, op cit, p 25

- 1205 The conclusion reached by KPMG in 2005 was that this was due to a lack of planning such as having the materials available prior to the arrival of the vessel.
- 1206 Secondly, the time to repair breakdowns is addressed by measuring the hours so spent per month. While the target of eight hours has not been met, the trend is that fewer hours are utilized in repair work. It is accepted that this is a reasonable indicator that efficiency has improved through labour use and spare part availability.
- 1207 Perhaps of more importance is the amount of time spent carrying out planned and unplanned maintenance. From the data provided, between July 2005 to June 2007, the time spent on planned maintenance appears to have increased and there is an apparent fall in unplanned maintenance.
- 1208 Contrary to these data, the General Manager, Engineering, told the Inquiry that the ratio of planned and unplanned maintenance has remained stable over the last years, with a marginal improvement in planned maintenance. However, due to the weakness in current data, he said it is not possible to find a sustainable trend.
- 1209 This is being addressed by the development of new Technical Maintenance Plans (“TMPs”) for all vessels across the fleet, “*so when a tradesperson receives a work order they also know what the supporting documentation is*”.
- 1210 The new TMPs have been drafted but are not yet in place for any of the vessels. It is expected that the new TMPs will be released in December 2007 to coincide with implementation of the new IT system. The absence of TMPs was the subject of criticism by KPMG in 2005 and OTSI recommended in October 2006 that their development be progressed.

ADEQUACY OF KEY PERFORMANCE INDICATORS

1211 The KPIs were developed by KPMG after a detailed review of the operations of the Shipyard. Given the diversity and age of the fleet, it is difficult to understand how SFC has determined as a target the same period of time for each class of vessel in relation to the period of time spent:

- a. in docking;
- b. alongside;
- c. per operating hour in maintenance costs;
- d. per month in planned maintenance; and
- e. per month in unplanned maintenance.

1212 It is suggested that SFC reconsider these aspects of its KPIs.

1213 Finally, it is noted that KPMG set quantitative objectives of reducing outstanding work orders to less than five weeks and ensuring that 95% of all work is covered by a properly completed work order.

1214 SFC has informed the Inquiry that it does not keep data which are easily accessible in respect of either these matters. SFC should ensure that these matters receive attention, even if not subject to qualitative evaluation.

CONCLUSION

1215 The data are not sufficiently reliable to confidently conclude whether the Shipyard's performance has improved since the critical findings in 2005. The disaggregation of the KPIs and the introduction of IT systems should permit a clearer understanding in time.

1216 Until the fleet is replaced, however, there will inevitably be the need for greater maintenance, both planned and unexpected, which is likely to

necessitate an increase rather than a reduction in labour costs in the Shipyard.

1217 The unreliable data were inherited by the responsible General Manager and there is discussion elsewhere in the report about the delays in SFC acquiring the necessary technology.

1218 The Inquiry was impressed by the professionalism and candour of the responsible General Manager and was greatly assisted by his evidence and other materials. The picture of continual shortcomings should not be viewed as criticism of him or of the many skilled and diligent tradespeople and workers at the Shipyard. The mounting challenge posed by the aging and diverse fleet has two important aspects in evaluating the part played by these SFC employees and the Shipyard facility. First, it largely explains the disappointing pattern of availability and reliability, rather than any slackness at the Shipyard. Secondly, it is one reason to comment, rather than condemn, the continuing achievement in keeping the busy fleet operating.

1219 Certainly, the seriousness of application by current SFC Shipyard workers and executive justifies considerable confidence that the facility will be up to the critical task of transitioning to a replacement fleet. It is integral to the future of ferry services in Sydney.

RECOMMENDATION

1220 It is recommended that the Balmain Shipyard performance indicators be disaggregated to properly understand whether there are sufficient vessels available to service all routes, and if not which routes will suffer.

CHAPTER 12

REPLACING THE FLEET

THE NEED FOR FLEET REPLACEMENT

- 1221 The fleet SFC inherited from the STA, described in detail in Chapter 3, almost resembled a working ferry museum. It effectively comprised 14 different classes of vessel, all of which were rapidly reaching or had already passed their useful economic life.
- 1222 The two Lady class are the oldest vessels in the fleet. They were acquired in 1975 and 1979. The nine First Fleet class vessels were added to the fleet from 1984 to 1986. The Freshwaters were acquired from 1982 to 1988. The HarbourCats were procured in 1988, the JetCats between 1990 and 1991, the RiverCats were acquired between 1992 and 1995 and the SuperCats in 2000.
- 1223 The age and complexity of the fleet is a product of a marked lack of an intelligent program of fleet management and procurement in the past. SFC told the Inquiry that the vessels, historically, seemed to have been acquired in an ad hoc and unsystematic manner, with no maintenance plans in place to accommodate the life cycle of each vessel from acquisition to retirement and disposal.
- 1224 SFC now finds itself in a circumstance where the entire fleet is in urgent need of replacement. The current fleet is not always able to meet existing service requirements and there is limited capacity for expansion of the service. Without fleet replacement, the reliability, safety and efficiency of existing services will continue to deteriorate. Without the assurance of a proper plan for replacement, there cannot be the expansion of ferry services that Sydney should have.
- 1225 While regrettable, the need for wholesale replacement of the fleet represents the possibility of an important watershed for ferry services

in Sydney. Significant capital investment is required and important strategic decisions have to be made about the kind of ferry service that will be offered into the future. The potential exists for ferry services to be significantly rejuvenated and expanded as a result. As the MUA persuasively told the Inquiry:

“... the issue of fleet replacement presents challenges for Sydney Ferries but it must also be recognized that fleet replacement presents significant opportunities to reinvigorate interest in public transport utilization on Sydney Harbour and its environs. Fleet replacement should not be viewed solely as a problem but also as an opportunity to address some of the operational, service and management issues that have affected Sydney Ferries in recent years.”

THE DEVELOPMENT OF A FLEET REPLACEMENT STRATEGY

1226 It is critical a new fleet is acquired in accordance with a detailed and structured fleet replacement strategy. The primary goal of any such strategy must be to standardize the fleet, by reducing the number of classes to a workable minimum. The standard, of course, must be right for Sydney.

1227 Between 1990 and 2004, a number of unsuccessful attempts were made by the STA to devise and implement a fleet replacement strategy. In particular, the purchase of the SuperCats was intended to result in a single class of vessel. SuperCats were introduced on the Manly service in 2000. The plan was then to progressively replace the RiverCats and First Fleet class with SuperCats as funding became available.

1228 The SuperCats were withdrawn from the Manly service in April 2002. This is widely thought to be because they were incapable of operating on the Manly route. In fact, this is not strictly the case. SuperCats are surveyed to handle a swell of 2.1 metres. According to an independent hydraulic survey of Sydney Harbour commissioned by Sydney Ferries,

on average the swell near Sydney Heads exceeds 2.1 metres on fewer than 1% of days (or less than four days a year). The Taylor Report found that the SuperCats were seaworthy and capable of safe navigation in waves up to 2.8 metres rather than the 2.1 metres for which they were rated. On most days, the SuperCats are capable of providing a service to Manly. In unusually heavy seas, they are not. The decision to withdraw them from the Manly service was more political than operational.

1229 This Inquiry has not unproductively pursued an historical explanation as to why previous plans for a fleet replacement strategy failed to achieve a reduction in classes and indeed achieved the opposite. Suffice to say, that when SFC inherited the fleet from the STA in 2004, despite the age and condition of the fleet, SFC did not inherit a plan for the fleet's management or replacement.

TOTAL ASSET MANAGEMENT PLAN

1230 Government agencies are required to submit a Total Asset Management Plan annually to Treasury, comprising five individual plans:

- a. an Asset Strategy, linking the agency's existing and proposed physical assets to a service delivery plan;
- b. a Capital Investment Strategic Plan;
- c. an Asset Maintenance Strategic Plan;
- d. an Asset Disposal Strategic Plan; and
- e. an Office Accommodation Strategic Plan.

1231 The Total Asset Management Policy¹⁸⁸ was introduced to achieve better planning and management of the State's physical assets. SOC's

¹⁸⁸ NSW Treasury, *Total Asset Management (TAM) Policy: Office of Financial Management Policy and Guidelines Paper*, August 2004, p 5

are exempt from the Policy but are, “*encouraged to adopt aspects of TAM that are consistent with their corporate intent*”.¹⁸⁹

1232 In 2006, OTSI recommended that SFC expedite the development of a Total Asset Management Plan and SFC engaged KPMG to develop a Total Asset Management Strategy. KPMG’s Total Asset Management Strategy was rejected by the Board in January 2007 on the basis that it lacked detail, was inflexible and reached conclusions that could not be justified.

1233 SFC subsequently resolved to develop a Total Asset Management Plan in house. This is currently being developed. A critical component of the Total Asset Management Plan is a fleet replacement strategy.

1234 SFC’s Fleet Replacement Strategy, which was drafted during the course of the Inquiry, was completed in July and has been approved by the Board for release to the Shareholding Ministers and to the Ministry of Transport as a draft for discussion.

SFC’S FLEET REPLACEMENT STRATEGY

1235 SFC’s Fleet Replacement Strategy sets out a number of options for the replacement of the fleet. Broadly, the preferred option is to replace the existing fleet with two classes of vessel: a class of smaller vessels, which would predominantly operate on the Inner Harbour and lower Parramatta River, but be capable of going to Manly if necessary; and a class of larger vessels, which would operate across the Heads to Manly.

1236 The Strategy recommends a new fleet entailing the following changes to SFC’s present operations:

- a. discontinue the high speed JetCat service to Manly;

¹⁸⁹ *ibid*, p 5

- b. operate a single class of vessel to Manly, that is slightly smaller and faster and operates more frequently than the current Freshwater class;
- c. discontinue ferry services on the upper Parramatta River;
- d. operate one class of vessel on the lower Parramatta River and Inner Harbour; and
- e. equip all vessels in the fleet to survey standard 1D, that is, capable of going across the Heads to Manly.

1237 The Strategy proposes the acquisition of:

- a. 32 smaller vessels which would run at a speed of 18 knots and have a passenger capacity of 300 (the Inner Harbour/Parramatta River class); and
- b. eight larger vessels which would run at a speed of 18-20 knots and have a passenger capacity of 800 (the Manly class).

1238 Reducing the fleet to two classes would obviously yield significant cost efficiency benefits. Maintenance and training requirements would be lessened.

1239 The Inquiry supports SFC's Fleet Replacement Strategy. However, the costings contained in the Strategy will need close and detailed analysis by those with the necessary expertise.

THE MANLY SERVICE

1240 Currently, SFC operates two services between Circular Quay and Manly: a high speed commuter service, using the JetCats which run at 30 knots and complete the trip in 15 minutes, and a standard ferry service, using Freshwater vessels which run at 14 knots and complete the trip in 30 minutes.

- 1241 A single ticket from Circular Quay to Manly is \$6.40 on a Freshwater ferry and \$8.20 on a JetCat.
- 1242 The Freshwater class ferries operate between 6.00am and 12.00 midnight, at intervals of approximately half an hour. Each vessel can carry 1,100 passengers. There are 230 scheduled services each week. Freshwater vessels carry 117,000 passengers per week and operate for a total of 16,000 hours annually.¹⁹⁰
- 1243 The JetCats only operate during the morning and evening commuter peaks, approximately every half hour. Each vessel can carry 280 passengers. There are 101 scheduled JetCat services each week. JetCats carry 13,750 passengers per week and operate for a total of 4,200 hours annually.¹⁹¹
- 1244 SFC's Fleet Replacement Strategy recommends ceasing operation of the JetCat service for the following reasons:
- a. JetCats are very costly to operate. It costs three times as much to operate a JetCat as a Freshwater class vessel;
 - b. the added complexity in the fleet created by the JetCat adds to the high cost of maintaining the service through additional crew training, classification surveys, spares holdings and maintenance complexity. As the aluminium hull structure gets closer to its fatigue limit the modification to sustain the structure will add to expanding maintenance support costs;
 - c. a premium price is not being charged for the JetCat service (and cannot be, unless IPART so determines);
 - d. ceasing the JetCat service provides the greatest service benefit for the public by allowing SFC to offer an improved single service; and

¹⁹⁰ KPMG Risk Advisory Services Pty Limited, *Service Delivery Plan*, 2006-2015, op cit, p 9

¹⁹¹ Ibid, p 9

- e. JetCats are characterized by poor reliability and highly fluctuating availability due to the small number in the fleet.

1245 The Manly route is of vital importance to SFC's revenue. The Manly services combined (Freshwater and JetCat) provide almost 50% of SFC's farebox revenue. By running two services, neither of which is often full, SFC effectively competes with itself, significantly limiting the profitability of the route. John Stott, former Chief Executive of the STA tellingly put this view to the Inquiry:

"... it beats me why, with what is a high-frequency, high-volume service to Manly, we compete with ourselves with the JetCats and the big boats. Some of the numbers are quite frightening... It seems to me that the average Freshwater passenger is subsidizing the average JetCat passenger who is paying a measly \$2 extra for the trip. Somebody has to look at that."

1246 The current peak hour seat capacity of the Freshwater and JetCat services combined is 3,836. The proposed peak hour seat capacity of the proposed new Manly class is 4,000. Thus, the proposed single class to Manly would meet current customer demand on the Manly route.

1247 Operating two types of vessel on the same route, at the same time is not cost effective. As one Manly commuter submitted to the Inquiry:

"... the current arrangement of two types of vessels operating on the same route is highly uneconomic. Not only does it duplicate the crew, maintenance and fuel costs but it also requires a reserve Freshwater and a reserve JetCat."

While the JetCat is running there are also two sets of crews, two diesel fuel bills, two everything! While arguably, there might be people that would not use the ferry if the trip takes 35 minutes rather than 15 minutes, the majority would probably accept the change particularly if the trip could be shortened to say 20

minutes. So I believe a single service rather than a dual service is essential to controlling costs of the Manly service...

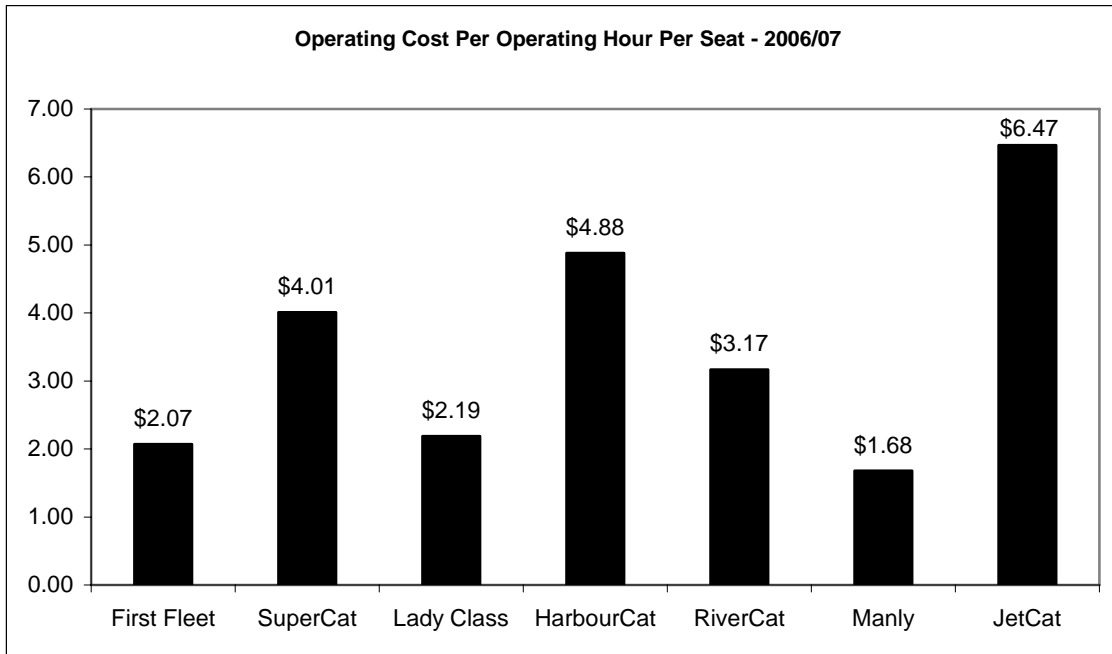
The issue should be not how can we make transport cost neutral but more how we can best direct taxpayer's funds to best manage transport in a way that it best contributes to the needs of the community and the quality of life within the city with minimal impact on the environment."

1248 As SFC's Fleet Replacement Strategy notes, JetCat services are characterized by high operating costs and poor reliability. The Parry Report correctly noted:

"... [the JetCat] service has required significant investment in additional vessels that is difficult to defend. JetCat services, though faster than ferry services, have inferior reliability. They are a low capacity premium service. Subsidies for these services are difficult to justify on any traditional grounds such as accessibility, reduced congestion, reduced emissions or improved equity."¹⁹²

1249 The operating cost per seat, per hour of the JetCat in 2006/07 was \$6.47, compared with an operating cost per seat, per hour for the Freshwaters at \$1.68. This represented the highest and lowest operating costs across the fleet, respectively, as illustrated by the following table.

¹⁹² Parry, T, *Interim Report*, op cit, p 32



1250 The fuel cost per passenger capacity of the JetCats is four times the Freshwater fuel cost/passenger/nautical mile (2 cents/passenger/nautical mile compared to 9 cents/passenger/nautical mile).

1251 In addition to being the most expensive to operate, JetCats are also among the least reliable vessels in the fleet. Availability for the JetCats was 65.6% in 2005-06 and 73.0% in 2006-07, as against a target of 80%. JetCats have approximately 30 hours of operation prior to a down day, whereas Freshwaters have 540 hours of operation prior to a down day.

1252 In a 2006 customer satisfaction study, the perception of high cost and poor reliability lead to the JetCat service being rated at the lowest level of satisfaction by its customers, who represent around 6.4% of ferry passengers.

1253 Finally, JetCats are not the most environmentally friendly of vessels. Powerful engines make more noise, create more air pollution and create greater wave action/wash. JetCat use produces greater amounts of greenhouse gas emissions per passenger in comparison to other public transport services.

1254 In 2001, STA engaged INDEC Consulting to prepare a cost efficiency study of Sydney Ferries' operations. INDEC's report stated:

*"The JetCats are destined to be replaced, a course of action driven by their heavy demand for fuel, heavy maintenance requirements, and the need to provision a spare vessel for two operational vessels, an extreme sparing ratio of 50%."*¹⁹³

1255 It should be noted that the data for Manly and the JetCat are generally more accurate than for other routes. The Chief Financial Officer told the Inquiry:

"... the patronage data [for Manly] is a little bit more accurate. We have gates there so we can validate the ticket. We also do capture fuel and things like that that are the key costs for the JetCat and Freshwater class vessels, and in terms of staffing, it is fairly simple. They're backwards and forwards; it is the one service. We don't have the issues that we have with the inner harbour where we have millions of services where you have to split up costs to various services."

1256 Unsurprisingly, those who regularly use the JetCat advocate retention of the service. It costs little more than an ordinary ferry and makes the trip in half the time. In submissions received by the Inquiry from Manly commuters, the following reasons were given for retaining the JetCat service:

- a. it is an essential service which makes Manly more accessible and contributes to Manly's economy;
- b. people should be encouraged to use public transport;

¹⁹³ Indec Consulting, *Efficiency Review of Sydney Ferries*, Prepared for John Stott, CEO of STA, June 2002 p 31

- c. the social costs of greater private car use and greater demand for public bus services, including increased carbon emissions and congestion on the Spit Bridge;
- d. the service is efficient, and serves many high-end office workers or professionals whose time is valuable;
- e. removing the service would make it harder for parents, particular women, who re-enter the workforce; and
- f. people will move away from Manly and closer to the city, especially international business migrants.

1257 The Inquiry does not find any of these reasons sufficiently persuasive to offset the disadvantages of retaining the JetCats. As the Final Parry Report said:

*“This Inquiry believes the government subsidy for this service is not justified, since alternative ferry and bus services with adequate capacity for additional passengers are available, and JetCats do not provide all the external community benefits of other public transport services, such as reduced greenhouse emissions. Such a service should only be retained if it can achieve full cost recovery.”*¹⁹⁴

1258 The Chief Financial Officer of SFC told the Inquiry:

“I think the key benefit of the JetCat obviously is the shorter time it takes to travel to work for commuters. My idea is we should have a service somewhat faster than the Freshwater class and may be a little bit slower than the JetCat so it should have the benefit of shortened travel times. Everybody keeps talking about the JetCat as a premium service. I tend to think all commuters should be

¹⁹⁴ Parry, T, *Final Report*, op cit, p 25

expect faster travel than what they perhaps get on the Freshwater...”

1259 The Inquiry notes that it received a petition regarding the future of the Manly Ferry Service signed by more than 5,000 Manly residents. The petition called for the Government, *“to maintain the Manly to Circular Quay Ferry Service and, in particular, the fleet of Freshwater class vessels currently in service”*. The petition did not mention the retention of the JetCat service. It is not the case, judging from submissions to this Inquiry, that Manly needs the JetCat.

1260 This Inquiry agrees that retention of the JetCat service cannot be justified and supports SFC’s proposal that a single Manly service be introduced. The proposed new Manly class should have a passenger capacity of 800 and run at 18-20 knots, providing a slightly faster trip than the current Freshwater ferries (25 minutes versus 30 minutes). The new Manly class should operate more frequently than the Freshwaters currently do, with peak hour services increased from every 30 minutes to every 20 minutes. Ferries are very important for Manly and associated areas: both for residents and business, with its dependence on visitors. Fleet replacement should recognize and plan to better reflect that importance.

1261 There ought to be a welcoming attitude by Government to proposals by any private provider for a high speed service between Circular Quay and Manly or, perhaps, King Street and Manly on a fully commercial basis, that is, on a cost recovery basis with no government subsidy, except as may be involved in the liberal provision of access to wharves.

THE PARRAMATTA RIVER SERVICE

1262 SFC currently operates services between Circular Quay and Parramatta. From Circular Quay, it takes approximately 39 minutes for a ferry to reach Rydalmere, stopping at five other wharves in between.

SFC's services along this section of the River are heavily patronized by commuters. It is a promising area to consider an expanded service.

1263 At Rydalmere, however, the River begins to narrow and it becomes increasingly shallow. Upstream of the Silverwater Bridge, it is so narrow that two vessels are unable to pass one another except at three specific points (Rydalmere wharf, Parramatta wharf and near the Camellia railway bridge). According to the General Manager, Operations, the depth of the River is only between 1.4-1.5 metres at low tide. The RiverCats have a draft of 1.35 metres. This leaves only five centimetres clearance when water levels are at their lowest. The riverbed was dredged in 1993 to allow the RiverCat vessels to complete the journey to Parramatta. However, the General Manager, Operations, told the Inquiry that there are still a couple of times in the year when the River is so low that services have to stop.

1264 Due to draft restrictions, at the Silverwater Bridge, ferries are forced to slow to seven knots. At this speed, it takes a further 40 minutes to complete the final leg of the journey from Rydalmere to Parramatta. By contrast, it takes 10-15 minutes to travel from Rydalmere to Parramatta by bus.

1265 It is not viable to operate a commuter service on the Upper Parramatta River. SFC currently only operates ferry services to the Upper Parramatta River outside of peak hour and informs the Inquiry that the service is used predominantly by tourists as a leisure trip.

1266 SFC's Fleet Replacement Strategy proposes relocating the Rydalmere wharf from the west of Silverwater Bridge to east of the bridge, and ceasing ferry operations at this point. Rydalmere would then be the western extremity of the lower Parramatta River ferry service. The Strategy recommends that SFC cease operations beyond Rydalmere for the following reasons:

- a. the service is very costly to operate due to, in part, higher maintenance costs and lower patronage;

- b. River class vessels are experiencing increasing groundings between Rydalmere and Parramatta, suggesting the riverbed needs to be dredged again;
- c. there are environmental concerns in relation to ferry wash and dredging;
- d. the service is not a commuter service;
- e. a specialized vessel is required to operate on this section of the River due to draft restrictions; and
- f. the high number of scheduled operating hours required to service Parramatta and Rydalmere due to the distance from Circular Quay and the speed restrictions on the upper River.

1267 According to SFC's Strategy, cancelling services between Rydalmere and Parramatta will produce a cost saving of up to \$4.1 million per annum.

1268 This Inquiry was not shown any figures that supported the proposition that the upper Parramatta River was more costly to operate than other routes, although this may well be the case. According to SFC's Chief Financial Officer, the quality of available data is questionable due to poor data collection. In addition, it is difficult to separate out the cost of operating on the upper Parramatta River from the total cost of operating the Circular Quay to Parramatta route.

1269 Nevertheless, this Inquiry agrees that the continued operation of what is essentially a modest off peak tourist service on the upper Parramatta River cannot be justified.

1270 The environmental impact of ferry services on the upper Parramatta River is well documented. Ferry operations along the River have been implicated in increased levels of riverbank erosion, riverbed saltation and other wash damage to seawalls and River infrastructure. This, in turn, adversely affects the mangroves growing along the upper River.

1271 Between 1997 and 2001, the then Waterways Authority conducted a long term shoreline monitoring study into the possible impact of ferry wash on Parramatta River. A 2002 STA report notes that the Waterways Authority Report concluded that three and a half years of data collection, *“makes a compelling case linking wash impacts on the shoreline with the operation of the RiverCat and more recently, HarbourCat ferries”*.¹⁹⁵

1272 The Chair of the Scientific Advisory Committee of the Sydney Harbour Institute of Marine Science, David Booth, agreed that the RiverCat ferries in the upper River displace relatively large amounts of water which results in very considerable percussive and other erosive effects on the banks and threaten the mangroves.

1273 The River was last dredged in 1993. It is continuing to silt up. According to SFC, soundings of the upper River show that there has been a loss of River depth of up to 20% in or near the channel west from Rydalmere over a two year period. In order to continue operating the service, the River will need to be dredged again in the near future. This carries a financial and environmental cost. The mangroves on the banks are already subsiding into the dredged channel from the effects of wake waves and past dredging. The riverbed has been contaminated from heavy industry in the area and spoil from the dredging must be dumped in a toxic fill site. SFC’s Fleet Replacement Strategy notes:

“The environmental imperatives resisting dredging and public concerns over wash effects on the River bans are expected to become more onerous and thus restrict access to these areas of the River into the future.”

1274 It should be noted that, under the *PT Act*, the Director General of the Ministry of Transport could, if SFC ceased to operate on the Upper

¹⁹⁵ STA, *Sydney Ferries: Capacity Issues*, October 2002, p 9

Parramatta River, enter into a service contract with a private operator for the provision of a shuttle service between Rydalmere and Parramatta, using a small vessel that does not have the same environmental impact as a RiverCat. The Inquiry is aware that Parramatta City Council was approached by, and had discussions with, a private operator in 2005 in relation to the operation of a ferry service to and from Parramatta.

ALL VESSELS MANLY CAPABLE

1275 In the current fleet, only the Freshwater and JetCat class vessels are currently surveyed to ID which is a Waterways Authority requirement for vessels undertaking the Manly service. This is a significant constraint on timetabling and the re-deployment of vessels across routes in the event of a breakdown.

1276 As noted above, the Manly route is by far the most important part of SFC's business both in terms of the revenue it generates and the contribution it makes to Sydney's public transport system. SFC's Fleet Replacement Strategy provides for all vessels to be equipped to undertake the Manly route.

1277 According to SFC, the advantage of this is that the smaller vessels can provide additional 'surge' capacity in peak summer periods and a back-up option if one of the larger boats is unavailable. It also creates the option of using the smaller vessels to service the Manly route during off peak periods when patronage is low.

1278 As SFC's Fleet Replacement Strategy acknowledges, the design/cost trade offs of the smaller class of vessels being able to operate on both the Parramatta River and on the Manly route will need to be assessed. Over-capacity may be as costly as under-capacity (albeit not so significant to the public transport interest).

1279 Ultimately, a decision will need to be made as to whether the increased cost of rendering Inner Harbour/Parramatta class vessels

capable of servicing Manly is warranted by the improved flexibility it will afford. The idea, however, is a good one.

1280 The Inquiry understands that, historically, industrial issues have arisen in relation to smaller vessels that generally service the Inner Harbour but are surveyed to 1D, undertaking the Manly route. It is difficult to imagine that, should a cost benefit analysis support all vessels in the fleet being Manly capable, these issues could not be resolved if industrial relations were rationally approached with a common aim of enhancing services (and thus increasing employment opportunities).

NUMBER AND CAPACITY OF VESSELS

1281 It is clear that SFC is currently unable to meet existing customer demand on all routes, and at times struggles to meet its existing timetables, with its fleet of 31 vessels. At various stops, on the lower Parramatta River, in particular, SFC is regularly leaving passengers behind.

1282 It is critical that the new fleet is able to accommodate:

- a. existing customer demand;
- b. the introduction of more frequent services;
- c. the expansion of SFC's services, including the introduction of new routes;
- d. projected patronage growth;
- e. forecast maintenance; and
- f. crew training and drills.

1283 The total passenger capacity of the present fleet is 13,084. The total passenger capacity of the proposed new fleet is 16,000.

1284 The Strategy assumes that patronage growth will exceed historic levels of 1%. It allows for patronage growth of 3% per annum on the

Inner Harbour and Manly Routes and 5% per annum on the lower Parramatta River route over the next ten years. The Strategy notes that additional vessels will be required in the River and Outer Harbour to handle peak customer demands if growth continues at these levels much beyond 10 years.

1285 The Strategy also takes into account the need for additional capacity, *“to service new operations as developed by the newly established Marketing Department within the Corporation”*.

1286 The new service initiatives identified in the Strategy to increase patronage growth above historic levels are relatively modest. They are:

- a. the possible addition of new stops along the lower Parramatta River and at Gladesville;
- b. the addition of a third peak hour service to Sydney Olympic Park;
- c. the possible extension of the service to the Rozelle Bay area;
- d. the addition of services to Middle Harbour during off peak periods;
- e. the rationalization of the Darling Harbour and Woolwich routes which currently both include Circular Quay, Milsons Point, McMahon's Point, Balmain East (Darling Street) and Balmain (Thames Street);
- f. the addition of a new stop on the Woolwich route at Longueville;
- g. the development of King Street Wharf as a second hub; and
- h. an increase in the frequency of Rose Bay services from three to four services an hour.

DESIGN OF THE VESSELS

- 1287 The design of the new fleet requires a technical debate, for which this Report is not the appropriate forum. However, there are a number of matters on which comment is appropriate.
- 1288 First, SFC's Fleet Replacement Strategy is based on an assumption that there will be no changes to wharf facilities during the fleet replacement program and the replacement fleet will need to consider the existing wharf configurations. It has already been recommended by this Inquiry, in Chapter 3 of this Report, that commuter wharves be standardized and appropriately designed to accommodate SFC's operational requirements. It cannot be stated strongly enough that the design of the new fleet must not be dictated to by the present array of wharf configurations. Procurement of the new fleet should take place on the assumption that wharves will be upgraded or replaced as necessary to meet ferry design.
- 1289 Secondly, lessons should be learnt from existing fleet. In many cases, vessels in the existing fleet are unnecessarily complicated, which leads to increased maintenance requirements and a greater likelihood of parts breaking down. The new fleet should be designed to accommodate the frequent starting and stopping that characterizes an inner city passenger service. The priority should be to acquire a simple and robust fleet that can reliably perform day-to-day operations. It is notable that the First Fleet vessels, despite their age, are among the most cost efficient and reliable in the fleet. It is presumably not a coincidence that they are also the simplest in design. In addition, to the extent possible, equipment and features between the two proposed classes should be standardized from safety equipment to seats and the parts be interchangeable.
- 1290 Thirdly, an important opportunity exists to ensure that the replacement fleet supports the environment, by utilizing environmentally friendly technology.

1291 AIMPE submitted to the Inquiry:

“The days of Sydney Ferries remaining a major contributor to climate change must be addressed and this warrants that this multiple fuel burn be given serious consideration. We emphasize the NOX emissions on LNG for example are only 50 per cent of those of diesel.”

1292 The Fleet Replacement Strategy notes that, *“environmental standards will need to continue to improve in the replacement fleet in line with changing attitudes toward the environmental footprint”*. The Strategy recommends that the following factors should be taken into account:

- a. engine technology to enable use of alternative fuels (bio-diesel, solar, gas), elimination of unnecessary idling and emission scrubbing technology. Meeting these needs will require reliance on engine manufacturer developments;
- b. low wash producing vessels to minimize sea wall and riverbank erosion. This performance can be met by slower operating speeds, specialized hull form designs (subject to sea keeping requirements) or a combination of both;
- c. liquid handling and spill prevention techniques/technology with the inclusion of containment, and monitoring systems onboard;
- d. vessel hull coatings to minimize/eliminate the frequency of hull scrubbing. The practice of in-water scrubbing is required to be phased out;
- e. bilge water elimination through improved maintenance accessibility in the new design where increased leakage of seawater systems occurs over time and creating watertight hull interiors, with dry bilges, should be the objective;
- f. on board systems to enable isolation/containment/discharge of waste oil from engines and generator sets for recycling;

- g. marine growth suppression systems for seawater systems to eliminate the need to use chemical biocides or freshwater flush; and
- h. vessel interface considerations for mooring of the fleet at Balmain to minimize access hazards.

1293 Fourthly, it should be ensured that there is consultation with the maintenance and afloat staff at SFC in relation to design of the new vessels.

1294 Obviously, there are a number of factors, additional to those discussed above, that will need to be accommodated in the fleet design, including the height of bridges on the Parramatta River and Inner Harbour, the size of the dry dock and jetties at the Balmain Shipyard and the specific operational requirements of SFC's diverse operating zones (lower Parramatta River, Inner Harbour and Manly).

DISPOSAL

1295 There will need to be a structured disposal of the current fleet. Relevant factors in determining the order in which the fleet should be replaced will include the number of vessels in each class, their age, versatility, reliability and operating costs and whether the vessels in a class have been recently re-engined.

1296 It should be noted that as a consequence of the fleet replacement program, the number of classes of vessel in the fleet may temporarily increase before it decreases. This means the fleet may temporarily become more expensive to operate and maintain.

FUNDING

1297 As noted above, replacement of the fleet requires significant capital investment. Options for the funding and delivery of ferry services are touched on in Chapter 13.

1298 Procurement of the new fleet should be in close consultation with the Department of Commerce.

RECOMMENDATIONS

1299 It is recommended that a new fleet be procured in accordance with the process outlined in Chapter 13. The overall aim of the replacement is to:

- a. provide capacity for more routes and more frequent services on existing routes;
- b. enable the large vessels to shorten travel time to and from Manly; and
- c. maximize environmental suitability, efficiency and economic maintenance.

1300 It is recommended that the existing high speed JetCat service to Manly is discontinued.

1301 It is recommended that existing ferry services on the upper Parramatta River, between Rydalmere and Parramatta, are discontinued.

CHAPTER THIRTEEN

FUNDING AND DELIVERING FERRY SERVICES

SERVICE CONTRACT

1302 The outcome recommended in Chapter 1 and further addressed in Chapter 5 has, at its heart, a service contract to define and control the provision of ferry services in Sydney. A contractor would be required to execute a detailed written service contract. It is utterly beyond the proper scope of this Inquiry to draft any part, let alone all, of such a document. The considerations noted below have emerged as a result of the Inquiry's researches into the past, especially in relation to fleet replacement, examination of the present, especially in relation to service standards, and planning for the future, especially in relation to the hoped-for expansion of passenger numbers.

1303 These considerations are in the nature of a non-exhaustive checklist. It is certain that the process of refinement of a replacement fleet strategy and market considerations will produce many other important features to be provided in a service contract. It is also very likely that this further process will justify departure from some matters suggested below. (It would not be contrary to the overall recommendation in this part of the Report for such departures to emerge for good reason.)

1304 The following matters should each be evaluated for possible provision in a service contract, tender conditions and (to the extent necessary) enabling legislation.

1305 The contractor shares responsibility for design and specification of the new vessels. Government requires survey and capacity attributes as noted in Chapter 12. The contractor finalizes detailed design.

1306 The contractor manages the design, build and deliver project for the new vessels.

- 1307 Government chooses who will own the new vessels, depending on the allocation of financial risk involved in acquisition, eg. State ownership, contractor ownership, finance lease, etc.
- 1308 Whatever ownership of the new vessels is chosen, step-in provisions must prevent removal of any vessel from Sydney without government consent and permit government control of the vessels in use as ferries in the event the contractor fails.
- 1309 Design classes or variants should be as few as practicable – probably two as discussed in Chapter 12. As many components, parts and systems as possible must be standard, and remain so over the boats' lives, including across different classes or variants.
- 1310 Features for tourist and leisure amenity must be included especially in the Manly class, eg good viewing and open decks.
- 1311 Traffic congestion and moving-part wear should be considered in design features adapted to routes and wharves. eg. double-ended hulls to reduce manoeuvring time and space.
- 1312 Relative simplicity ie lack of excessive sophistication in all elements and systems, balanced against environmental, efficiency and safety excellence should be the design approach for the new vessels. Cutting edge or pioneering technology should be left for other economies to experiment with, before New South Wales. Clean, robust and straightforward should be the ideal.
- 1313 Vessel design should proceed along with a comprehensive review and as necessary reconfiguration of all wharves, to enhance standardization, occupational and passenger safety, and speed of loading and unloading.
- 1314 Vessel design should proceed along with a review and if necessary relocation or reconfiguration of the integrated shipyard, in relation to dry docking, slinging arrangements, mooring, etc.

- 1315 Coordination is necessary with central planning authorities to consider shipyard, docking, refuelling, new hub possibilities on foreshore development sites, such as East Darling Harbour, King Street, White Bay and Rozelle Bay.
- 1316 The contractor is to be involved in advice on and acceptance of design and planning matters flowing from the above.
- 1317 Maintenance including capital refurbishment of all vessels (existing and replacement) are to the account of the contractor, on a staged, monitored and continuous basis to the end of the contract period. The aim should be to achieve, maintain and re-deliver (at contract end if the contract is not renewed to that contractor) a complete fleet in an appropriate condition.
- 1318 Provisions favouring State or Australian provenance of goods or services, including building and maintenance of vessels, if any, must be explicit and costed.
- 1319 Central Government intellectual and organizational resources eg the Department of Commerce must be used from early stages to maximize rational planning, specification and financial decisions.
- 1320 Delivery staging for new vessels and related decommissioning of existing vessels should involve bonuses or penalties for performance to an agreed schedule. The schedule should aim to minimize temporary increase in diversity of the operating fleet and accelerate disposal of expensive vessels (eg. JetCats).
- 1321 The duration of a first service contract should extend to all or most of a reasonable period for fleet replacement, with evaluation of the market issue whether a further period of new fleet operation after replacement is necessary to maximize governmental value for money (eg. by attracting keener bids).

- 1322 Full competition at the stipulated end of a contract's period should be facilitated between an incumbent willing to continue operations and rivals who wish to bid.
- 1323 Comprehensive step-in provisions must guarantee seamless provision of service, and payment of employees and suppliers, in the event of refusal or failure of a contractor to meet its obligations.
- 1324 Adequate bonding or other security for performance and eg novation of vessel ownership, employment or supply contracts should be required of bidders.
- 1325 Apart from truly sensitive commercial-in-confidence details, release of which would harm the public interest, all contractual terms including any negotiated variations should be available under FOI.
- 1326 Any necessary legislative amendments should be made to permit or require the Auditor-General to monitor the Government's appropriate enforcement of the obligations owed by the contractor under the service contract.
- 1327 The Auditor-General, IPART, OTSI, ITSRR and NSW Maritime should all be consulted before the form of contract is settled, for advice on appropriate measures, indices or records of performance or achievement (or shortcomings) to be used in the contractual system of bonuses and penalties.
- 1328 Bonuses and penalties must be designed to provide realistic incentives for the contractor not only to maintain adequate performance standards but also to increase passenger numbers.
- 1329 Specific incentives should reward the contractor for new route development (including extra stops on present routes), with some financial protection for experimentation.
- 1330 The allocation of farebox revenue might be to government but should be considered in the incentives for passenger growth.

- 1331 Provisions must require full coordination with other modes of public transport, including possible future electronic ticketing.
- 1332 In transition from SFC as a SOC, all present employees of SFC should be transferred, if they so choose, to the contractor, on undiminished terms and conditions. Consideration should be given to alternative voluntary redundancies.
- 1333 A well located and equipped shipyard is to be integral to the business, The contractor obtains no power or discretion to use shipyard facilities otherwise than for shipyard purposes, except with Government consent.
- 1334 Provisions, perhaps of later contracts if not of the first, should permit additions to the fleet – minimizing introduction of unnecessary diversity – if passenger growth threatens to exceed fleet capacity.

FUNDING

- 1335 Enough has been set out above, and in the rest of the Report, to imply the impossibility of preferring any particular Government funding model. The basic recommendation provides for a price to be paid by Government for the provision of the ferry service. In this regard, the recommended future does not radically differ from the present. But the recommended differences are so great and their details necessarily so provisional, at present, that choices by central Government between the possible ways of funding the capital asset programme should await the processes necessary to produce a design and specification for a replacement fleet and a form of service contract.

RECOMMENDATION

- 1336 The devising of a specification for a replacement fleet, and the terms of a service contract including the obligation to deliver a replacement fleet, should urgently address all matters relevant to a sensible risk allocation between Government and a contractor – including those set out in this Chapter 13.

RECOMMENDATIONS

- 1 It is recommended that the Government undertake to pay a price fixed by a service contract to a private-enterprise corporation for the provision of ferry services pursuant to a service contract as required by the *Passenger Transport Act 1990* but on a provisional basis, that is, until it proves to be no more expensive than a.SOC providing ferry services pursuant to a service contract as required by the *Passenger Transport Act 1990*. This means, it is recommended that:
 - a. processes should be started as soon as possible to offer a comprehensive service contract, including fleet replacement responsibilities, to the market;
 - b. if bids from the market compare favourably with the financial and quality performance of SFC as a.SOC providing the same service, the best (not necessarily the cheapest) bid should be accepted by the Government; and
 - c. if bids from the market do not compare sufficiently favourably with the prospects offered by SFC continuing as a SOC, SFC could continue to provide the service subject to a statutory contract. (Chapter 1)
- 2 It is recommended that a coordinating body is established, whose role it is to ensure the transport network is properly integrated. In particular, such a body must ensure that timetables are properly coordinated across modes. In default of agreement between service providers, it should be empowered to determine changes for all of them. (Chapter 2)
- 3 It is recommended that an access agreement is negotiated between the operator of Sydney ferry services, whether it be SFC or a private operator, and NSW Maritime which:
 - a. gives the operator priority access to all wharves to which access is required in order to operate ferry services in accordance with current and future timetables;

- b. enables the operator to install ticket machines, CCTV systems, PA systems, help points and customer information systems where appropriate;
 - c. enables, in appropriate locations, the operator to berth vessels overnight and implement appropriate security arrangements;
 - d. enables the operator to display appropriate signage on the wharves; and
 - e. establishes clear and practicable responsibility for maintenance. (Chapter 3)
- 4 It is recommended that commuter wharves be standardized. The operator of Sydney ferry services, whether it be SFC or a private operator, and NSW Maritime must work together in relation to the re-design and standardization of commuter wharves, to ensure that wharves are appropriately designed to accommodate SFC's operational requirements, particularly with a view to the specifications of a replacement fleet. (Chapter 3)
- 5 It is recommended that, when current access agreements in relation to Jetty 6 expire in January 2008, new access agreements are negotiated with commercial operators on the basis that Jetty 6 must be reasonably available for use by the operator of Sydney ferry services, whether it be SFC or a private operator, during the morning and afternoon peak hour. (Chapter 3)
- 6 It is recommended that King Street wharf be developed as an extra operational hub to Circular Quay and a new entry point to the city for ferry passengers. The term 'operational hub' requires that all necessary infrastructure is put in place for King Street wharf to operate as an alternative to Circular Quay. This requires:
- a. replacement of the current floating pontoon with a different wharf structure which includes appropriate disabled access;

- b. a ticket office, ticket machines and barrier gates;
 - c. security measures to protect vessels berthed overnight and infrastructure such as ticket machines;
 - d. appropriate crew and staff amenities; and
 - e. facilities to service vessels such as sewerage pumps, access to shore power and fresh water. (Chapter 3)
- 7 It is recommended that, in planning the redevelopment of the foreshore, the Government explicitly consider a range of possibilities for ferries including an additional facility at White Bay or even, depending upon land use considerations, an entirely new facility including a new Shipyard. Any decision in relation to the future location of SFC's operations including its Shipyard should be made in consultation with the Office of the Coordinator General. (Chapter 3)
- 8 It is recommended that SFC disaggregate its service reliability figures including on time running and services that actually run so that separate statistics for each of Manly, Inner Harbour and Parramatta River are kept. (Chapter 3)
- 9 It is recommended that Division 2 of Part 3 of the *Passenger Transport Act 1990* (Ferry service) is amended so as to make it consistent with Division 3 of Part 3 of the *Passenger Transport Act 1990* (Regular bus services) in these respects:
- a. removing the distinction between commercial and non-commercial contracts;
 - b. removing those provisions which confer upon a contract holder exclusive rights, potentially in perpetuity, to operate passenger ferry services on a particular route or in a particular region;

- c. removing the provision that allows the terms of a service contract to prevail over Government's standards of safety and maintenance and any relevant legislative standards or requirements; and
 - d. inserting a provision, equivalent to sec 28C which overcomes the equitable doctrine against penalties and allows agreed penalties to be enforced against providers of passenger ferry services for a failure to meet minimum service standards set out in the service contract. (Chapter 5)
- 10 It is recommended that the Portfolio Minister give a written direction to the Board pursuant to sec 35K of the *Transport Administration Act 1988* or sec 20P of the *State Owned Corporations Act 1989* on the grounds of public safety or that it is necessary for the public interest that SFC take all steps necessary for it to obtain one EBA with all afloat staff. (Chapter 8)
- 11 It is recommended that the Balmain Shipyard performance indicators be disaggregated to properly understand whether there are sufficient vessels available to service all routes, and if not which routes will suffer. (Chapter 11)
- 12 It is recommended that, in consultation with NSW Maritime, SFC review the safety management system to achieve the following goals:
- a. an integrated safety information system which;
 - i captures all hazards, OH&S incidents, audit results, non-compliance findings and near-miss reports ('incidents');
 - ii guarantees and delivers feedback;
 - iii permits confidential reporting;
 - iv enables the costs of incidents to be calculated and reported upon;

- v consistently defines incidents which are to be reported within SFC;
 - vi permits the accurate reporting of 'reportable incidents' to NSW Maritime which are required to be reported pursuant to legislative obligations and the MOU;
 - vii enables the implementation of corrective action to be monitored;
 - viii permits measurement of outcomes; and
 - ix is capable of systemic analysis.
- b. a just culture in which there are clear lines drawn between acceptable and unacceptable behaviour and which encourages and rewards the provision of essential safety-related information;
 - c. document control;
 - d. effective communication of lessons learned from incidents;
 - e. robust and scheduled internal audits;
 - f. regular external audit; and
 - g. effective tracking of training undertaken by staff to ensure only those fully and up-to-date qualified to crew vessels, do so. (Chapter 10)
- 13 It is recommended that, in relation to its KPIs, SFC categorize the significant and reportable incidents by reference to:
- a. the nature of the incident e.g collision with wharf, collision with other vessel, collision with submerged object, other collision, grounding, near miss etc;
 - b. whether any injury or fatality resulted and the seriousness of any injury;

- c. whether any damage to property including a vessel occurred and if so, the seriousness of any damage; and
 - d. minor vessel incidents including near misses. (Chapter 10)
- 14 It is recommended that a new fleet be procured in accordance with the process outlined in Chapter 13. The overall aim of the replacement is to:
 - a. provide capacity for more routes and more frequent services on existing routes;
 - b. enable the large vessels to shorten travel time to and from Manly; and
 - c. maximize environmental suitability, efficiency and economic maintenance. (Chapter 12)
- 15 It is recommended that the existing high speed JetCat service to Manly is discontinued. (Chapter 12)
- 16 It is recommended that existing ferry services on the upper Parramatta River, between Rydalmere and Parramatta, are discontinued. (Chapter 12)
- 17 It is recommended that the devising of a specification for a replacement fleet, and the terms of a service contract including the obligation to deliver a replacement fleet, should urgently address all matters relevant to a sensible risk allocation between government and a contractor – including those set out in Chapter 13. (Chapter 13)

NEW SOUTH WALES

ELIZABETH THE SECOND, by the Grace of God, Queen of Australia and Her other Realms and Territories, Head of the Commonwealth.

To Mr Bret William Walker SC.

By these Our Letters Patent, made and issued under the authority of the *Special Commissions of Inquiry Act 1983*, We hereby, with the advice of the Executive Council, authorise you as Commissioner to inquire into and report to Our Governor of the said State on the following matter:

the present state of Sydney Ferries' provision of ferry services and any action which should be taken to improve the ability of Sydney Ferries to provide safe, efficient and customer-focused ferry services. Such action may include, but is not limited to:

- (1) changes to management structures and practices;
- (2) changes to operations;
- (3) changes to industrial practices;
- (4) measures to achieve cultural change; and
- (5) changes in regulatory and governance arrangements.

You are not required to investigate the incidents involving Sydney Ferries' services on 5 January 2007 and 28 March 2007, in which fatalities occurred; however, any recommendations you make must be compatible with the findings of any inquest and the findings (whether

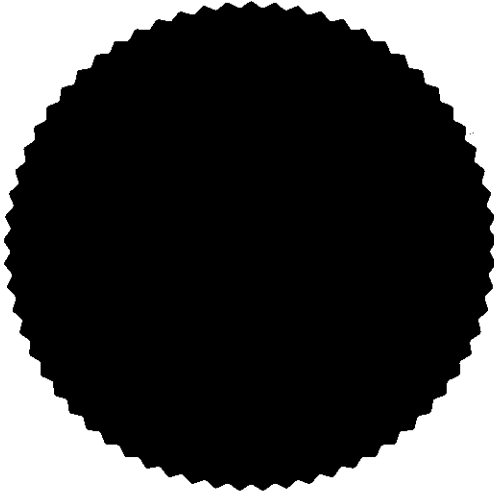
interim or final) of the investigation by the Office of Transport Safety Investigations, should any such findings be available before you deliver your report.

AND hereby establish a Special Commission of Inquiry for this purpose.

AND OUR further will and pleasure is that you do, as expeditiously as possible, but in any case on or before 31 August 2007, deliver your final report in writing of the results of your inquiry to the office of Our Governor in Sydney.

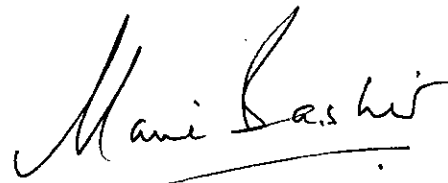
AND pursuant to section 21 of the *Special Commissions of Inquiry Act* it is hereby declared that sections 22, 23 and 24 shall apply to and in respect of the Special Commission the subject of these Our Letters Patent.

IN TESTIMONY WHEREOF, WE have caused these Our Letters to be made Patent and the Public Seal of Our State to be hereunto affixed.

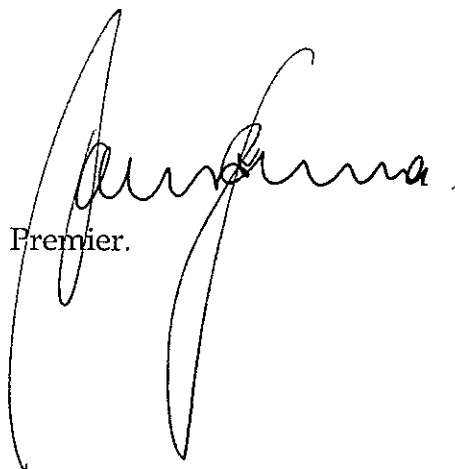


WITNESS Her Excellency
Professor Marie Bashir,
Companion of the Order of
Australia, Commander of the
Royal Victorian Order, Governor
of the State of New South Wales
in the Commonwealth of
Australia.

Dated this 4th day of April 2007.


Governor

By Her Excellency's Command,


Premier.

NEW SOUTH WALES

ELIZABETH THE SECOND, by the Grace of God, Queen of Australia and Her other Realms and Territories, Head of the Commonwealth.

To Mr Bret William Walker SC.

WHEREAS BY Letters Patent issued in Our Name by Our Governor of Our State of New South Wales on 4 April 2007, WE appointed you as sole Commissioner to inquire into and report to Our Governor on the present state of Sydney Ferries' provision of ferry services and any action which should be taken to improve the ability of Sydney Ferries to provide safe, efficient and customer-focused ferry services.

AND WHEREAS it is desirable that those Letters Patent be varied to provide additional time for the preparation and delivery of your report.

NOW THEREFORE WE do, by these Our Letters Patent issued in Our Name by Our Governor of Our said State, with the advice of the Executive Council, and pursuant to section 6 of the *Special Commissions of Inquiry Act 1983*,

DECLARE that the Letters Patent constituting your Commission shall have effect as if the paragraph "AND OUR further will and pleasure is that you do, as expeditiously as possible, but in any case on or before 31 August 2007, deliver your final report in writing of the results of your inquiry to the office of Our Governor in Sydney," were deleted and replaced with the following paragraph:

"AND OUR further will and pleasure is that you do, as expeditiously as possible, but in any case on or before 31 October 2007, deliver your final report in writing of the results of your inquiry to the office of Our Governor in Sydney."

AND IT IS FURTHER DECLARED that these Letters Patent are to be read with the Letters Patent constituting your Commission.

ENTERED on Record by me, in REGISTER OF PATENTS, No. 99 Page 345, this 1/6/07
day of August, 2007

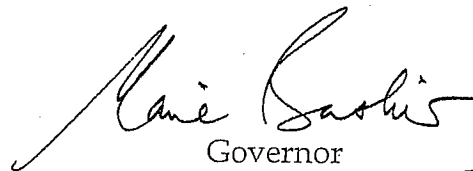
DIRECTOR GENERAL
DEPARTMENT OF PREMIER AND CABINET

IN TESTIMONY WHEREOF, WE have caused these Our Letters to be made Patent and the Public Seal of Our State to be hereunto affixed.

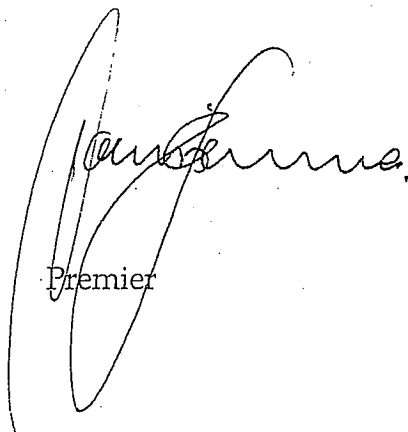


WITNESS Her Excellency
Professor Marie Bashir,
Companion of the Order of
Australia, Commander of the
Royal Victorian Order, Governor
of the State of New South Wales
in the Commonwealth of
Australia.

Dated this 15th day of August 2007.


Governor

By Her Excellency's Command,


Premier

APPENDIX B

THE PROCESS FOLLOWED BY THE INQUIRY

COMMENCEMENT OF THE INQUIRY

- 1 Letters patent were issued by the Governor on 4 April 2007 appointing Bret Walker SC to inquire into and report on the present state of Sydney Ferries Corporation provision of ferry services and any action which should be taken to improve the ability of Sydney Ferries to provide safe, efficient and customer-focused ferry services.
- 2 They were amended on 15 August 2007 requiring the Commissioner to report to the Governor by 31 October 2007. Both Terms of Reference appear as Appendix A to this Report.
- 3 Following the announcement of the Inquiry, a secretariat was established on Level 8, John Maddison Tower, 88 Goulburn Street, Sydney.
- 4 On 10 April 2007 the Inquiry established a website at <http://www.lawlink.nsw.gov.au/sfi> which was hosted by the NSW Attorney General's Department. All significant information concerning the progress of the Inquiry was published on the website, including the Terms of Reference, the contact details for the Secretary to the Inquiry, the dates for submissions and information and transcripts pertaining to public forums.

STAFF

- 5 The Inquiry was served on a full-time basis by one solicitor, Caroline Spruce, two para-legal officers, the Secretary to the Inquiry and two administrative officers.
- 6 Gail Furness was appointed Counsel Assisting the Inquiry on 4 April 2007. Kathryn Freytag and Jan McClelland were engaged as consultants.

SUBMISSIONS

- 7 From 14 April 2007 to 19 April 2007 the Inquiry placed 16 advertisements in the Australian Financial Review, Daily Telegraph, Manly Daily, Sydney Morning Herald, The Australian, Inner Western Suburbs Courier, North Side Courier, Northern District Times, Parramatta Advertiser, Sydney Central Courier, Wentworth Courier, Glebe Weekly, Inner Western Weekly and the Mosman Daily. The advertisements requested that information or views about matters falling within the Terms of Reference be provided to the Inquiry by 21 May 2007.
- 8 The Inquiry received a total of 121 submissions from persons or organizations. Many of these were received by 21 May 2007, however, the Inquiry also received material from the public after that date, particularly following the public forums. Appendix C is a list of those who provided submissions and details 110 people or organizations. The difference between the total number of submissions received and the number of people making submissions to the Inquiry is accounted for by some people and organizations submitting more than one submission.

FERRY INSPECTION

- 9 The Commissioner and Inquiry staff undertook a number of ferry trips, including from Circular Quay to Parramatta on the RiverCat and from Circular Quay to Manly on the JetCat. He also attended and viewed the Balmain Shipyards.
- 10 The Commissioner and Counsel Assisting travelled to Brisbane where they had discussions with Senior Officers of Brisbane City Council and representatives of Transdev–TSL Australia Pty Limited in relation to Brisbane's ferry services.

DOCUMENTS PRODUCED

- 11 From 4 April 2007 to 31 October 2007, the Inquiry issued 49 Notices to Produce directed to:
- a. Sydney Ferries Corporation (12);
 - b. NSW Maritime (4); and
 - c. a variety of other organizations including STA, Ministry of Transport, Defence Maritime Services and private operators (33).
- 12 Over 316 folders incorporating 78,110 pages were received from SFC; 57 folders from NSW Maritime incorporating 7,417 pages, excluding maps and 92 volumes from other organizations incorporating 6,375 pages.
- 13 In addition, a number of people and organizations volunteered information to the Inquiry.

INTERVIEWS / SUMMONSES TO ATTEND

- 14 Between 4 April and 31 October 2007:
- a. 95 people were interviewed;
 - b. 43 interviews were transcribed resulting in 1,009 pages of transcript. Of those 43 transcribed interviews, 30 of the interviewees gave evidence on oath/affirmation; and
 - c. 60 Summonses to Attend and give evidence were issued.
- 15 Not all people who attended the Inquiry pursuant to Summons were required to give evidence on oath.

LEGAL REPRESENTATION

- 16 Legal representation during the Inquiry was as follows:

- a. Allens Arthur Robinson, Solicitors represented Sydney Ferries Corporation;
- b. Blake Dawson Waldron, Solicitors represented NSW Maritime;
- c. Crown Solicitor's Office represented Independent Transport, Safety and Reliability Regulator;
- d. W G McNally Jones Staff, Solicitors represented the MUA, AIMPE and AMWU; and
- e. Kevin B Ford represented Suzanne Sinclair.

PUBLIC FORUMS

- 17 Two Public Forums were held.
- 18 On 26 July 2007, the Commissioner participated in a forum on the Manly Ferry Service organized by the office of the Member for Manly, Mike Baird. To assist in the discussion, the Inquiry produced a fact sheet which was published on the website prior to the forum. Over 100 persons were present and the 46 page transcript of the forum is published on the Inquiry's website.
- 19 On 2 August 2007 the Inquiry convened a public forum to discuss the models for funding and operating ferry services. The Inquiry produced an Issues Paper which was published on the website prior to the forum. That Issues Paper is Appendix E of this report.
- 20 In addition to the website, advertisements were placed in the *Sydney Morning Herald*, *Daily Telegraph*, *Financial Review*, *The Australian* and *The Age* on 14 July 2007 in relation to the public forum.
- 21 The following persons were invited and attended and participated in the forum:
 - a. Graeme Taylor, Action for Public Transport (NSW);

- b. Paul Bastian, State Secretary for the Australian Manufacturing Workers' Union;
 - c. Anthony Haworth, General Manager, Captain Cook Cruises;
 - d. John Lee, Chief Executive Officer, STA;
 - e. Jock Murray, former Director General of the NSW Department of Transport;
 - f. Pdraig Crumlin, National Secretary, Maritime Union of Australia;
 - g. Paul Mees, Lecturer, University of Melbourne;
 - h. Liam McKay, National Manager, Transport, Tourism and Transport Forum;
 - i. Robert Horninge, Director, Transdev-TSL Australia Pty Limited; and
 - j. Géraud Boursin, Deputy Managing Director, Veolia Transport.
- 22 A representative from the Australian Institute of Marine and Power Engineers and the Australian Maritime Officers Union were invited to attend but did not participate on the day of the forum.
- 23 Over 200 people attended the four-hour forum. The 105 page transcript of the proceedings has been published on the Inquiry's website.

ASSISTANCE GRATEFULLY RECEIVED

- 24 The Inquiry wishes to thank all those who provided assistance, including NSW Maritime, OTSI, the NSW Auditor-General, IPART, and in particular Ms Carolyn Walsh, Chief Executive, Independent Transport Safety and Reliability Regulator who has been generous with her time and in providing information to the Inquiry.

APPENDIX C

LIST OF SUBMISSIONS RECEIVED

- 1 Abadee, Warwick
- 2 Allpass, Joan
- 3 Anonymous (NSW Maritime Employee)
- 4 Anonymous (SFC Employee)
- 5 Aquilina, John on behalf of The Limousine Line
- 6 Asprey, Len
- 7 Atkins, William Sidney
- 8 Australian Institute of Marine and Power Engineers
- 9 Australian Manufacturing Workers' Union
- 10 Australian Maritime Officers Union prepared by Jeff Shaw QC
- 11 Baird MP, Mike: Member for Manly
- 12 Berejiklian MP, Gladys: State Member for Willoughby and Shadow Minister for Transport
- 13 Berry, Helen
- 14 Blue Line Cruises
- 15 Bovington, Ian
- 16 Bromhead, Antonia
- 17 Tourism and Transport Forum Australia
- 18 Brown, Robert J
- 19 Byrne, Geoff: Former General Manager, Sydney Ferries Corporation and former CEO, Matilda Cruises
- 20 Caldwell, David
- 21 Carlisle, Matthew
- 22 Ceramidas, Connie and Godwin, David

- 23 Chesterfield-Evans, Arthur
- 24 Commercial Vessels Association
- 25 Dedicated Micros
- 26 Deeley, Diana
- 27 Defence Maritime Services Pty Limited
- 28 Dunkerley, Gillian
- 29 Dwyer, Margaret
- 30 Eadie, Kevin
- 31 Eco Transit Sydney
- 32 Electronic Countermeasures International Pty Limited
- 33 Evans, Joanna: Councillor, Manly Council
- 34 Fawcett-Evans, Joy
- 35 Fisher, K J
- 36 Fisher, W N: Australian High Commission to Canada
- 37 Fitzgerald, Rosemary
- 38 Flapan, Mori
- 39 Ford, Ian
- 40 Frew, Brian
- 41 Fry, Garry
- 42 Gawthorne, Rob
- 43 Goosen, Margaret
- 44 Gordon, Michael
- 45 Grant Thornton, Sydney
- 46 Griffiths, John and Jackson, Beth
- 47 Halton, C C
- 48 Harper, Rick
- 49 Harradance, Roger

- 50 Harris, Earl
- 51 Captain Cook Cruises/Matilda Cruises
- 52 Heming, Gordon
- 53 Heuke, F W
- 54 Hurr, Phyllis
- 55 Independent Transport Safety and Reliability Regulator
- 56 Industry Capability Network (NSW)
- 57 International Broking Services Pty Limited/IBS Consortium
- 58 Tourism and Transport Forum Australia
- 59 Jones, Anne
- 60 Kaminski, James
- 61 Kirsch, Gorm
- 62 Lillas, Patrick
- 63 Palm Beach Ferry Service
- 64 Lynch, Cleo
- 65 Lyons, Olivia
- 66 Manly Chamber of Commerce
- 67 Manly Council
- 68 Manly Yacht Club
- 69 Maritime Union of Australia
- 70 Markell, D
- 71 Mason, Deidre
- 72 McAteer, John
- 73 Meldrum, Julie
- 74 Meltz, Daniel
- 75 Moore MP, Clover: Member for Sydney
- 76 Mosman Municipal Council

- 77 Moss, Valerie: Delegate for East Balmain and White Bay Precincts, Leichhardt Council
- 78 NSW Maritime
- 79 NSW Rowing Association Inc
- 80 O'Farrell MP, Barry: NSW Leader of the Opposition
- 81 P&O Maritime Services
- 82 Parramatta City Council
- 83 Pauling, Robert
- 84 Pert, Alan
- 85 Pruden, Wilga
- 86 Rintoul, Judith
- 87 Robertson, Gavin
- 88 Sea Transport Corporation
- 89 R B Shackell & Co Chartered Accountants
- 90 Sharp, Ann
- 91 Smith, Ian
- 92 Solar Sailor Holdings Limited
- 93 Stamolis, John
- 94 Sydney Chamber of Commerce
- 95 Sydney Harbour and Foreshores Committee
- 96 Sydney Harbour Institute of Marine Science
- 97 Action for Public Transport
- 98 The Vacluse Progress Association
- 99 Marist Brothers
- 100 Tierney, Eric
- 101 Transdev-TSL Australia Pty Limited
- 102 Blue Mountains Commuter and Transport Users Assoc Inc

- 103 Turley, P M
- 104 Waterview Wharf Workshops Pty Limited
- 105 West, Nicole
- 106 Wight, Garry
- 107 Strategic Transport Advisors Pty Ltd
- 108 Woollahra Municipal Council
- 109 Wurth, Wouter
- 110 Yachting NSW

APPENDIX D

LIST OF PERSONS INTERVIEWED

#	Interviewee	Position
1	Achterstraat, Peter	NSW Auditor-General
2	Allen, J R W (Bill)	Former Director SFC
3	Ambler, Vanessa	Company Secretary and Corporate Counsel SFC
4	Andreopoulos, Alex	Acting General Manager Finance & Corporate Service SFC
5	Arbuckle, Tim	Partner, Saha International Limited
6	Ashton, Rear Admiral Geoff	Former Chair SFC
7	Baird MP, Mike	Member for Manly
8	Barton, Stephen	Director Safety Environment and Risk SFC
9	Bastian, Paul	State Secretary AMWU
10	Booth, Professor David	Chair, Scientific Advisory Committee Sydney Harbour Institute of Marine Science
11	Boursin, Geraud	Deputy Managing Director, Veolia Transport
12	Bovington, Ian	Master SFC
13	Boyle, Phillip	Consultant, Phillip Boyle & Associates
14	Brady, Steve	Director Infrastructure, Asset Management, and Procurement, NSW Treasury
15	Caputi, Morris,	Managing Director, Veolia Transport
16	Cavalier, Rodney	Former Director SFC
17	Chong, Steven	Officer Infrastructure, Asset Management and Procurement, NSW Treasury
18	Clarke, Rear Admiral Peter	ChangeDrivers
19	Cliche, Dennis	Chief Executive Officer, Yarra Trams
20	Conway, Helen	Director SFC
21	Cox, James	CEO IPART
22	Crumlin, Pdraig	National Secretary, Maritime Union of Australia

#	Interviewee	Position
23	Culleton, John	Deputy Chief Investigator, OTSI
24	Duffy, Mark	Director General, Department of Water and Energy, NSW Government
25	Ferrarelli, Peter	Master SFC
26	Fleming, Michael	Secretary Port Services Division, AMOU
27	Forsyth, Patricia	Sydney Chamber of Commerce
28	Frederick, Clayton	Director SFC
29	Gadiel MP, Tanya	Member for Parramatta
30	Giddins, William	National Industrial Officer MUA
31	Glasson, Jim	Director General, Ministry of Transport, NSW Government
32	Gorddard, Justin	General Manager, Operations, Matilda Cruises
33	Graham, Vince	CEO RailCorp
34	Grant, Bill	Acting Director, Ministry of Transport
35	Groot, Olav	General Manager, Engineering SFC
36	Harradence, Roger	Engineer SFC
37	Haworth, Anthony	General Manager, Captain Cook Cruises
38	Herring, Andrew	General Manager, Communications, Marketing and Business Development SFC
39	Hoare, Richard	President AMOU
40	Hopkins, Paul	Deputy Director General, Department of Commerce
41	Horninge, Robert	Director, Transdev -TSL Australia Pty Limited
42	Hryce, Michel	General Manager, Human Resources and Industrial Relations SFC
43	Hughes, Wendy	General Manager, Finance and Corporate Services, Chief Financial Officer SFC
44	Kaminsky, James	Deckhand SFC
45	Knowles, Damien	Senior Manager, WalterTurnbull
46	Lane, John	Project Manager, SFC
47	Laughton, Beth	Acting Chair SFC

#	Interviewee	Position
48	Lee, John	CEO, STA
49	Lejins, Ziggi	Director Transport and Ports Branch, NSW Treasury
50	Love, Fiona	Director Training and Development SFC
51	Mallia, Rita	Senior Legal Officer, CFMEU
52	Maraval, Michel	Projects Manager Ferry, Veolia
53	Marsh, Alan	Acting Director General, Department of Commerce NSW Government
54	Marshall, Mike	Master SFC
55	MacDonald, Peter Dr	Mayor of Manly
56	McIntosh, Keith	Director Operations and Planning SFC
57	McMeckan, Jim	Director, Firecone Ventures Limited
58	Mole, Denis	General Manager, Operations SFC
59	Moreton, Sam	Chief of Staff to Minister for Roads and Commerce NSW Government
60	Mussared, Phillip	Executive Director Human and Social Services, NSW Treasury
61	Myers, Jonathon	Partner, Saha International Limited
62	Nicholls, Andrew	Principal Policy Officer – Ferries, Ministry of Transport, NSW Government
63	O’Sullivan, Paul	Chief Investigator, OTSI
64	Oxenbould, Rear Admiral Chris	CEO, NSW Maritime, former Acting CEO SFC
65	Paterson, Mark	Head Corporate Affairs, Veolia
66	Peters, Alison	Deputy Assistant Secretary, Unions NSW
67	Pierce, John	Secretary, Office of Financial Management NSW Treasury
68	Pelham, Natalie	Executive Director, ITSRR
69	Prentice, John	Organiser, CFMEU
70	Pursehouse, Colin	Engineer SFC
71	Rees, Joanne	Former Director SFC
72	Richards, Alistair	Fleet Plan Manager SFC

#	Interviewee	Position
73	Richmond AO, David	Coordinator General, Department of Premier and Cabinet, NSW Government
74	Ronsisvalle, Mark	Deputy Secretary Budget and Financial Management, NSW Treasury
75	Ross, Captain Fred	Director Offshore Division, AMOU
76	Schur, Michael	Deputy Secretary Office of Infrastructure Management, NSW Treasury
77	Segretain, Philippe	Chief Executive Officer, Transdev
78	Sinclair, Suzanne	Former CEO SFC
79	Smith, Rear Admiral Geoff	Chief Executive Officer SFC
80	Smith, Matthew	Transport Safety Investigator, OTSI
81	Snee, Terry	Former Director SFC
82	Stott, John	Chairman, Integrated Ticketing Project
83	Stroud, Sam	Master SFC
84	Taylor, Graeme	Action for Public Transport
85	Taylor, Mathew	Former Chair SFC
86	Towers, Fiona	Director of Transport IPART
87	Tyler, Murray	Organiser, CPEU
88	Verrills, Dallas	Master SFC
89	Walsh, Carolyn	Chief Executive, ITSRR
90	Walter, Don	WalterTurnbull
91	Webb, Gary	Chief Executive Officer, Newcastle Ports Corporation
92	Whitfield, Peter	Deputy Auditor-General NSW
93	Wight, Garry	Engineer/Master SFC
94	Williamson, Andrew	Secretary AIMPE
95	Wood, Glen	Deputy Branch Secretary, Sydney Branch MUA

SPECIAL COMMISSION OF INQUIRY INTO SYDNEY FERRIES

Models of Delivery and Funding of Ferry Services in Sydney

Issues paper

1. Ferries have been on Sydney Harbour since 1789. They were privately operated until 1951 when the government assumed responsibility for ferry services in Sydney.
2. Ferries in NSW are currently operated by the NSW Government and privately owned service providers.¹ Matilda Cruises is a privately owned company that holds contracts with the Government for the provision of passenger ferry services between Darling Harbour and Circular Quay and Lane Cove and Circular Quay. All other ferry services in Sydney are provided by Sydney Ferries Corporation (“Sydney Ferries”).
3. Sydney Ferries currently operates about 179,000 services annually across eight routes on Sydney Harbour and the Parramatta River to 45 wharves. It carries over 14 million passengers a year (approximately 48% commuters, and 46% tourists), employs around 700 staff and has a fleet of 31 vessels.
4. The age of its vessels ranges between 5 and 32 years, with an average of 17 years. There is an urgent need to develop a strategy to replace Sydney Ferries aging fleet. It is within this context that the Inquiry is considering and seeking views on models of delivery and funding of ferry services in Sydney.
5. Sydney Ferries provide the following services:
 - a. Ferry services between Circular Quay and Manly, involving:
 - i. standard ferry service;
 - ii. high speed ferry service;
 - b. Ferry services along the Parramatta River, involving:
 - i. upper Parramatta River service;
 - ii. lower Parramatta River service;
 - c. Ferry services in and around the inner harbour;
 - d. The operation of a ship maintenance facility at Balmain Shipyards.
6. Sydney Ferries’ assets comprise:
 - a. 31 vessels;
 - b. The Balmain Shipyard;
 - c. Nine wharves which are in the process of being transferred to NSW Maritime;
 - d. Information technology assets.

¹ There are seven private passenger ferry operators in NSW: Central Coast Ferries, Church Point Ferry Service, Clarence River Ferries, Cronulla and National Park Ferry Service, Dangar Island Ferry Service, Matilda Cruises, and Palm Beach Ferries. The State Government operates the Sydney Ferries Corporation in Sydney Harbour and ferry services in Newcastle.

7. For the 2005-2006 financial year, Sydney Ferries total operating cost was \$97.6 million. It had a total revenue of \$94.1 million consisting of:
 - a. Farebox revenue: \$45.3 million
 - b. Government funding: \$47.8 million²
 - c. Other funding: \$1.1 million.³
8. As at September 2006, the profitability of each route was as follows⁴:

Route	Cost per passenger per trip	Operating profit per passenger per trip
Woolwich	\$16.37	(\$13.67)
Parramatta	\$15.72	(\$12.24)
Watsons Bay	\$10.96	(\$8.26)
Manly JetCat	\$13.19	(\$6.47)
Mosman	\$9.14	(\$6.44)
Rydalmere	\$9.44	(\$5.96)
Neutral Bay	\$5.73	(\$3.03)
Darling Harbour	\$4.38	(\$2.13)
Manly Freshwater	\$5.16	(\$2.04)
Taronga Zoo	\$4.01	(\$1.31)

9. As at December 2006:
 - a. Farebox recovery was approximately 48% of total revenue;
 - b. Total labour costs represented 50.2% of total expenses;
 - c. Fleet maintenance costs represented 8.5% of total costs;
 - d. Fleet depreciation represented 13.8% of total expenses.⁵
10. Ferry services can be delivered and funded in a variety of ways. There are three broad categories:
 - a. Government delivered and funded services;
 - b. Services delivered and funded by a combination of the public and private sectors;
 - c. Privately delivered and funded services.

GOVERNMENT DELIVERED AND FUNDED SERVICES

11. Models for government delivery of ferry services include:

² This is consistent with international experience. Most public transport systems are unable to operate without funding contributions from governments. For example, the percentage of operating costs covered by farebox revenue is (approximately):

- a) Europe: 40 – 60%
- b) UK: 70%
- c) North America: 30-50% (California: 28%, Toronto: 65%)
- d) Australia: 30-50%

(see Emmerson (2004) "Transport Planning Sinclair Knight Merz", Funding Choices for Sustainable Urban Transport, Metropolitan Transport Forum March 2004, p.12)

³ Sydney Ferries Annual Report 2006-2006

⁴ KPMG Sydney Ferries Corporation Services Delivery Plan 2006-2015

⁵ IPART Fare Determination 2006

Model 1 Government department

12. Ferry services can be provided and funded directly by the government. Health and education services are generally provided in this manner. The operator of the services could be a business unit of a government department.

Model 2 Commercialised statutory authority

13. Ferry services can be provided and funded by the government through a commercialised statutory authority, which operates on a commercial footing, but is not a separate legal entity. The State Transit Authority, which operates buses in Sydney, is such an authority.
14. These statutory authorities have a board, appointed by the Minister. However, the board's role is advisory as opposed to managerial and the Minister retains the right to control and direct the statutory authority.
15. A separate Government agency, such as Ministry of Transport, specifies what services are required from the authority and 'purchases' those services pursuant to an arms length service contract.

Model 3 State Owned Corporation

16. Sydney Ferries' services are provided by the government through a State Owned Corporation ("SOC").
17. Sydney Ferries is a separate legal entity. It has a board of directors, which makes all decisions relating to its operation. The board is accountable to the Shareholding Ministers, who are the statutory owners of the Sydney Ferries. A Chief Executive Officer manages Sydney Ferries on a day-to-day basis.
18. The State, as owner of Sydney Ferries, is able to provide strategic direction by setting financial and non-financial performance targets. In addition, the Minister for Transport (as the Portfolio Minister) may give certain directions to Sydney Ferries:
 - a. to perform non commercial activities;
 - b. to comply with a public sector policy;
 - c. in the public interest; or
 - d. on grounds involving urgency or public safety.⁶
19. The model requires that Sydney Ferries operates, as far as practicable, on a commercial basis. It aims to make a profit and does not provide services that are "non-commercial". If Government requires Sydney Ferries to undertake unprofitable services, it receives financial compensation from Government.
20. The model also requires that the Government's procurement of services from Sydney Ferries is in the form of an arms length contract.

⁶ See *State Owned Corporations Act*, ss. 20N,20O,20P and *Transport Administration Act* s.35K(1).

PRIVATE SECTOR PARTICIPATION IN THE DELIVERY OF SYDNEY FERRIES SERVICES

21. Models for private sector participation in the delivery of ferry services vary according to a range of considerations. Issues of risk allocation, market interest, exit arrangements and step in rights i.e when the government can assume some or all of the service delivery obligations of the private operator for a period of time, can be dealt with in a variety of ways. The main rationale for participation of the private sector is risk sharing and obtaining value for money.
22. Key aspects of the principal models include:

Model 1 Public-private partnership to finance fleet acquisition

23. Sydney Ferries could enter into a contract with the private sector to finance acquisition of a new fleet. Possible contract options include:
 - a. Build:
 - i. Private sector acquires or builds a new fleet to Sydney Ferries' specifications;
 - ii. Sydney Ferries leases, operates and maintains the vessels provided.
 - b. Build and maintain:
 - i. Private sector acquires or builds a new fleet to Sydney Ferries' specifications;
 - ii. Sydney Ferries leases, crews and operates the vessels provided; and
 - iii. Private sector provides through life support for fleet, including planned, preventative and breakdown maintenance.
 - c. Build/owns, maintains and makes available:
 - i. Private sector acquires or builds vessels to Sydney Ferries' specifications;
 - ii. Private sector owns fleet and delivers a guaranteed level of dedicated fleet availability per period (e.g. per day) at a fixed price;
 - iii. Private sector receives a fixed price from government contingent on vessel availability;
 - iv. Sydney Ferries crews and operates the services.
 - d. Own, operate and maintain:
 - i. Private sector owns fleet and employs crews;
 - ii. Private sector delivers number of vessels and crewing requirements determined by Sydney Ferries;
 - iii. Private sector delivers guaranteed fleet capability for a fixed price;
 - iv. Private sector receives revenue contingent on delivery of the required fleet capacity;

- v. The Government determines routes, frequency, performance standards and fares;
- vi. The fleet may or may not be eventually transferred to government.

Model 2 Contestability

- 24. The Government could invite tenders to deliver a specific quality and quantity of services for a defined period of time. Tenders may be invited for single routes, packages of routes, geographical regions or the entire service. Sydney Ferries would submit a tender proposal on the same terms as other tenderers.
- 25. The Government could specify:
 - a. routes;
 - b. timetables;
 - c. service levels;
 - d. maximum fares;
 - e. performance standards;
 - f. fleet and safety standards;
 - g. asset maintenance standards;
 - h. the term of the contract.
- 26. The Government could award a contract consistent with its policies.
- 27. If Sydney Ferries is not successful in obtaining the contract:
 - a. The operator can be obliged to employ all employees for a specified period;
 - b. Assets and inventory can be sold to the operator at book value;
 - c. Lease arrangements and other key contracts can be novated to the operator.
- 28. New competitive proposals can be sought towards the end of the contract period, regardless of whether the incumbent operator is a private company or Sydney Ferries.

Examples

- 29. Examples of the operation of public-private participation can be found in Brisbane, Melbourne and Sydney.
- 30. First, Rail Corp has entered into a contract with the private sector to provide new rolling stock. The contract involves:
 - a. Private sector financing, design, manufacturing and commissioning new double-deck carriages and trains for CityRail services in metropolitan Sydney.
 - b. Private sector financing, design, construction, manufacturing and commissioning of a new maintenance facility for these trains and new train simulators for training.
 - c. An obligation on the private sector parties to make a certain number of the new trains available for RailCorp's CityRail services every day over a period of about 30 years, with up to two possible five-year extensions of the operational period for some or all of the trains.

- d. Private sector maintenance, cleaning, repair and refurbishment of the new trains, maintenance facility and train simulators, to RailCorp-specified standards, throughout their operational periods.
 - e. Private sector decommissioning of the trains, and/or handing over of some or all of the trains to RailCorp, at the end of their operational periods.
31. Secondly, in Sydney, approximately 60% of bus services are provided by the State Transit Authority and 40% are provided by the private sector. The NSW Government has recently negotiated new service contracts with the State Transit Authority and the private sector operators to standardise the provision of bus services in Sydney. Under the contracts, all bus services, whether operated by the public or private sector, offer the same ticket products for the same price and have the same service standards. Routes and service levels are set out in each contract. The Government retains the farebox and operators are paid a price by Government to provide the specified services, with performance incentives for patronage growth and improvements in service quality.
32. Operators own and finance buses and depots and are responsible for asset maintenance. If patronage increases to a certain level, operators may seek funding from the Government for the purchase of new buses. Contracts are for a maximum term of eight years and will only be renewed if the performance standards set out in the contract have been met and the parties are able to successfully negotiate or tender for a new contract. Where a contract is not renewed, all assets of the incumbent operator novate to the successor operator.
33. Thirdly, the private sector has a contract to operate Brisbane's ferries under a seven plus three year contract term. Brisbane City Council retains ownership of the ferries and most terminals. It retains the farebox and pays the private operator a fixed operating price and performance incentives. The private sector is responsible for vessel operations, vessel and infrastructure maintenance, marketing and cash collection. Brisbane City Council is responsible for overall contract management, design and construction of new fleet and terminals, performance monitoring and strategic planning and policy.
34. Finally, in Melbourne, the Victorian Government has negotiated contracts with the private sector to operate Melbourne's train and tram systems for five years, with an option to extend. The private operators retain the farebox and receive a fixed base payment to operate the system and a variable amount to compensate for concession fares and various forecast adjustment payments that are subject to particular events occurring.

PRIVATELY DELIVERED AND FUNDED SERVICES

Model 3 Government ceases service

35. The Government could stop providing a particular service and allow private providers to meet any public demand for the service.
36. For example, the Government could cease the Rydalmere to Parramatta service and allow private sector to provide a ferry service to Parramatta if there is sufficient demand to make it profitable.

Model 4 Sale of assets and shares

37. Sale of Sydney Ferries Corporation by the Government to private ownership. Private sector operator determines fares, routes and timetables and derives its revenue directly from the farebox.

APPENDIX F

SFC BOARD MEMBERS AND SENIOR MANAGEMENT

Position	Name	Start Date	End Date
Current Board			
Acting Chair/ Director	Beth Laughton	1 July 2004	30 June 2009
Director	Clayton Frederick	1 July 2004	30 June 2009
Director	Helen Conway	14 February 2007	14 February 2010
Previous Board			
Chair/Director	Matthew Taylor	1 July 2004	22 September 2005
Acting Chair Chairman	Geoff Ashton	22 September 2005 22 December 2005	21 March 2007
Director	Sue Sinclair	13 October 2004	22 May 2006
Director	Terry Snee	11 August 2004	10 August 2006
Director	Joanne Rees	1 July 2004	19 September 2006
Director	Rodney Cavalier	1 July 2004	30 June 2007
Senior Management			
Chief Executive Officer	Sue Sinclair	1 July 2004	22 May 2006
	Chris Oxenbould	20 February 2006	24 August 2006
	Rear Admiral Geoff Smith	21 August 2006	current
Corporate Counsel & Company Secretary	Vanessa Ambler	21 April 2004	Maternity Leave
	Alana Starke	11 December 2006	acting current
General Manager, Operations	Simon Estalla	9 August 2004	19 July 2005
	Michael Niemann (acting)	20 July 2005	28 October 2005
	Ramon Rees (contractor)	7 November 2005	6 March 2006
	Denis Mole	1 March 2006	current
General Manager, Engineering	Abraham Leifman	7 February 2003	6 May 2005
	Neville Fox	13 March 2005	26 April 2005

Position	Name	Start Date	End Date
	Olav Groot	26 April 2005	current
General Manager, Human Resources & Industrial Relations	Michel Hryce	27 September 2004	current
General Manager, Finance & Corporate Services	Gary Pedersen	8 June 2004	12 March 2005
	Bruce McClintock (contractor)	February 2005	August 2005
	Wendy Hughes	1 June 2005	current
General Manager, Communications, Marketing & Development	Andrew Herring	13 November 2006	current

APPENDIX G

EBA COMPARISON TABLE

Source: Sydney Ferries Corporation, *Issues Paper: Industrial Relations Environment*, dated 6 June 2007

GENERAL MATTERS					
	Inner Harbour Engineers and Masters	Outer Harbour Engineers	General Purpose Hands	Shipyard	Senior and Salaried Officers
Period of EBA	7 Dec 2006 to 31 Dec 2008	4 April 2006 to 31 July 2007	24 Mar 2006 to 24 Mar 2009	16 Aug 2002 to 16 Feb 2009	29 Mar 2006 to 1 Jan 2009
Unions	AMOU	AIMPE	MUA	CFMEU, AMWU, CPEU	ASU, ARTBU
Base Award	Ports Services Award	Ports Services Award	STA of NSW Ferries (State) Award	STA of NSW Balmain Ferry Maintenance Centre Award	STA of NSW Senior Salaried Officers' Award Senior Officers Rail, Bus and Ferries Award
Rates of Pay	Rates of pay for Outer Harbour Masters; and Inner Harbour Masters/Inner Harbour Engineers Also, a Workers' Compensation rate (three divisions within this category, being for Outer Harbour Masters; Inner Harbour Masters and Inner Harbour Engineers; and RiverCat Masters) Separate rate of pay for Out of Port Voyages	Different rates of pay for employees who elected to forego 4.7% wage increase from previous agreement vs employees who did not	Different rates of pay for each of 4 grades of employees (Trainee, Inductee; General; Team Leaders / FT Trainers)	Different rates of pay for each of 11 grades of employees	Different rates of pay for each of 58 bands of employee. Salaried and senior employees are each divided into 7 levels, each level being broken into between 3 and 6 increments

ALLOWANCES, LOADINGS AND PENALTY RATES					
	Inner Harbour Engineers and Masters	Outer Harbour Engineers	General Purpose Hands	Shipyards	Senior and Salaried Officers
Trainers Allowance	\$2,600 pa, paid fortnightly	No	Level 3 Trainers only	No	No
Outside Port Voyages allowance	Yes – separate scale of wages applied	No	Yes	No	No
Charter vessel voyages allowance	No	Yes	No	No	No
Casual loading	20%	25%	25%	[*]	20%
Meal Allowance	Yes	Yes	Yes	Yes	Yes
Travel Allowance	No	Yes	Yes	Yes Includes car allowance	Yes Includes car allowance
Clean up money	No	No	Yes	No	No
Higher Duties Allowance	No	No	No	20% for each hour worked	Senior Employees are paid for higher duties if performing in that role for a period of at least 4 days. Senior Employees are entitled to be paid for higher duties for each shift worked at that level

ALLOWANCES, LOADINGS AND PENALTY RATES

	Inner Harbour Engineers and Masters	Outer Harbour Engineers	General Purpose Hands	Shipyard	Senior and Salaried Officers
Industry Allowance	No	No	No	Yes	Yes
Compensation for loss or damage to personal effects while on duty	No	Yes	No	No	No
Income Protection	Yes	No	No	No	No
Christmas Day	Yes	Yes	Yes (different rate applies to Christmas Day)	Yes (but treated as an ordinary public holiday)	Yes
Other Public Holidays	No	No	Yes	Yes	Yes
Saturday rates	No	No	Yes	Yes	Yes
Sunday rates	No	No	Yes	Yes	Yes

ALLOWANCES, LOADINGS AND PENALTY RATES

	Inner Harbour Engineers and Masters	Outer Harbour Engineers	General Purpose Hands	Shipyard	Senior and Salaried Officers
Overtime	<p>Overtime is paid at base rates (not Aggregate Wage rates).</p> <p>Employees are entitled to overtime for hours worked in excess of Aggregate Wage rate ordinary hours.</p> <p>Work for which overtime is paid varies between Inner Harbour Masters and Outer Harbour Masters.</p> <p>Employees who are paid an Annual Salary are not entitled to overtime</p>	<p>Work in excess of 98 hrs/fortnight</p> <p>Sick leave coverage beyond 15 days</p> <p>Work in excess of 98 hours/fortnight while ship in lay up (ie, at shipyard under repair)</p>	<p>Work in excess of ordinary hours and grey days</p> <p>Note: the EBA prescribes the tasks/type of work which is to form part of an ordinary day's work</p>	Permitted to work reasonable overtime	Overtime only available to Salaried employees (not Senior employees)

ROSTERS AND ORDINARY HOURS					
	Inner Harbour Engineers and Masters	Outer Harbour Engineers	General Purpose Hands	Shipyard	Senior and Salaried Officers
Ordinary hours	38 hrs/week taken as an average over each fortnight	38 hrs/week	38 hrs/week	38 hrs/week Mon to Fri with an additional 2 hrs/wk to accrue an ADO	Rostered salaried employed prior to 31 Dec 05: 35"50'/wk worked Mon to Fri from 0830 to 1730 Rostered Salaried employees employed after 31 Dec 05: 38 hrs/ week Senior employees: 38 hrs/wk over 5 shifts (Mon to Sun) Rostered Senior employees: 38 hrs/wk in shifts of not more than 12 hours and not less than 4 hours
Span of hours	7 days/week; 24hrs/day; 365 days/ year				Overall applicable span of hours is 0500 to 0115 the following day
No of weeks in roster cycle	4 or 6	4	4	4	[*]
Max Shift length	12	12	12	12	12
Min shift length / hours to be paid	6	4	6	[*]	4

ROSTERS AND ORDINARY HOURS					
	Inner Harbour Engineers and Masters	Outer Harbour Engineers	General Purpose Hands	Shipyard	Senior and Salaried Officers
Min break between shifts	10	10	10	10	10
Notice to change roster	[*]	Temporary: 24 hours General: 7 days Significant: 28 days	Exceptional circs: 24 hours General: 7 days Significant: 21 days	21 days	[*]
Accrued days Off	No	Per lines of work and allocated rosters	4 RDOs per roster cycle	1 ADO per roster	1 ADO per roster cycle – available to salaried employees only
Crib breaks	Meal break: 30 minutes after each 5 hours worked, to be taken as close to the mid-point of the 5 hours as possible	Meal break: 30 mins <u>after</u> 5 hours work	Shore-based employees: 30 minutes <u>within</u> 5 hours' work to be taken after first 2 hours Vessel-based employees: 30 minutes within 5 hours of work, to be taken (as far as possible) after 90 minutes of shift commencement All GPHs: Further crib break of minimum 20 minutes within each additional 5 hours' worked	10 minute paid meal break from 0900 to 0910 30 minute unpaid meal break from 1200 to 1230 5 minute wash-up break prior to commencement of paid and unpaid meal breaks 20 minute break for every 4 hours of overtime worked	30 mins after 5 hours of work

LEAVE ENTITLEMENTS					
	Inner Harbour Engineers and Masters	Outer Harbour Engineers	General Purpose Hands	Balmain Shipyard	Senior and Salaried Officers
Annual Leave	25 days Employees entitled to take up to 5 single days' leave subject to employee arranging relief and prior SFC approval	25 days	25 days	25 days 17.5% loading applies	Rostered employees: 25 Non-rostered employees: 20
Leisure Leave and Maritime Leave	25 days	25 days	25 days	No	No
Long Service Leave	2 months after 1 st 10 years 15 calendar days for each year of service after 10 years				
Carer's leave	10 days	5 days	10 days	10 days	5 days
Maternity Leave	Eligible after 40 weeks service 9 weeks paid leave 52 weeks unpaid leave				
Adoption leave	Eligible after 40 weeks service 9 weeks paid leave 52 weeks unpaid leave				

LEAVE ENTITLEMENTS					
	Inner Harbour Engineers and Masters	Outer Harbour Engineers	General Purpose Hands	Balmain Shipyard	Senior and Salaried Officers
Parental Leave	<p>Available to employees not entitled to maternity or adoption leave</p> <p>Eligible after 40 weeks service</p> <p>52 weeks unpaid leave within 2 years of birth of child</p> <p>One week may be taken with spouse</p>				
Bereavement	3 days	2 days	2 days	2 days	2 days
Picnic Day	No	Yes	No	No	Yes
Study Leave	Yes	Yes	Yes	Yes	Yes
Leave without pay	Yes	Yes	Yes	Yes	Yes
Jury Service	Yes	Yes	Yes	Yes	Yes
Emergency Services	Yes	No	Yes	Yes	Yes
Military	Yes	No	Yes	Yes	Yes
Personal Day Off	No	No	No	Yes	No
Sick Leave	12 days and a commitment to reducing sick leave days taken per year to 5 or less	15 days	12 days \$1000 bonus paid to a GPH who takes 5 days or less sick leave in a year	92.1 hours per years (11.4 days)	Employees engaged prior to 29 March 2006: 12 days Employees engaged after 29 March 2006: 10 days

APPENDIX H

MARITIME INDUSTRY COMPARATORS

GENERAL PURPOSE HANDS										
	SFC	Newcastle Ferries ¹	Matilda Catamarans ²	Blue Line Cruises Ltd ³	Peninsula Searoad Transport P/L ⁴	Newcastle Port Corporation ⁵	Port Kembla Port Corporation ⁶	Svitzer Australia P/L ⁷	Australian Maritime Services P/L ⁸	ASP Ship Management P/L ⁹
Job title	General Purpose Hand	Deckhand	Deckhand	General Purpose Hand	General Purpose Hand	Port Officer	Port Officer	General Purpose Hand	Integrated Rating	Integrated Rating
Key qualifications	Equivalent to a Certificate II in Transport and Distribution (Maritime Operations) ¹⁰	Statement of attainment in National Maritime Operations Certificate	Certificate I in Transport and Distribution (Maritime Operations)	Record of Service book issued by NSW Maritime and endorsed for General Purpose Hand or Higher (Equivalent to a Certificate I in Transport and Distribution (Maritime Operations))	Fire fighting and Survival at Sea Courses	Certificate II in Transport and Distribution (Maritime Operations) [Coxswain License]	Certificate II in Transport and Distribution (Maritime Operations) [Coxswain License]	Certificate I in Transport and Distribution (Maritime Operations)	Certificate III in Transport and Distribution (Maritime Operations) [Integrated Rating Certificate (endorsed by AMSA)]	Certificate III in Transport and Distribution (Maritime Operations) [Integrated Rating Certificate (endorsed by AMSA)]
Key duties	<ul style="list-style-type: none"> • Customer Service • Operations • Participate in Navigation • Assist the Master in berthing and unberthing • Safety and environmental matters • Maintenance • Cleaning 	<ul style="list-style-type: none"> • Customer Service • Cleaning • Fare collection and ticket issuing • Minor repairs 	<ul style="list-style-type: none"> • Customer Service • Operations • Assist in Navigation • Mooring and unmooring • Maintenance • Cleaning • Hospitality • Safety and environmental matters 	<ul style="list-style-type: none"> • Customer Service • Operations • Assist in Navigation • Assist the Master in berthing and unberthing • Maintenance • Cleaning • Maintain records • Resolve customer complaints 	<ul style="list-style-type: none"> • Customer Service • Safety • Fare collection, ticket issuing and checking • Assist the Master in berthing and unberthing • Maintenance • Cleaning • Assist the Engineer when required 	<ul style="list-style-type: none"> • Policing of Acts and Regulations applicable to wharves, vessels, cargo and vehicular traffic • Drive launches to transport personnel and/or equipment in Newcastle Harbour and the Hunter River • Provide assistance to Pilots embarking and disembarking 	<ul style="list-style-type: none"> • Assisting with slipped vessels • Oil Spill and Emergency Response • Pilotage support duties when Duty Crew are busy at slips 	<ul style="list-style-type: none"> • Deck and general purpose duties of harbour, free running and outside towage work • Marine and salvage operations • Safety and Environmental matters • Maintenance • Handling of stores and equipment, incl. 	<ul style="list-style-type: none"> • Deck and general purpose duties of harbour, free running and outside towage work • Marine and salvage operations • Safety and Environmental matters • Deck and general purpose operations during outside running • Maintenance 	<ul style="list-style-type: none"> • Maintain deck watch in accordance with the requirements of the Masters Handbook (night watch) • Steering when required • Clean bridge deck, bridge pantry, bridge windows and fittings • General day work duties including the traditional tasks

GENERAL PURPOSE HANDS

	SFC	Newcastle Ferries ¹	Matilda Catamarans ²	Blue Line Cruises Ltd ³	Peninsula Searoad Transport P/L ⁴	Newcastle Port Corporation ⁵	Port Kembla Port Corporation ⁶	Svitzer Australia P/L ⁷	Australian Maritime Services P/L ⁸	ASP Ship Management P/L ⁹
	<ul style="list-style-type: none"> Maintain records Fare collection, ticket issuing and checking Man gangways 			<ul style="list-style-type: none"> Man gangways Hospitality 	<ul style="list-style-type: none"> Man gangways 	from ships <ul style="list-style-type: none"> Participate in the operations of the dredge Participate in Incident Oil Spill response and clean-up operations as part of response team 		fork lifts <ul style="list-style-type: none"> Assistance in the engine room Cooking during outside work Watch keeping duties 	<ul style="list-style-type: none"> Handling of stores and equipment Assistance in the engine room Cooking during outside work Watch keeping duties 	of seamen, pumpmen, greasers and donkeymen <ul style="list-style-type: none"> Assist in the engine room
Work environment	Passenger – Harbour	Passenger- Harbour	Passenger - Harbour	Passenger - Harbour	Vehicle and Passenger – Marine Bay	Port services	Port services	Tug	Tug	Shipping/ Passenger
Type of instrument	EBA	EBA	EBA	EBA	AWAs	EBA	EBA	EBA	EBA	EBA
Industrial jurisdiction	NSW	NSW	Federal	NSW	Federal	Federal	NSW	Federal	Federal	Federal
Instrument pay increases	4% p.a.	4% p.a.	2.5% p.a.	No information provided	3-4% reviewed annually	4% p.a.	4.5% p.a.	Approx. 3% p.a. ¹¹	2% p.a.	Approx. 4% p.a. ¹²
Ordinary/ aggregate hours work	38/48 hpw	38/40 hpw	40 hpw	40 hpw	35 hpw	38/40 hpw	38/40 hpw	35 hpw	¹³	6 weeks on / 6 weeks off
Average hours of paid overtime	2.6 hpw	Nil	0.8 hw	4.5 hpw	11-13 hpw	Nil	0.85 hpw	Negligible	Nil	Nil
AAR ¹⁴	71,917	57,649	41,555 - 52,833	39,422	61,409	83,631	86,670	76,316	72,828	64,655-76,260
All Annual Leave (per annum)	50 days	25 days	20 days	20 days	30 days	25 days	25 days	168 days free of duty	182 days leave	182 days leave
Sick Leave (per annum)	12 days	8-15 days	10 days	10 days	10 days	10 days	5 days uncertified. Unlimited with certificate	10 days	10 days	14 days

- 1 Newcastle Ferries is operated by the Newcastle division of the State Transit Authority of New South Wales. Newcastle Ferries operates a two-vessel service across Newcastle Harbour from Newcastle to Stockton.
- 2 Matilda Catamarans is the trading name for Captain Cook Cruises (NSW) Pty Ltd. Captain Cook Cruises owns or manages nine cruise vessels on Sydney Harbour.
- 3 Blue Line Cruises Ltd is a cruise operator on Sydney Harbour offering 14 services per day.
- 4 Peninsula Searoad Transport Pty Ltd operates a two-vessel service, each carrying 80 vehicles and 700 passengers, between Queenscliff and Sorrento on Port Phillip Bay in Victoria.
- 5 Newcastle Port Corporation is a New South Wales State Owned Corporation providing port facilities and services.
- 6 Port Kembla Port Corporation is a New South Wales State Owned Corporation providing port facilities and services.
- 7 Svitzer Australia Pty Limited (formerly Adsteam Marine Ltd t/a Adsteam Harbour Pty Ltd) operates 100 tugs at various ports around Australia, including the port of Sydney.
- 8 The core business of Australian Maritime Services Pty Ltd (AMS) is harbour towage. AMS also performs outside towage work and marine salvage operations in the ports of Melbourne and Brisbane.
- 9 ASP Ship Management Pty Ltd operates dry cargo, passenger and tanker vessels in the port of Melbourne.
- 10 There are four levels of General Purpose Hands. Levels 1 and 2 are Trainees and Inductees. Level 2 require a Certificate I in Transport and Distribution (Maritime Operations). They are not included in the comparison. Level 3 GPHs are required to have the equivalent of a Certificate II. There are 24 level 3 and three level 4 GPH and each works as a part or full time trainer and is required to have a Certificate IV in Training and Assessment or equivalent. The remuneration of these 27 GPHs has not been included in the comparison.
- 11 Pay increases: 2.75% - 2006, 3% - 2007, 3.25% - 2008.
- 12 Pay increases: 3.5% - 2005, 4% - 2006, 4% - 2007.
- 13 At AMS tug crews work a roster system which, given the unpredictable nature of the work load, is conducted as required but not for more than 14 hours in any 24-hour period.
- 14 Average annual remuneration (AAR) is the average total earnings.

ENGINEERS										
	SFC – Inner Harbour	SFC – Outer Harbour	Matilda Catamarans	Blue Line Cruises Ltd	Peninsula Sea Road Transport P/L	Newcastle Port Corporation	Sydney Ports Corporation	Svitzer Australia P/L	Australian Maritime Services P/L	ASP Ship Management P/L
Job title	Engineer	Engineer	Engineer	Engineer	Engineer	Dredge Engineer	Port officer 2 – Shift Engineer	Marine Engineer	Tug Engineer	2 nd /3 rd Engineer
Key qualifications	Certificate III Transport and Distribution (Marine Engine Driving) [MED II]	Certificate IV Transport and Distribution (Marine Engine Driving) [MED I]	Certificate II Transport and Distribution (Marine Engine Driving) [MED III]	Certificate III Transport and Distribution (Marine Engine Driving) [MED II]	Certificate IV Transport and Distribution (Marine Engine Driving) [MED I]	Engineer Class II (Motor) Certificate [Equivalent to a Diploma of Transport and Distribution (Marine Engineering)]	Certificate III Transport and Distribution (Marine Engine Driving) [MED II]	Engineer Class III [Equivalent to a Diploma of Transport and Distribution (Marine Engineering)]	Under 3000kw: Engineer Class III Certificate (AMSA) [Equivalent to a Marine Engineer Watchkeepers or Diploma of Transport and Distribution (Marine Engineering)] Over 3000kw: Engineer Class II Certificate (AMSA) [Equivalent to a Diploma of Transport Distribution (Marine Engineering)]	Marine Engineer Watchkeepers
Key duties	<ul style="list-style-type: none"> Start up, shut down and hand over procedures Operate and maintain vessel machinery incl. routine maintenance Plan the testing of ferry systems and equipment and operational maintenance Access information from the ferries onboard 	<ul style="list-style-type: none"> As per SFC – Inner Harbour and Start monitor and close down ferry main diesel engines Supervise GPH Greasers 	<ul style="list-style-type: none"> Inspect, rectify and report on all compartments aboard ship at the start and completion of every shift Carry out all daily engine room routine maintenance tasks Conduct all checks, tests and routine maintenance on all ship board machinery 	<ul style="list-style-type: none"> Look after operating and safety maintaining the vessel machinery in good working order Conduct any repairs required to the vessels' machineries and equipment by following-up the routine maintenance requirements as outlined by the Engineering Manager Follow start 	<ul style="list-style-type: none"> Operate and maintain vessel machinery and engines incl. routine maintenance Assure mechanical safety equipment is operational and ready to use Assist in loading/unloading the vessel during busy periods Maintain a machinery watch during operation Keep a written 	<ul style="list-style-type: none"> Maintain the operational function of the dredge 'Hands on' operation of equipment Bunkering of the dredge Relieving in vessel/plant maintenance officer position 	<ul style="list-style-type: none"> Responsible for maintenance of plant and equipment at shift level Train and mentor new staff Operate machinery of FFSV as engineer Supervise contracts as required 	<ul style="list-style-type: none"> Tug maintenance in accordance with programmed maintenance schedules and budget Maintenance and repair of marine plant and equipment Supervision of personnel undertaking and assisting in the engineering function Responsibility for signing off on maintenance work 	<ul style="list-style-type: none"> Overall responsibility for the operation of all machinery on the vessel, incl. but not limited to electrical, electronic and hydraulic equipment, as well as pumping, ventilation, air conditioning, fire fighting, alarm and safety systems Plan and carry out all maintenance – planned, routine, breakdown and survey Supervise 	<ul style="list-style-type: none"> Engine room plant and equipment maintenance

ENGINEERS

	SFC – Inner Harbour	SFC – Outer Harbour	Matilda Catamarans	Blue Line Cruises Ltd	Peninsula Sea Road Transport P/L	Newcastle Port Corporation	Sydney Ports Corporation	Svitzer Australia P/L	Australian Maritime Services P/L	ASP Ship Management P/L
	<p>monitoring computer system</p> <ul style="list-style-type: none"> Plan and order consumables for the maintenance of the ferry Monitor ferry fuel consumption, carry out refuelling strategy and record fuel sounding reports Maintain on board safety equipment Ensure security of equipment on the vessel Report machinery faults 		<ul style="list-style-type: none"> Assist in the service of passenger needs in all areas of hospitality, food and beverage service as and when not actively engaged in engineering duties Assist with securing the vessel, boarding passengers and checking tickets as required Ensure that all safety equipment aboard the vessel is regularly tested and maintained Carry out any repair and maintenance tasks that can be completed whilst the vessel is underway Ensure the vessel is shut down and secured at the end of the day Assist the Master with navigation, conning and navigation as required by the Master 	<p>up / shut down procedures</p> <ul style="list-style-type: none"> Maintain the vessels in maximum effectiveness and productivity by meeting the demand for incidental repairs and general maintenance Report all vessel defects Meet the planned preventative maintenance program for each vessel Request or order spare parts and stores consumables Monitor cosmetic housekeeping standards of vessels to maintain the highest level of visual appeal Work in tandem with the onboard Galley and Restaurant division 	log of all maintenance and service work			<p>completed</p> <ul style="list-style-type: none"> Preparation of maintenance and operational reports as required Participate in safety training, including the training of other crew members 	<p>contractors on board</p> <ul style="list-style-type: none"> Ordering, producing and maintaining spares and consumable stores for the normal day to day operation of the tug 	
Work environment	Passenger – Inner	Passenger – Outer	Passenger -	Passenger -	Vehicle and Passenger	Port services	Port services	Tug	Tug	Shipping/ Passenger

ENGINEERS

	SFC – Inner Harbour	SFC – Outer Harbour	Matilda Catamarans	Blue Line Cruises Ltd	Peninsula Sea Road Transport P/L	Newcastle Port Corporation	Sydney Ports Corporation	Svitzer Australia P/L	Australian Maritime Services P/L	ASP Ship Management P/L
	Harbour	Harbour	Harbour	Harbour	- Marine Bay					
Type of instrument	EBA	EBA	EBA	EBA	AWAs	EBA	EBA	EBA	EBA	EBA
Industrial jurisdiction	Federal	Federal	Federal	Federal	Federal	Federal	NSW	Federal	Federal	Federal
Instrument pay increases	4% p.a.	Approx. 4% ¹	2.5% p.a.	4% - Feb 2006 4% - Oct 2006	3-4% reviewed annually	4% p.a.	4% p.a.	Approx. 3% p.a. ²	2% p.a.	2004 - 1% in Feb. August 2004: as negotiated
Ordinary hours / aggregate hours worked	38/52 hpw	38/49 hpw	40 hpw	45 hpw	35 hpw	40 hpw	38/ 40.76 hpw	35 hpw	³	6 weeks on / 6 weeks off
Average overtime hours worked	2.6 hpw	2.6 hpw	0.84 hpw	11.8 hpw	11 – 13 hpw	Nil	Nil	8 hpw	Nil	Nil
AAR ⁴	88,926	82,220	54,206-66,581	69,758	104,401	94,399	98,585	119,222	116,471	116,359
All Annual Leave (per annum)	50 days	50 days	20 days	20 days	30 days	25 days	25 days	168 days free of duty	182 days leave	182 days leave
Sick Leave (per annum)	12 days	15 days	10 days	10 days	10 days	10 days	5 days	10 days	10 days	3 months ⁵

1 Pay increases: 2004 – 4%, Jul 2005 – 1%, Dec 2005 – 4%, 2006 – 4%.

2 Pay increases: 2006 - 2.75%, 2007 - 3%, 2008 - 3.25%.

3 At AMS tug crews work a roster system which, given the unpredictable nature of the work load, is conducted as required but not for more than 14 hours in any 24-hour period.

4 Average annual remuneration (AAR) is the average total earnings.

5 As per the *Navigation Act 1912* (Cth) (ss.127 & 132).

MASTERS

	SFC – Inner Harbour	SFC – Outer Harbour	Newcastle Ferries	Matilda Catamarans	Blue Line Cruises Ltd	Peninsula Sea Road Transport P/L	Newcastle Port Corporation	Sydney Ports Corporation	Port Kembla Port Corporation	Svitzer Australia P/L	Australian Maritime Services P/L	ASP Ship Management P/L
Job title	Master – Inner Harbour	Master – Outer Harbour ¹	Master/ Engineer	Master	Master	Master	Cutter Master/ Engineer	Port Officer 2 – Shift Master	Cutter Master/ Engineer	Master	Tug Master	Master/Deck Officer
Key qualifications	Master Class IV and MED III	Master Class IV and MED III	Master Class V and MED III	Master Class V or Master Class IV	Master Class IV and MED III	Master Class IV	Master Class V and MED II	Master Class IV	Master Class V and MED II	Master Class IV (unrestricted)	Master Class IV	Master Class 1 (endorsed by AMSA)
Key duties	<ul style="list-style-type: none"> Navigation and operation of vessels Transportation of passengers and crew Make decisions with respect to safety and environmental pollution preventative measures Maintain safe working conditions and procedures onboard vessels In conjunction with the appointed trainers, train crew members in the operation of equipment and emergency operations and evaluate their performance Manage vessel operation in a safe and cost 	<ul style="list-style-type: none"> As for SFC – Inner Harbour Masters 	<ul style="list-style-type: none"> Navigation and operation of vessels Transportation of passengers and crew Provide on-the-job training to employees seeking to obtain Master V qualification Any other minor mechanical and electrical adjustment or repairs 	<ul style="list-style-type: none"> Navigation and operation of vessels Transportation of passengers and crew Supervise embarkation and disembarkation Complete all Masters logs and records Conduct regular planned and unplanned fire and safety drills Ensure the vessel is shut down and secured Conduct all pre-departure checks and routine tests Customer service 	<ul style="list-style-type: none"> Navigation and operation of vessels Transportation of passengers and crew Conduct regular planned and unplanned fire and safety drills Customer service 	<ul style="list-style-type: none"> Navigation and operation of vessels Transportation of passengers, crew and cargo Ensure the required safety equipment is carried and operational Conduct regular planned and unplanned fire and safety drills Resolves any disputes with passengers and crew Ensure that crew are neat, tidy and presentable at all times 	<ul style="list-style-type: none"> Is in command of the Pilot Vessels and in charge of all onboard machinery when they are tasked for operations Drive Pilot Vessel and other floating plant Maintain engineering services and ongoing maintenance of Pilot Vessels Wharf patrol, launch driving, dredge crew and incident and oil spill response 	<ul style="list-style-type: none"> Coordinate shift activities Train and mentor new staff Implement new and ongoing training programs with existing staff Operate the FFSV as Master 	<ul style="list-style-type: none"> Command vessels Transfer pilots during vessel movements Ensure the safety of pilots and personnel Monitor daily shipping movements Maintain logs required for the maintenance of pilot vessels Conduct harbour patrols to ensure that fairways and channels are clear of debris, navigational aids are in position and that operational and floating pant are 	<ul style="list-style-type: none"> Command of the tug and crew Act as tug manager and coordinate the attendance of crew as required for operations, the provision of stores, and ensuring readiness for operations Management of disciplinary procedures relating to tug crews Supervision and assistance with tug maintenance Preparation of operational reports Induction training to visitors, employees, etc. 	<ul style="list-style-type: none"> Operation and navigation of the vessel Supervise and manage vessel crew of 2 Oversee and manage the maintenance of the vessel Ensure implementation of safety and environmental programs Ordering of spare parts and supplies Oversee the implementation and adherence to the vessels' operating budget Arrange all fuel bunkering and oversee its 	<ul style="list-style-type: none"> Navigation and operation of vessels Transportation of cargo, passengers and crew Watch keeping

MASTERS

	SFC – Inner Harbour	SFC – Outer Harbour	Newcastle Ferries	Matilda Catamarans	Blue Line Cruises Ltd	Peninsula Sea Road Transport P/L	Newcastle Port Corporation	Sydney Ports Corporation	Port Kembla Port Corporation	Svitzer Australia P/L	Australian Maritime Services P/L	ASP Ship Management P/L
	<p>effective manner</p> <ul style="list-style-type: none"> While passengers are embarking and disembarking, ensure that the vessel is properly moored and that the GPH is watching the gangplank and that it is securely in position 								<p>safe and secure</p> <ul style="list-style-type: none"> Perform maintenance and repairs to pilot vessels' mechanical and electrical systems 		<p>safety loading</p> <ul style="list-style-type: none"> Organise, authorise and oversee work carried out by contractors 	
Work environment	Passenger – Inner Harbour	Passenger – Outer Harbour	Passenger – Harbour	Passenger – Harbour	Passenger – Harbour	Vehicle and Passenger – Marine Bay	Port services	Port services	Port services	Tug	Tug	Shipping/ Passenger
Type of instrument	EBA	EBA	EBA	EBA	EBA	AWAs	EBA	EBA	EBA	EBA	EBA	EBA
Industrial jurisdiction	Federal	Federal	Federal	Federal	Federal	Federal	Federal	NSW	NSW	Federal	Federal	Federal
Instrument pay increases	4% p.a.	4% p.a.	2003 – 3%	2.5% p.a.	Feb 2006 – 4% Oct 2006 – 4%	3-4% reviewed annually	4% p.a.	4% p.a.	4.5% p.a.	Approx. 3% p.a. ²	2% p.a.	1% in Feb 2004. August 2004: as negotiated
Ordinary hours/ aggregate hours worked	38/52 hpw	38/49 hpw	38 hpw	40 hpw	40 – 43.5 hpw	35 hpw	38/40 hpw	38/40.76 hpw	38/40 hpw	35 hpw	56 hpw	6 weeks on / 6 weeks off
Average overtime hours worked	2.6 hpw	2.6 hpw	0.1 hpw	0.67 hpw	1.6 hpw	11 – 13 hpw	Nil	Nil	1.05 hpw	8 hpw	Nil	Nil
AAR ³	86,458	99,296	74,286	65,475-86,165	64,576	103,427	103,535	98,585	110,409	119,895	116,471	118,057-138,843

MASTERS												
	SFC – Inner Harbour	SFC – Outer Harbour	Newcastle Ferries	Matilda Catamarans	Blue Line Cruises Ltd	Peninsula Sea Road Transport P/L	Newcastle Port Corporation	Sydney Ports Corporation	Port Kembla Port Corporation	Svitzer Australia P/L	Australian Maritime Services P/L	ASP Ship Management P/L
All annual leave (per annum)	50 days	50 days	37 days	20 days	20 days	30 days	25 days	25 days	25 days	168 days free of duty	182 days leave	182 days leave
Sick Leave (per annum)	12 days	12 days	15 days	10 days	10 days	10 days	10 days	5 days	5 days uncertified. Unlimited if certified.	10 days	10 days	14 days

- 1 The remuneration rate for Masters does not include a 10% pay increase granted to the Freshwater Class masters by SFC and backdated to January 2007.
- 2 Pay increases: 2006 - 2.75%, 2007 - 3%, 2008 - 3.25%.
- 3 Average annual remuneration (AAR) is the average total earnings.

APPENDIX I

INFORMATION PROVIDED

TO PUBLIC EMPLOYMENT OFFICE BY SFC

OUTER HARBOUR ENGINEERS ENTERPRISE AGREEMENT 2005	
Current Industrial Instrument affected	State Transit Authority of New South Wales Outer Harbour Engineers Enterprise Agreement 2004
Proposed Agreement	Sydney Ferries Corporation Outer Harbour Engineers Enterprise Agreement 2005
Number of Employees covered by the proposal	21 Outer Harbour Engineers
Detail of proposed changes	See Annexure A [Not reproduced]
Does the proposed Agreement comply with the Government's Wages Policy and General Standards of Employment Conditions?	Yes: 4% pay increase per annum, including a 1% increase per annum for productivity savings, plus a 1% increase at 31 July 2005 in recognition of the absence of any pay increase since 31 December 2003.

**OUTER HARBOUR ENGINEERS
ENTERPRISE AGREEMENT 2005**

<p>Estimated cost of proposal</p>	<p>KEY SAVINGS BENEFIT</p> <p>Accumulated impact of savings January 2006-December 2007 \$245,000 as follows:</p> <ul style="list-style-type: none"> • Overtime Training \$23,000 • Sick leave replacement \$78,000 • Additional duties \$144,000 <p>KEY COSTS</p> <p>Accumulated impact of wages and other costs January 2005-December 2007 \$474,000 being:</p> <ul style="list-style-type: none"> • 4% wage increase at 31 December 2004 • 1% wage increase at 31 July 2005 • 4% wage increase at 31 December 2005 • CPI [3.9%] + 1% wage increase at 31 December 2006 <p>PRODUCTIVITY SAVINGS OF KEY LABOUR COSTS</p> <p>Key productivity savings in Agreement offset 51% of increased labour costs (subject to final costings.)</p>
<p>Cost Analysis</p>	<p>Draft report by PricewaterhouseCoopers of its costings analysis reinforces the above costs and savings benefits.</p>
<p>Legal Review of Agreement</p>	<p>Preliminary advice from Harmers Workplace Lawyers states that the Agreement is in a certifiable state.</p>
<p>Trade offs or other objectives being sought from the proposal (eg. Efficiencies through reduced overtime etc)</p>	<p>The Agreement reflects no trade offs to AIMPE members.</p> <p>See Annexure A for SFC efficiencies and benefits. [Annexure A not reproduced]</p>

**OUTER HARBOUR ENGINEERS
ENTERPRISE AGREEMENT 2005**

Negotiation Strategy and bottom line position

PRIORITIES:

- Safety
- Customer Service
- Efficiency

SAFETY:

- Commitment to a Fatigue Management Plan
- Ensure dedicated time off (operations)
- Review and overhaul rostering
- Reformed work options for aging employees
- Family Friendly work options
- Review and Enhance Safety & Security Training (eg. Crew Resource Management)
- Commitment to SFC goal to improve safety record

CUSTOMER SERVICE:

- Enhanced training
- Commitment to performance review system
- Effective performance management
- Commitment to Recruitment on merit
- Commitment to SFC goal to improve customer service

EFFICIENCY:

- Introduce an effective front line management team
- Standardize operations hours of work
- Everything undertaken in paid time
- Roster trades in the interest of our business
- Standardize basic employment conditions and entitlements
- Reduce sick leave
- Reduce overtime
- Commitment to a workforce plan
- Introduction of effective recruitment practices

**OUTER HARBOUR ENGINEERS
ENTERPRISE AGREEMENT 2005**

Merits of claims if litigated	<ul style="list-style-type: none"> • Vote by affected employees closed on Monday 16 January 2006 • Majority support of Agreement by employees • Agreement reached, therefore no litigation • Date of payment of wage increases: 31 December 2004 <p><u>Outstanding Issues:</u></p> <ul style="list-style-type: none"> • Government approval • Certification of Agreement
Identification of any existing precedents	RailCorp and the State Transit Authority historically agree to EBA increases from the end of the previous Agreement.
Identification of any likely flow ons	None identified
Ministerial views on the issue	
Any other relevant matters	This Agreement must be lodged in the Australian Industrial Relations Commission by Friday 24 March 2006

GENERAL PURPOSE HANDS ENTERPRISE AGREEMENT 2006 – 2008	
Current Industrial Instrument affected	State Transit Authority of New South Wales (Sydney Ferries STA NSW) Enterprise Agreement 2004
Proposed Agreement	Sydney Ferries Corporation General Purpose Hands Enterprise Agreement 2006 – 2008
Number of Employees covered by the proposal	323 General Purpose Hands
Detail of proposed offer (of claim made)	See Annexure A [Not reproduced]
Does the proposed Agreement comply with the Government's Wages Policy and General Standards of Employment Conditions?	Strictly speaking, the increases in this Agreement exceed those set out in the Wages Policy. The Agreement provides for 4% pay increase per annum, including a 1% increase per annum for productivity savings. The Agreement also provides for a yearly bonus to GPHs of \$1,000 in the event they reduce their sick leave to 5 days or less per year. Nevertheless, the overall productivity savings expected in this Agreement, particularly in relation to sick leave costs, are significantly higher than the cost to the organization in the event all permanent GPHs achieve the sick leave reduction and become entitled to the bonus.
Estimated cost of proposal	<p>KEY SAVINGS BENEFIT</p> <p>Accumulated impact of savings January 2006-December 2008 \$4,518 as follows;</p> <ul style="list-style-type: none"> • Overtime \$3,981,000 • MUA Facilitator \$258,000 • MUA Monitors \$35,000 • MUA ticket commissions \$147,000 • Sick leave \$97,000 <p>KEY COSTS</p> <p>Accumulated impact of wages and other costs January 2006-December 2008 \$6,131,000 as follows:</p> <ul style="list-style-type: none"> • 4% per annum increase \$5,631,000

GENERAL PURPOSE HANDS ENTERPRISE AGREEMENT 2006 – 2008	
	<ul style="list-style-type: none"> • Sick leave bonus \$500,000 <p>PRODUCTIVITY SAVINGS OF KEY LABOUR COSTS</p> <p>Key productivity savings in Agreement to offset 73% of increased labour costs (subject to final costings.)</p>
Cost Analysis	Draft report by PricewaterhouseCoopers of its costings analysis reinforces the above costs and savings benefits.
Legal Review of Agreement	Preliminary advice from Harmers Workplace Lawyers states that the Agreement is in a certifiable state.
Trade offs or other objectives being sought from the proposal (eg. Efficiencies through reduced overtime etc)	<p>Trade-offs to MUA members include four guaranteed days off per 4-week cycle and replacement of on-going temporary employment for permanent employment (affects up to 18 GPHs).</p> <p>See Annexure A for SFC efficiencies and benefits. [Annexure A not reproduced]</p>
Negotiation Strategy and bottom line position	<p>PRIORITIES:</p> <ul style="list-style-type: none"> • Safety • Customer Service • Efficiency <p>SAFETY:</p> <ul style="list-style-type: none"> • Commitment to a Fatigue Management Plan • Ensure dedicated time off • Review and overhaul rostering • Reformed work options for aging employees • Family Friendly work options • Review and Enhance Safety & Security Training (eg. Crew Resource Management) • Commitment to SFC goal to improve safety record <p>CUSTOMER SERVICE:</p> <ul style="list-style-type: none"> • Enhanced training • Commitment to performance review system • Effective performance management

GENERAL PURPOSE HANDS**ENTERPRISE AGREEMENT 2006 – 2008**

	<ul style="list-style-type: none">• Commitment to Recruitment on merit• Introduction of team leaders• Commitment to SFC goal to improve customer service <p>EFFICIENCY:</p> <ul style="list-style-type: none">• Introduce an effective front line management team• Standardize operations hours of work• Everything undertaken in paid time• Roster trades in the interest of our business• Standardize basic employment conditions and entitlements• Reduce sick leave• Reduce overtime• Commitment to a workforce plan• Introduction of effective recruitment practices
Merits of claims if litigated	<ul style="list-style-type: none">• Vote by affected employees undertaken on Tuesday 14 March 2006• Majority support of Agreement by employees• Agreement reached, therefore no litigation• Date of payment of wage increases: 1 January 2006 <p><u>Outstanding Issues:</u></p> <ul style="list-style-type: none">• Government approval• Certification of Agreement
Identification of any existing precedents	RailCorp and the State Transit Authority historically agree to EBA increases from the end of the previous Agreement.
Identification of any likely flow ons	None identified
Ministerial views on the issue	

**GENERAL PURPOSE HANDS
ENTERPRISE AGREEMENT 2006 – 2008**

Any other relevant matters

This Agreement must be subject to a hearing in the New South Wales Industrial Relations Commission no later than Friday 24 March 2006

MARITIME OFFICERS ENTERPRISE AGREEMENT 2006-2008	
Current Industrial Instrument affected	Sydney Ferries and Australian Maritime Officers' Union Enterprise Agreement 2004
Proposed Agreement	Sydney Ferries Corporation Maritime Officers Enterprise Agreement 2006-2008
Number of employees covered by the proposal	135 Masters and Inner Harbour Engineers
Detail of proposed offer (of claim made)	See Annexure A. [Not reproduced]
Does the proposed Agreement comply with the Government's Wages Policy and General Standards of Employment Conditions?	Yes: 4% pay increase per annum, being 3% base increase per annum plus 1% increase per annum for productivity savings, as per Government policy.
<p>Estimated cost of proposal</p> <ul style="list-style-type: none"> Key Costs 	<p>KEY COSTS</p> <p>Total accumulated impact of wages and other costs over January 2006 – December 2008 over the life of the Agreement is to be \$4,970,197, comprising:</p> <ul style="list-style-type: none"> 4% per annum increase: \$4,044,000 Introduction of Annual Salary: \$99,000 Public Holidays (\$2,000 per Outer Harbour Master): \$46,000 Income Protection Insurance: \$183,000 Training Allowance: \$249,000 Notional Superable Salary: \$349,197
<p>Estimated cost of proposal</p> <ul style="list-style-type: none"> Key Savings Benefits 	<p>KEY SAVINGS BENEFIT</p> <p>To comply with the wages policy, SFC is required to demonstrate productivity savings of 3% for the life of the Agreement (January 2006-December 2008) which equates to 25% of the increased labour costs.</p> <p>Total accumulated productivity savings over the life of the Agreement of \$2,970,247 to be achieved as follows:</p> <ul style="list-style-type: none"> Reduction in overtime and penalty costs: \$1,153,000 Reduction in sick leave and associated costs: \$1,287,000 Reduction in costs associated with training: \$340,000 Abolition of Public Holiday entitlements: \$190,247

MARITIME OFFICERS**ENTERPRISE AGREEMENT 2006-2008**

	PRODUCTIVITY SAVINGS OF KEY LABOUR COSTS Key increased productivity saving to offset 59.8% of increased labour costs subject to final costings.
Further analysis of ratio of productivity savings to costs	Over the life of the Agreement, the total productivity savings required is 3% of total key costs of wages, or 25% of costs. 25% of costs is \$1,242,549. Total accumulated savings of \$2,970,247 equals 59.8% of costs. The savings, therefore, exceed those required by \$1,727,698 or 34.8%. In addition to these productivity savings provided by PricewaterhouseCoopers, the Agreement shall deliver significant workplace flexibilities in the form of new rosters in order for employees to work to better meet operational requirements.
Cost Analysis	Draft report by PricewaterhouseCoopers of its costings analysis reinforces the above costs and savings benefits.
Legal Review of Agreement	Preliminary advice from Harmers Workplace Lawyers states that the Agreement is in a certifiable state.
Trade offs or other objectives being sought from the proposal (eg. Efficiencies through reduced overtime etc)	See Annexure A for SFC efficiencies and benefits. [Not reproduced]
Negotiation strategy and bottom line position	PRIORITIES: <ul style="list-style-type: none">• Safety• Customer Service• Efficiency SAFETY: <ul style="list-style-type: none">• Commitment to a Fatigue Management Plan• Ensure dedicated time off• Review and overhaul rostering• Reformed work options for aging employees• Family Friendly work options• Review and Enhance Safety & Security Training (eg. Crew Resource Management)• Commitment to SFC goal to improve safety

**MARITIME OFFICERS
ENTERPRISE AGREEMENT 2006-2008**

	<p>record</p> <p>CUSTOMER SERVICE:</p> <ul style="list-style-type: none"> • Enhanced training • Commitment to performance review system • Effective performance management • Commitment to Recruitment on merit • Introduction of team leaders • Commitment to SFC goal to improve customer service <p>EFFICIENCY:</p> <ul style="list-style-type: none"> • Standardize operations hours of work • Everything undertaken in paid time • Roster trades in the interest of our business • Standardize basic employment conditions and entitlements • Reduce sick leave • Reduce overtime • Commitment to a workforce plan • Introduction of effective recruitment practices
<p>Merits of claims if litigated</p>	<ul style="list-style-type: none"> • Vote by affected employees undertaken on ___ March 2006 • Majority support of Agreement by employees • Agreement reached, therefore no litigation • Date of payment of wage increases: 1 January 2006 <p><u>Outstanding Issues:</u></p> <ul style="list-style-type: none"> • Government approval • Certification of Agreement
<p>Identification of any existing precedents</p>	<p>RailCorp and the State Transit Authority historically agree to EBA increases from the end of the previous Agreement.</p>
<p>Identification of any likely flow ons</p>	

**MARITIME OFFICERS
ENTERPRISE AGREEMENT 2006-2008**

Ministerial views on the issue	Minister of Transport is supportive of Agency completing negotiations at our earliest convenience.
Any other relevant matters	Proposed changes to introduce an Annual Salary for employees. This has implications for proposed salaries for the purposes of superannuation, in particular with respect to members of the SASS scheme.

BALMAIN FERRY MAINTENANCE CENTRE ENTERPRISE AGREEMENT 2006-2008	
Current Industrial Instrument affected	Balmain Ferry Maintenance Centre Enterprise Agreement 2004
Proposed Agreement	Sydney Ferries Corporation Balmain Ferry Maintenance Centre Enterprise Agreement 2006-2008
Number of Employees covered by the proposal	72 Maintenance Tradespersons, Trades Assistants and Apprentices
Detail of proposed offer	See Annexure A. [Not reproduced]
Does the proposed Agreement comply with the Government's Wages Policy and General Standards of Employment Conditions?	Yes, in that all employees receive a 4% pay increase in January 2007 and 2008 and apprentices receive a 2% increase in July 2006. The initial increase in July 2006 for trade and trade assistant positions provides for a 20.59% increase in base rates in July 2006, being the inclusion into the base rate of morning and afternoon shift loadings which are paid now. Changes to rostering patterns and the associated increase in utilization and reduction in overtime are projected to result in productivity savings that will more than offset any effect from the increases.
Estimated cost of proposal	<p>KEY COSTS</p> <p>Accumulated impact of wages and other costs July 2006-December 2008 \$1,414,000 as follows:</p> <ul style="list-style-type: none"> • 4% increase to wages and penalties: \$641,000 • Increase in on-costs \$773,000 <p>KEY SAVINGS BENEFITS</p> <p>Accumulated impact of savings July 2006-December 2008 \$1,243,000 as follows:</p> <ul style="list-style-type: none"> • Overtime: \$1,182,000 • Sick leave: \$61,000 <p>PRODUCTIVITY SAVINGS OF KEY LABOUR COSTS</p> <p>Key productivity savings in Agreement to offset 88% of increased labour costs (subject to final costings).</p> <p><u>Productivity Savings: Increased Utilization of Hours Worked</u></p> <p>Increased utilization of hours worked from 58% to 70% valued at \$1,526,00</p>

Cost Analysis	Draft report by PricewaterhouseCoopers of its costings analysis reinforces the above costs and savings benefits.
Legal Review of Agreement	
Trade offs or other objectives being sought from the proposal (eg. Efficiencies through reduced overtime etc)	<ul style="list-style-type: none"> • Changes to rostering from four 10-hour shifts per week worked Monday to Saturday to five 8-hour shifts worked Monday to Friday. • Reduction in sick leave entitlement from 114 hours per annum to 91.2 hours per annum.
Negotiation strategy and bottom line position	<p>PRIORITIES:</p> <ul style="list-style-type: none"> • Safety • Customer service to Operations Division • Efficiency <p>SAFETY:</p> <ul style="list-style-type: none"> • Review and overhaul rostering • Family friendly work options • Review and enhance safety & security training • Commitment to SFC goal to improve safety record <p>CUSTOMER SERVICE:</p> <ul style="list-style-type: none"> • Enhanced training • Commitment to performance review system • Effective performance management • Commitment to recruitment on merit • Commitment to SFC goal to improve customer service to the Operations Division <p>EFFICIENCY:</p> <ul style="list-style-type: none"> • Introduce an effective front line management team • Roster trades in the interest of our business • Increase utilization of ordinary hours of work • Reduce overtime • Standardize basic employment conditions and entitlements • Reduce sick leave • Commitment to a workforce plan • Introduction of effective recruitment practices

Merits of claims if litigated	<u>Outstanding Issues:</u> <ul style="list-style-type: none"> • Government approval • Lodgement of Agreement with the Office of the Employment Advocate and certification of Deed with the NSW Industrial Relations Commission
Identification of any existing precedents	
Identification of any likely flow ons	None identified
Ministerial views on the issue	
Any other relevant matters	

APPENDIX J

BALMAIN SHIPYARD DASHBOARD

	KPI	Definition	Measure	Target	Result			
					In Jan 2006	In June 2006	In Jan 2007	In June 2007
3	Dock Scheduling	Actual hours/scheduled hours	Ratio	1.0	0.00	3.08	0.00	0.95
4	Maintenance Scheduling	Actual hours/scheduled hours	Ratio	1.0	ND	1.05	1.00	1.85
5	Work Request backlog	Number of outstanding work requests/orders	Number Open	1000	1192	2715	1815	1677
6	Operating costs	Variance to budget	%	0%	9.18%	54.89%	-54.31%	40.37%
7	Staff utilization	Actual worked hours/Total available hours (job card hours/timesheet hours)	%	65%	51%	64%	56%	66%
8	OHS Issues	Number of validated issues raised per month	Number Raised	10	8	8	1	8
9	LTIFR	LTIFR	No./MWhrs	30	127.06	0	168.32	0
10	Overtime	Overtime hours/Normal hours	%	15%	7.00%	10.13%	11.96%	19.55%
11	Absenteeism	Days lost through sickness/injury per month	Days	100	81	81	117	131
12	Industrial action	Lost hours per month	Hours/Mth	100	0	0	0	0
13	Breakdown (MTTR)	Total hours elapsed spent on breakdowns/Number of breakdowns	Hours/Mth	8	41.57	36.68	24.89	16.16
14	Contractor Spend	Contractor and services spend	\$/Mth	\$5,000	62,004	214,896	59,085	149,529
15	Job Scheduling	Actual hours/scheduled hours	Ratio	1	ND	1.36	1.00	1.69

	KPI	Definition	Measure	Target	Result			
					In Jan 2006	In June 2006	In Jan 2007	In June 2007
16	Vessel Downtime (Breakdown)	Unplanned Shipyard time (Breakdown) per month	Hrs	TBD	3083	1585	1141	592
17.1	Accumulated Docking Time	Accumulated Docking Time (First Fleet Class)	Days	30	0.00	38.25	3.00	30.00
17.2	Accumulated Docking Time	Accumulated Docking Time (HarbourCat Class)	Days	30	0.00	0.00	0.00	0.00
17.3	Accumulated Docking Time	Accumulated Docking Time (RiverCat Class)	Days	30	0.00	0.00	2.75	41.50
17.4	Accumulated Docking Time	Accumulated Docking Time (Lady Class)	Days	30	0.00	30.00	0.00	0.00
17.5	Accumulated Docking Time	Accumulated Docking Time (Freshwater Class)	Days	30	0.00	0.00	0.00	0.00
17.6	Accumulated Docking Time	Accumulated Docking Time (JetCat Class)	Days	30	0.00	0.00	0.00	28.75
17.7	Accumulated Docking Time	Accumulated Docking Time (SuperCat Class)	Days	30	0.00	27.25	0.00	0.00
18.1	Shipyard Time (Alongside)	Annual (First Fleet Class)	Days	30	ND	0.00	20.42	0.00
18.2	Shipyard Time (Alongside)	Annual (HarbourCat Class)	Days	30	ND	2.25	0.00	0.00
18.3	Shipyard Time (Alongside)	Annual (RiverCat Class)	Days	30	ND	0.00	5.21	7.00
18.4	Shipyard Time (Alongside)	Annual (Lady Class)	Days	30	ND	0.00	0.00	0.00
18.5	Shipyard Time (Alongside)	Annual (Freshwater Class)	Days	30	ND	0.00	0.00	13.62
18.6	Shipyard Time (Alongside)	Annual (JetCat Class)	Days	30	ND	0.00	25.48	0.00
18.7	Shipyard Time (Alongside)	Annual (SuperCat Class)	Days	30	ND	0.25	3.21	0.00
21	Staff Availability	Percentage of requirement	%	100%	86%	87%	92%	98%

	KPI	Definition	Measure	Target	Result			
					In Jan 2006	In June 2006	In Jan 2007	In June 2007
22.1	Maintenance Cost per Class	\$/operating hour (First Fleet Class)	\$/hr	\$500	51.54	136.11	192.02	324.53
22.2	Maintenance Cost per Class	\$/operating hour (HarbourCat Class)	\$/hr	\$500	53.68	28.63	90.21	234.21
22.3	Maintenance Cost per Class	\$/operating hour (RiverCat Class)	\$/hr	\$500	254.89	122.12	86.67	529.06
22.4	Maintenance Cost per Class	\$/operating hour (Lady Class)	\$/hr	\$500	56.37	488.97	92.29	171.66
22.5	Maintenance Cost per Class	\$/operating hour (Freshwater Class)	\$/hr	\$500	127.87	249.72	428.75	223.34
22.6	Maintenance Cost per Class	\$/operating hour (JetCat Class)	\$/hr	\$500	71.73	442.98	118.39	510.33
22.7	Maintenance Cost per Class	\$/operating hour (SuperCat Class)	\$/hr	\$500	53.46	657.91	113.31	417.56
23.1	Planned Maintenance per Class	Hours per month (First Fleet Class)	Hours/Mth	5	170	190	65	390
23.2	Planned Maintenance per Class	Hours per month (HarbourCat Class)	Hours/Mth	5	0	5	80	125
23.3	Planned Maintenance per Class	Hours per month (RiverCat Class)	Hours/Mth	5	0	680	115	280
23.4	Planned Maintenance per Class	Hours per month (Lady Class)	Hours/Mth	5	0	5	50	155
23.5	Planned Maintenance per Class	Hours per month (Freshwater Class)	Hours/Mth	5	650	610	105	145
23.6	Planned Maintenance per Class	Hours per month (JetCat Class)	Hours/Mth	5	0	0	55	0

	KPI	Definition	Measure	Target	Result			
					In Jan 2006	In June 2006	In Jan 2007	In June 2007
23.7	Planned Maintenance per Class	Hours per month (SuperCat Class)	Hours/Mth	5	0	95	337	970
24.1	Unplanned Maintenance per Class	Hours per month (First Fleet Class)	Hours/Mth	5	714	33	386	41
24.2	Unplanned Maintenance per Class	Hours per month (HarbourCat Class)	Hours/Mth	5	41	127	30	66
24.3	Unplanned Maintenance per Class	Hours per month (RiverCat Class)	Hours/Mth	5	1323	878	389	225
24.4	Unplanned Maintenance per Class	Hours per month (Lady Class)	Hours/Mth	5	40	57	90	135
24.5	Unplanned Maintenance per Class	Hours per month (Freshwater Class)	Hours/Mth	5	80	10	46	55
24.6	Unplanned Maintenance per Class	Hours per month (JetCat Class)	Hours/Mth	5	593	688	50	5
24.7	Unplanned Maintenance per Class	Hours per month (SuperCat Class)	Hours/Mth	5	292	102	150	65
35	Number of Faults	Number of defects raised that results in withdrawal from service	No.	N/A	91	62	55	44
36	Hours charged to work orders	Total hours booked to work hours	Hrs	N/A	4230	6216	5204	8205

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