

**Public Accounts Committee**  
Parliament of New South Wales

**Report on the  
Darling Harbour  
Authority**

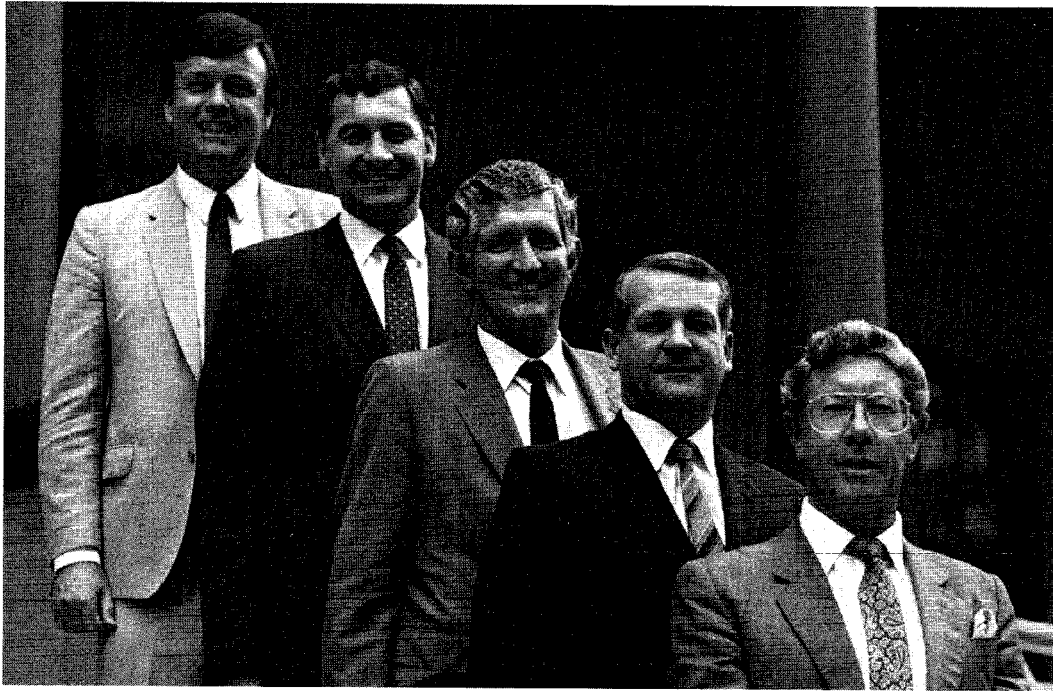
**1989-90**  
**Parliament of New South Wales**

**Public Accounts Committee**  
**of the Forty-ninth Parliament**

Forty-Eighth Report

Inquiry pursuant to Section 57 (1) of the Public Finance  
and Audit Act 1983, concerning the Darling Harbour Authority

(Transcripts of Evidence are printed in a separate volume to this Report.) December 1989



**From left:**  
Phillip Smiles (Chairman), George Souris (Vice Chairman), Allan Walsh, Terry Griffiths, John Murray

## **MEMBERS OF THE PUBLIC ACCOUNTS COMMITTEE**

The Members of the Public Accounts Committee of the Forty-Ninth Parliament are:

Mr Phillip Smiles, LL.B., B.Ec., MBA, Dip.Ed, MP, Chairman

Mr Phillip Smiles was elected Member for Mosman in March, 1984. A management and marketing consultant since 1974, Phillip Smiles has been involved with entrepreneurial business activities since his teens. Since entering Parliament he has been actively interested in the areas of small business, emergency services, welfare and financial analysis. He was appointed a Member of the Public Accounts Committee in 1984 and was elected Chairman in 1988.

Mr George Souris, B.Ec, Dip.Fin.Mangt, FAIM, FASA, CPA, MP, Vice-Chairman\*

George Souris was elected Member for Upper Hunter in 1988. An Accountant in public practice for 12 years, George Souris also served as a Shire Councillor in Singleton for 7 years, 4 of which were as Deputy President. At University, he was a Rugby Blue, represented NSW Country, Aust. Universities and Australian Colts rugby teams. He is the NSW Parliament's appointed Member of the University of Newcastle Council. George Souris has experience in taxation and business management and an interest in financial analysis. He is a member of Rotary and other community organisations.

Mr John Murray, BA, MP

John Murray, formerly a teacher, was elected Member for Drummoyne in April, 1982. An Alderman on Drummoyne Council for three terms, John Murray was Mayor of the Council for five years and served four years as Councillor on Sydney County Council. He has served as a member of the Prostitution Committee and the House Committee, and is a former Chairman of the Public Accounts Committee.

**Mr Allan Walsh, BA(Hons), Dip. Ed,MP**

Allan Walsh was elected Member for Maitland in September, 1981. Following eight years as a Mirage fighter pilot with the RAAF, he was involved in business management. Allan Walsh has also taught industrial relations, management and history at technical colleges.

Mr Terry Griffiths, MP

Terry Griffiths was elected Member for Georges River in 1988. Prior to being elected to Parliament he was the Chief Executive of the Scout Association of Australia. before this he was an Army Officer. He is a graduate of the Officer Cadet School Portsea, a graduate of the School of Military Engineering and a Fellow of the Australian Institute of Management. He has been actively involved in Lions, Rotary and other community organisations.

\* *Mr George Souris, MP, Member for Upper Hunter, was appointed to the Committee on 23rd February, 1989, and elected Vice-Chairman on 2nd March, 1989. Mr Souris replaced Miss W. Machin, MP, who was appointed to the position of Chairman of Committees on 23rd February, 1989*

**Secretariat**

Glenn Swafford, B.A.(Hons), Ph.D., Acting Director

John Lynas, FASA, CPA(Auditing), Advisor on secondment from the Auditor-General's Office Norma Rice, Secretary/Word

Processor Operator

**Consultants**

Clive Monk, A.M., F.T.S.,  
A.S.T.C.(Hon), F.J.E.Aust., M.Aus. I.M.M.,  
F.A.I.B., F.A.L.M., F.L.Art.A., L.G.E.

Peter Gatlick, B.Mech. Eng., M.Eng. Sc., M.I.E., M.A.I.E Peter Le Page, Dip. Bdg. Tech.

**NSW Public Accounts Committee**

Parliament House  
Macquarie Street  
Sydney NSW 2000

Telephone: (02) 230 2631  
Fax: (02) 230 2831

## REPORT ON THE DARLING HARBOUR AUTHORITY

### CONTENTS

	PAGE
Chairman's Foreword	i
Executive Summary	iii
Summary of Recommendations	v
<b>1. Introduction</b>	<b>1</b>
Reference from Minister	
Terms of Reference	
Background	
Contemporary Controversy	
The Committee's Inquiry	
Approach to the Inquiry	
Method of Investigation	
<b>2. Management of the Project</b>	<b>13</b>
The Darling Harbour Authority	
Staffing the Authority	
The Managing Contractor	
The Project Design Directorate	
Use of Consultants	
Advisory Committees	
Acknowledgements	
<b>3. Fast Track Construction</b>	<b>37</b>
The Concept of Fast Track	
The Decision to Fast Track the Darling Harbour Project	
Consequences of Fast Tracking	
Concluding Note	
<b>4. Costs and Cost Overruns</b>	<b>47</b>
Introduction	
Estimates, Guestimates and Pronouncements	
Public Sector and Private Sector Investment at Darling Harbour	
Public Sector Expenditure: The Question of "Cost Overruns"	
Cost Management	
Audit Results	
Weighing up the Benefits	

## Report on The Darling Harbour Authority

5.	Contractual Arrangements and Administration	76
	Introduction	
	Tendering Procedures	
	Form of Contracts	
	Documentation	
	Variations	
	Conversion of Types of Contract During the Project	
	Public Accountability and Contractual Arrangements	
6.	Management of Industrial Relations	90
	Introduction	
	The Site Agreement	
	Project Delegates	
	The Project Council	
	Industrial Relations During the First Two and a Quarter Years of the Project	
	A Rapidly Deteriorating Industrial Climate	
	Government Threatens to Close Down the Site	
	Occupational Health and Safety - A Major Issue	
	Implications of the Problems Experienced	
	Putting Industrial Relations at Darling Harbour in Perspective	
7.	Property Leasing and Licensing Arrangements	128
	Introduction	
	Leases	
	Agreements for Lease	
	Management Agreements	
	Income Derived by the Authority	
	Issues of Property Management	
8.	Marketing and Public Relations	153
	Introduction	
	Part 1 - Marketing	
	Appreciating the Significance of Marketing	
	Marketing Planning	
	Marketing Personnel	
	Darling Harbour Marketing Board	
	Comparisons With Other Organisations	
	Market Research	
	Wider Problems	
	The Marketing Budget	
	Liaison With Major Darling Harbour Tenants on Marketing/Promotion	
	Part 2 - Public Relations	
	Lost Opportunities	
	Community Relations	
	A Critical Environment	
	Comparisons	
	Information Centres	

Public Accounts Committee

<b>9.</b>	<b>First State '88 Exhibition</b>	<b>175</b>
	Introduction	
	Major Problems	
	Final Cost	
	Claims and Counter Claims	
	Conclusions	
<b>10.</b>	<b>Financial Position</b> of the Authority	<b>184</b>
	Introduction	
	The Balance Sheet - The Current Position	
	Income and Expenditure	
	Major Issues Arising	
	Financial Restructuring: A Need to Evaluate the Alternatives	
	The Cost of Restoring Pyrmont Bridge	
	The Cost of the Ferry Wharf	
	National Maritime Museum	
	The Cost of the First State '88 Exhibition	
<b>11.</b>	<b>Future Management of Darling Harbour</b>	<b>204</b>
	Introduction	
	Improving the Marketability of Darling Harbour	
	Development and Promotion Opportunities	
	Darling Harbour Life Cycle	
	Projects on the Board	
	Control of Major Public Services	
	Maintenance	
	A Casino	
	The Darling Harbour Authority: Should It Continue?	

List of Appendices

1.	Call for Submissions
2.	Submissions and Correspondence Received
3.	Witnesses at Public Hearings
4.	Darling Harbour Authority Organisation Chart June 1985
5.	Darling Harbour Authority Organisation Chart June 1986
6.	Darling Harbour Authority Organisation Chart June 1987
7.	Darling Harbour Authority Organisation Chart June 1988
8.	Darling Harbour Authority Organisation Chart June 1989
9.	The Tracing Paper' Sketch
10.	Capital Works - Public Sector Elements (Auditor-General s 1988 Report)
11.	Irregular Cost Producing Practices: Fact or Fiction?
12.	Contents of the Site Agreement
13.	The Project, Legislation and the Authority: A Brief Calendar of Events
14.	Progress Calendar, Major Construction Period, 1984 - May 1988



## CHAIRMAN'S FOREWORD

The Darling Harbour area, known as Cockle Bay, had, by the 1820s, become second only to Sydney Cove as a significant berth for shipping in Sydney Harbour. However, because of the Depression and because there was no longer a need for a direct rail link to shipping facilities the commercial activities associated with Cockle Bay became obsolete in the 1930s.

Proposals for the redevelopment of the area surfaced in 1971 when the City of Sydney Council presented a strategic plan which included the Darling Harbour area, in 1982 when public housing was proposed and in 1984 when the State Government of the day presented to the people of New South Wales its plans to transform this obsolete and decaying wharf and railyard area into an exciting collection of tourist attractions and facilities under the auspices of the Darling Harbour Authority.

The Darling Harbour site now presents a visually very commanding and impressive vista, far more impressive than similar projects in North America. However, this was not achieved without cost. The taxpayer paid to the tune of \$1.093 billion, the initiating Labor Government was, at least in part, electorally crippled because of various issues associated with the development, many contractors and sub-contractors who worked on the site allegedly lost money, significant industrial relations processes were abused and a Board of outstanding New South Wales citizens, who gave much for minuscule, if any, financial reward, were publicly humiliated with a very public sacking/resignation.

With the Darling Harbour facilities having a likely "shelf life" of 15 to 20 years, based on overseas experience, Australian historians in the future may well ask why the 1982 proposal to have 6,000 people housed in the area was not executed. The 50 hectare site, the largest single urban development area in Australia, was redeveloped without a cost benefit study, without any environmental impact statement and without anywhere near final plans at the commencement of construction. Completion, which was to have been in time for the 1988 Bicentenary celebrations, is still a long way off, leaving the people of New South Wales with an estimated \$51 million construction bill still ahead of them, as well as maintenance, cleaning, administration and interest payments totalling over \$100 million per annum and a total debt of \$512 million at today's prices.

Time constraints and fast tracking led to fixed term contracts being converted to cost plus contracts, with no incentive for the builders to minimise costs. On top of this, what had always been regarded as an industrial relations challenge because of the size and complexity of the project became an industrial relations nightmare. Lost time alone cost New South Wales taxpayers \$50 million in fewer than 3 years, with 37 percent of available man hours wasted or lost. By early 1987 a sound site agreement which had operated successfully for two years was ignored, both by employers and trade unionists, leaving a private arbitrator exposed to ridicule, and providing an opportunity for former Builders Labourers Federation members who had transferred to the Building Workers Industrial Union to maintain their thrust for industrial anarchy. The project was the first major testing ground for the (then) new Occupational Health and Safety legislation, which was exploited to a ridiculous extent by the unions at Darling Harbour.

Throughout the construction period, marketing and public relations were largely ignored.

The Public Accounts Committee has attempted to produce a comprehensive Report, mainly dealing with the period to July 1989. However, useful information and analysis may not have been included, due to the fact that there were many people who were prepared to informally provide information but were not prepared to appear before the Committee during formal public hearings because they feared recriminations by the construction industry throughout Australia. The Committee recognised this concern and in consequence chose not to summons them to appear.

Nevertheless, I believe this Report offers a useful insight into both the good and the unfortunate lessons to be learned from the Darling Harbour experience. The Report is written from a macro rather than a micro perspective and describes how the private sector could invest \$2.163 billion and the New South Wales Government \$1.093 billion over the past five years in building what may well be a white elephant in 25 years. I can only hope that for the taxpayers of New South Wales my forecast will be proved absolutely wrong.

My sincere thanks to my fellow Committee members who have at all times supported the Inquiry with considerable investment of their time, experience, knowledge and enthusiasm. Further, my gratitude to Dr. Glenn Swafford for his commitment and diligence in assisting the Committee in the preparation of this Report.

Like its subject, this Inquiry has proved to be a most difficult and demanding undertaking.

**PHILLIP SMILES, LL.B., B.Ec., M.B.A., Dip. Ed., M.PCHAIRMAN**



## EXECUTIVE SUMMARY

Government initiative and massive public and private sector investment has transformed Darling Harbour from an area of ramshackled railyards, disused buildings and derelict wharves into a major recreation and entertainment area for the people of Sydney and one of the State's premier tourist attractions.

The redevelopment of Darling Harbour was no ordinary construction job.

The project was a high profile government and thus by definition political initiative. There was little time for pre-planning. A specially created statutory body, the Darling Harbour Authority, was set up in 1984 to "*promote, encourage, facilitate, carry out and control*" all development within the designated area. The project was "fast-tracked", with the major public works due for completion in time for "the new Darling Harbour" to be the focal point of the State's Bicentenary celebrations. Design and construction were overlapped. cores of contractors and sub-contractors, with a peak on-site workforce of over 3,000, were engaged on the various, multi-disciplinary public and private sector projects. The modus operandi was "urgency management".

From its inception, the Darling Harbour project was surrounded in controversy. It came to be seen as a test of government will, a contest between local and State Government, a symbol for environmental and planning issues raised by large scale development and a showcase of industrial relations. The project itself, and related issues such as the casino and the monorail, were subject to a great deal of media attention and to fierce political rhetoric and debate.

Much of the publicity and controversy has been related to claims about the cost of redeveloping Darling Harbour, specifically what the project was costing, just whose figures were to be believed, competing calls on government expenditure and perceptions of soaring costs and budget blowouts. The issue of cost, and the high profile accorded the industrial relations problems on site, were the public focus for concern about the management of the redevelopment by the Darling Harbour Authority.

The principal thrust of the Public Accounts Committee Inquiry into the Darling Harbour Authority has been to critically review the operations of the Authority with special reference to the issues set out in the reference received from the Minister for Planning and Minister for Local Government. In addition, the Committee has considered the implications of its findings for the future operations of the Authority, based on the assumption that the Darling Harbour Authority continues in its present statutory form; considered the future structure of public management of Darling Harbour; and assessed the implications of "the Darling Harbour experience" for future large scale public sector or combined public and private sector projects.

The Committee found no evidence to support claims of gross mismanagement by the Darling Harbour Authority, the Board, senior officers or staff.

The internal procedures and controls established by the Authority were consistent with the high standards of propriety and accountability expected in the public sector.

The Committee found that the Authority was placed under considerable pressure by the timescale for the project set down by government, the volume and complexity of demolition, construction, and site services to be completed, the special nature of fast tracking and a peculiar industrial climate on a large, high profile public project in an overheated construction industry..

It was not feasible to turn the Authority overnight into a super construction company, and therefore a Managing Contractor was appointed and extensive use was quite properly made of consultants and advisory committees.

The Authority worked hard to manage the project but was not always able to meet the demands placed upon it. It suffered from the length of time it took to get key managers in place. Crucial early decisions were rushed. Insufficient attention was given to marketing planning, to defining from the outset the market orientation of the development. The system established for handling contract variations and claims was not adequate. Insufficient attention was given to public relations. The Authority failed to protect the interests of the project by not countering effectively the barrage of negative publicity and often misleading or simply inaccurate figures related to costs and claimed "budget blowouts". The Authority was too slow in adjusting its staffing profile over the various phases of the project and has relied too heavily on general management to cover specialist areas such as marketing, public relations and property leasing.

The Committee found that there were major industrial relations problems at Darling Harbour, which was perhaps not surprising given the size and high public profile of the project, the number of trades and workers on site and the general industrial climate in the building and construction industry in Australia. There are, however, important lessons to be learned for future such projects, and the Committee puts forward 18 recommendations designed to improve the management of industrial relations and occupational health and safety issues.

The Committee also examined the financial position of the Authority and sets out options for financial restructuring based on recognition of the mix of commercial and noncommercial (community facility) elements of the project and the need to set realistic financial goals for those managing Darling Harbour.

The Report concludes with a discussion of a number of issues related to the future of Darling Harbour, including ongoing development, the proposal to build a casino at Darling Harbour and alternative structures for public management.

The Committee considers that no compelling case exists for the continued operation of a separate statutory authority solely responsible for Darling Harbour, moreover of one that was essentially a construction authority. The Committee recommends that the Darling Harbour Authority and the Sydney Cove Redevelopment Authority be amalgamated to create a new, larger, more effective and efficient authority. This authority, set up under a new board and with improved links with the New South Wales Tourism Commission, the Council of the City of Sydney and the developers of Walsh Bay, would be well placed to contribute to the development of the Harbour Foreshore and strengthen its general management, marketing and promotion for the enjoyment of the people of New South Wales and visitors from interstate and overseas.

## Public Accounts Committee

### LIST OF RECOMMENDATIONS

1. It is recommended that the appointments to the board of a statutory authority be based on careful consideration of the objectives and activities of that authority in both the short and long term.
2. It is recommended that in future, there be greater clarification of the respective roles of a statutory authority board and the minister in making decisions which affect the authority.
3. It is recommended that on any future such project, during the construction phase a senior professional with appropriate qualifications and extensive practical experience in the construction field be appointed to the post of General Manager.
4. It is recommended that on future such projects no major decisions be taken until adequate numbers of senior staff and appropriate financial management and decision making systems have been established by the development and construction authority.
5. It is recommended that on future such projects, the authority review bi-annually its staffing profile and make adjustments where appropriate to reflect the changing nature of its activities. Greater use may need to be made of short-term contract appointments to provide the degree of flexibility required.
6. It is recommended that on future such projects an adequate period of time be allowed for submission of tenders for project management services, where applicable; and further that tender documents include full details not only of previous experience and performance but also plans for management of the proposed project.
7. It is recommended that on future such projects provision be made for the setting up of Advisory Committees to provide both specialist and independent advice to a statutory authority and a link between the community and the authority.
8. It is recommended that a cost-benefit analysis of each government project be undertaken to ensure that the most cost-effective procedure for design and construction is adopted.
9. It is recommended, should fast tracking be undertaken by government, that professional advisors, particularly in the programming and cost planning fields, be employed to ensure that control of the project is retained.
10. It is recommended that for future projects as much pre-planning, design work and costing of the project as possible be done prior to construction.
11. It is recommended that for future such projects the authority responsible disclose from time to time readily understandable summaries that show actual and forecast total expenditure against the appropriate budget.

## Report on The Darling Harbour Authority

12. It is recommended that for future such projects, the annual report of the responsible authority contain not only financial statements as prescribed in legislation and regulations but also a clear, readily understandable overview of the authority's performance in keeping the project within budget.
13. It is recommended that for future such projects the responsible authority seek new approvals for all work outside that originally budgeted for and which reflect changes not only in quantities but also in function, standards and services required.
14. It is recommended that for future such projects, special attention be given to developing effective procedures to manage and minimise contract variations.
15. It is recommended that for future such projects, greater pre-planning be undertaken to assist the construction authority to determine the optimal form of contract in both the short and long-term.
16. It is recommended that for future projects the construction authority agree to convert a contract only in exceptional circumstances and with due regard to the operational and financial consequences of such a decision.
17. It is recommended that for future such projects the construction authority attempt to ensure that all parties are aware of the special nature of accountability in the public sector and its implications for contractual procedures and all other facets of project management.
18. It is recommended that for future large scale public sector projects, management of industrial relations should be based on the early establishment of an Industrial or Site Agreement.
19. It is recommended that the government authority responsible for a future large scale construction project be a signatory to the Industrial or Site Agreement.
20. It is recommended that the Industrial or Site Agreement:
  - \* stipulate weekly wage rates to apply for the duration of the project, except as adjusted by National Wage decisions, and including an appropriate level of site allowance with the wage rates to be in a number of categories to cover the level of skills involved and to reflect current wage margins;
  - \* provide for dispute settling procedures and allow the appointment of an Arbitrator, acceptable to all parties, whose decision shall be final and binding;
  - \* clearly define the separate dispute settlement procedures for both industrial and health and safety issues, incorporating where necessary statutory requirements related to occupational health and safety.

## Public Accounts Committee

21. It is recommended for future projects that contractors on the site be represented by an appropriate employers' organisation, whose role will be to coordinate the interests of employers.
22. It is recommended for future projects that contractors on the site attend, as far as possible, to industrial relations with their own staff, and have an unfettered right to choose their own employees.
23. It is recommended for future projects that the Labor Council provide a representative to be allocated full-time to the site to provide coordination with the Unions, that this representative be an employee of the Labor Council, although it could be appropriate for the costs of this employee to be reimbursed by the constructing authority.
24. It is recommended for future projects that each employee to be engaged on the site undergo an induction and training course covering site conduct and safety procedures, at the end of which the employee should sign an acceptance of the site agreement and safety procedures.
25. It is recommended that Site Agreements for public sector projects include detailed procedures for resolving on-site safety issues.
26. It is recommended that effective means be provided for the rapid determination of whether or not a matter is a health or safety hazard.
27. It is recommended that a system be established to provide for fast access to a Departmental Inspector when required.
28. It is recommended that regardless of the number of workers or quantum of construction, a safety committee comprise no more than eight members.
29. It is recommended that where more than one safety committee is established on a multi-project site, its responsibility be limited to a specific construction zone as defined in the Site or Industrial Agreement.
30. It is recommended that both employee and employer representatives on a safety committee:
  - \* have adequate experience appropriate to the particular industry; and
  - \* be required to pass an initial construction safety course and attend regular in-service education courses on safe working practices and the objectives and operation of safety committees.
31. It is recommended that the review by the Government of the Occupational Health and Safety legislation include an assessment of the need for special provisions applicable to the construction industry.
32. It is recommended that the Darling Harbour Authority recognise marketing as a major on-going responsibility in the management of Darling Harbour.

## Report on The Darling Harbour Authority

33. It is recommended that concerted attention be given to marketing, including identification of consumer or user needs, planning and promotion right from the outset of all future such projects. g
34. It is recommended that the Darling Harbour Authority urgently develop a detailed marketing plan for the short, medium and long term.
35. It is recommended that a comprehensive marketing plan be developed from the outset of all future such projects and be subject to continuous review and refinement.
36. It is recommended that the Darling Harbour Authority engage the services of an appropriately equipped Marketing Director with experience in private enterprise to facilitate the successful marketing of Darling Harbour and that person be the Chief Executive on any marketing organisation established by the Darling Harbour Authority.
37. It is recommended that the Darling Harbour Authority give serious consideration to sending the newly appointed Marketing Director on a study tour of similar venues overseas.
38. It is recommended that the Darling Harbour Authority, in conjunction with the private sector participants in the Darling Harbour precinct, engage appropriately professionally qualified and experienced marketing personnel for a revamped marketing organisation.
39. It is recommended that for future such projects the government authority concerned appoint, right from the outset, senior, professionally qualified and experienced marketing personnel.
40. It is recommended that the Darling Harbour Authority commission regular and comprehensive professionally managed market research to assist in the formulation of future marketing plans and budgets.
41. It is recommended that for future such projects the authority responsible commission regular and comprehensive professionally managed market research to assist in the formulation of marketing plans and budgets.
42. It is recommended that development by the Darling Harbour Authority of a marketing plan be closely related to the Authority's corporate planning.
43. It is recommended that the development of corporate planning by statutory bodies be closely related, where applicable to marketing planning.
44. It is recommended that the Darling Harbour Authority finalise an appropriate marketing budget with realistic costings on an annual basis, with appropriate forward planning.



Public Accounts Committee

45. It is recommended that the Darling Harbour Authority finalise an appropriate mechanism for liaison and coordination of the major Darling Harbour tenants to assist in supporting both individual and group marketing efforts.
46. It is recommended that as a matter of policy, any government authority meaningfully consult with residents and property owners over initial development plans and any subsequent changes to the nature or timing of work.
47. It is recommended that any authority which is set up to achieve a similar, major development project on behalf of the State should at the outset establish a very strong public relations unit, able to convey clearly to the public the objectives of the project and to excite support for its operation.
48. It is recommended that the Darling Harbour Authority urgently investigate the possibility of establishing a purpose built Visitors Information Centre within the Darling Harbour precinct.
49. It is recommended for future events similar to the First State '88 Exhibition that the government only enter into a contract for design, fabrication and staging, where remuneration is closely tied to the success of the overall event.
50. It is recommended for future events similar to the First State '88 Exhibition, that the government engage professionally qualified and experienced marketing personnel to prepare comprehensive marketing and promotion plans.
51. It is recommended that the following options for financial restructuring be considered.
  1. Treasury to take over the Authority's current debt, with the Authority expected to meet operating expenses from revenue, with any amount surplus to development needs payable to Treasury.
  2. Treasury to take over the Authority's debt related to all government works which generate no income for the Authority (such as the promenade and the parks).
  3. The debt be recalculated on the basis that no interest should be charged on borrowings used to construct those general public areas that might be termed "open space" essentially for public enjoyment.
52. It is recommended that the total cost of restoring the Pyrmont Bridge be met by the Government, and that the total borrowings and commitments of the Authority be adjusted accordingly.
53. It is recommended that negotiations be reopened between the Darling Harbour Authority and the State Transit Authority regarding what proportion of the cost of building the Aquarium Ferry Wharf should be borne by each party.

## Report on The Darling Harbour Authority

54. It is recommended that the Treasury meet the full cost of the First State '88 Exhibition temporarily covered by the Darling Harbour Authority, viz. \$23,705,279 as at 30th June, 1989.
55. It is recommended that the Darling Harbour Authority adopt an entrepreneurial approach to the provision of entertainment and further facilities at Darling Harbour.
56. It is recommended that the Darling Harbour Marketing Board closely examine the variety of activities offered at other harbourside precincts in Australia and throughout the world, with major focus on the provision of marina and other boating facilities and the provision of tourist oriented transportation between Darling Harbour and other Sydney tourist precincts.
57. It is recommended that in any forthcoming marketing plans the Darling Harbour Authority consider the opportunity to relaunch the Darling Harbour facility.
58. It is recommended that the Darling Harbour Authority anticipate an ongoing challenge of providing for a major new attraction in the Harbour area every two to three years, supported by major opening promotions.
59. It is recommended that a blueprint for the further development of the Darling Harbour site and surrounding areas be developed and made available for public comment.
60. It is recommended that the dispute over ownership of the railway line within the development area and the airspace above the line be resolved as soon as possible.
61. It is recommended that for future such projects all questions of ownership and responsibility between government departments and authorities be subject to negotiation and settlement from the outset.
62. It is recommended that matters still outstanding between the Darling Harbour Authority and the Sydney County Council be immediately resolved.
63. It is recommended that in considering the future management of Darling Harbour, due recognition be given to the expected high volume and cost of maintenance.

## Public Accounts Committee

64. It is recommended that the Darling Harbour Authority and the Sydney Cove Redevelopment Authority be amalgamated and further that;
1. a new Board be appointed;
  2. a new Board include the General Manager of the New South Wales Tourism Commission and a representative from the Council of the City of Sydney;
  3. a Marketing Board be established, comprising public and private enterprise;
  4. the Marketing Board be chaired by the Marketing Director of the new authority;
  5. the Authority liaise with the developers of Walsh Bay to explore the possibility of a joint marketing organisation to promote the total Darling Harbour-Walsh Bay-Rock waterfront development;
  6. that the marketing and promotional activities of the new Authority be closely integrated with the promotion of Sydney and New South Wales.
65. It is recommended that the Government set realistic financial goals for the Authority formed by the amalgamation of the Darling Harbour Authority and the Sydney Cove Redevelopment Authority.
66. It is recommended that the amalgamation of the Darling Harbour Authority and the Sydney Cove Redevelopment Authority be referred for comment to the State Government's Corporatisation Unit.
67. It is recommended that the new Authority formed from the amalgamation of the Darling Harbour Authority and the Sydney Cove Redevelopment Authority come under the portfolio of the Minister of Tourism.

## 1. INTRODUCTION

### REFERENCE FROM MINISTER

- 1.1 The Public Accounts Committee received a reference on 10th August, 1988 from the Minister for Local Government and Minister for Planning, The Hon D. A. Hay, M.B.E., M.P., under Section 57(1)(f) of the Public Finance and Audit Act, 1983 to examine and report on the operations of the Darling Harbour Authority.

### TERMS OF REFERENCE

- 1.2 The Terms of Reference for the Inquiry as set out in the Minister's letter were to review:
- (i) tendering procedures adopted by the Authority;
  - (ii) contractual arrangements and administration;
  - (iii) management of industrial relations issues;
  - (iv) costs management and reference to cost overruns;
  - (v) leasing arrangements;
  - (vi) the overall financial position of the Authority;
  - (vii) the use of consultants including guidelines for the engagement and management of consultants, and evaluation of consultancy projects;
  - (viii) any other matters arising from the inquiry which impact upon the accountability, efficiency and effectiveness of the Authority.

### BACKGROUND

#### HISTORY OF THE AREA

- 1.3 Darling Harbour was the first centre of maritime commerce in Australia. Christened simply "Cockle Bay" by the early settlers because of abundant shellfish, it was renamed in 1826 after Sir Ralph Darling, the ninth Governor of New South Wales. Through succeeding decades, it became Australia's busiest

## Report on The Darling Harbour Authority

port. Industries flourished around the Harbour. Its major role as a produce distribution point was linked to a growing rail system. Material dug out to build Sydney's new underground railway in the 1920s was used to fill in the southern end of Darling Harbour, allowing further expansion of the railway yards.

In the late 1950s, however, Australian coastal shipping was in decline. Darling Harbour lagged behind in new technologies, Botany Bay emerged as a major port and container terminal and trade started to pass by Darling Harbour. Activity was wound down and much of the area fell into disrepair.

### THE DARLING HARBOUR REDEVELOPMENT

- 1.5 The recognition of the economic plight of the area, the scale of the obsolescence and its impact on both the Pyrmont peninsula and the south western fringe of the Central Business District led to a series of investigations and "development feasibility" studies from the 1970s onwards by the Sydney City Council and the State Government.
- 1.6 A major finding of these studies was such that private companies were reluctant to become involved until there was a visible demonstration of Government commitment to the Darling Harbour area.
- 1.7 The New South Wales Government, in late 1983, took the initiative to re-develop Darling Harbour and create a new focus for the people of New South Wales and interstate and overseas visitors.
- 1.8 The Government's intentions and several of the development plans then under consideration became public knowledge in March-April 1984. *The Sunday Telegraph* on 1st April, 1984, reported:

Public Accounts Committee

*"The State Government plans to transform the derelict rail-yards of Darling Harbour into the Venice of Sydney, with a system of canals in a \$1 billion redevelopment of the area.*

*"The project would be the centre-piece of Bicentennial celebrations in New South Wales in 1988 .*

1.9 The then Premier, The Hon. N. F. Wran, Q.C., M.P., on 1st May, 1984 duly announced plans for a multi-million dollar redevelopment of the area, as part of the regeneration of the Haymarket area and one of the Government's major development projects for Sydney. The then Premier also announced Cabinet approval of legislation for the establishment of the Darling Harbour Authority. The Authority, under the responsibility of the Minister for Public Works and Ports, was to bring the project to fruition, a project involving both public and private sectors.

1.10 Legislation was introduced on 16th May, 1984 to provide for the development of Darling Harbour. The development of this area would, in the words of the then Premier:

*'... be both the focalpoint of the Bicentenary celebrations for New South Wales in 1988 and also the scene for a continuing development of major community and commercial facilities such as is fit for Sydney as the premier city of the Pacific Basin.'*

1.11 The Premier told the Parliament on 16th May, 1989 that the major features of the new development would include:

\* the establishment of the Sydney Exhibition Centre;

\* a new urban harbourside park and foreshore promenade;

\* a major sculpture or architectural symbol in Darling Harbour to symbolize the Bicentenary;

1 Canals, using the watertable close to the surface of the harbour infill, flanked by residential village development housing, was one of many schemes then under consideration

## Report on The Darling Harbour Authority

- \* the National Maritime Museum;
- \* a Chinese landscape garden; and
  - \* a people mover system linked to the Central Business District.

### CONTEMPORARY CONTROVERSY

- 1.12 From its inception, the Darling Harbour project was surrounded in controversy. It was the subject of a great deal of media attention arising from comments and opinions presented by the many critics of the project, among them local residents, property owners and developers, Parliamentary Opposition members, City of Sydney Council aldermen, university academics, professional associations and people concerned with environmental issues.
- 1.13 Literally hundreds of items on the Darling Harbour project have appeared in the press over the past six years. The project itself *and related issues*, including the monorail and the casino, generated an almost equal number of reports and commentaries in the electronic media.
- 1.14 It became apparent to the Committee during its Inquiry that Darling Harbour was, in a very real sense, much more than a construction project. It came to be seen as a test of government will, a contest between State and Local government, an object of fierce political rhetoric and debate, a symbol for environmental and planning issues raised by large scale development and a showcase of industrial relations.
- 1.15 There is also little doubt that in addition to the substantive matters raised by the project, some individuals and groups used for their own ends the media attention which Darling Harbour generated.
- 1.16 In his evidence before the Committee, Mr Baxter, then Interim Board Chairman of the Darling Harbour Authority, made the following pertinent observation:

## Public Accounts Committee

*"... at the time it was conceived and the Darling Harbour Authority legislation was put through the Parliament, I don't think that either the Government of the day or the Opposition of the day or the senior civil servants involved had any real conception of the project, the immensity of the project and the implications it would have both financially and in the construction terms. ",2*

1.17 It would have been almost impossible then to foresee the degree of media and public interest and scrutiny and, above all, negative publicity which the project subsequently would attract.

1.18 That publicity began within days of the Premier's original announcement. The Civic Scene column in *The Sydney Morning Herald* of 8th May, 1984 commented:

*'The creation of the Darling Harbour Authority is the greatest blow to the City Council's planning powers since the creation of the Sydney Cove Redevelopment Authority. It takes a big chunk of the City and gives it to the State Government.'*

The columnist suggested the Government was creating the Authority and giving it such wide ranging powers:

*'... because it perceives there is a great hurry about redeveloping Darling Harbour. And there is. By the time the authority is constituted, its members appointed and in full operation, there will be only three-and-a half years until the Bicentenary.*

*Indeed, with the level of development envisaged, it may  
already be too late to complete the project by 1988.'*

1.19 Referring to criticisms of the scheme by Alderman Jeremy Bingham and other members of the then Sydney City Council, *The Daily Telegraph* of 1st June, 1984 reported **that:**

*'The Darling Harbour Redevelopment Act was described last night as the most obnoxious legislation in the democratic world.'*

2 Minutes of Evidence, 31st May, 1989, page 627



## Report on The Darling Harbour Authority

1.20 Persistent and widespread criticism was, however, rejected by the Premier at the official launch of the project on 14th December, 1984. Amidst claims of a lack of planning, political expediency and secrecy, controversy surrounding the resignation of the first Authority Chairman, Mr David Block, after only ten weeks in the job, and public "wrangles" with property developer Man Yates, the Premier reaffirmed the Government's commitment to what he described as *"the most ambitious urban renewal attempt ever undertaken in Australia."*

1.21 Recalling that the building of the Harbour Bridge and the Opera House had also been attacked in some quarters, the Premier was reported as saying:

*"There has been no major project in Sydney that has failed to bring out its coterie of knockers"*

*"It would pay the knockers, for a change to get behind the project and get behind the Bicentenary"*<sup>3</sup>

1.22 The controversy continued, however.

1.23 On 7th February, 1985 *The Financial Review* reported that:

*'A major clash between the Sydney City Council and the NSW Government - both Labor-controlled - appears to be looming because of the proposed Bicentennial plans for the redevelopment of Darling Harbour'*

*"The formal plans, drafted by the State Government, have come under severe criticism from the planning section of the Sydney City Council"*

1.24 *The National Times* summed up the mood by mid-February 1985:

*Not since the development-minded Askin Government dreamed of wall-to-wall skyscrapers from Kings Cross to the Rocks has there been such talk in Sydney. A glittering monument arising from acres of disused railway yards; a stupendous maze of gardens, walkways and buildings dedicated to leisure and tourism."*

3 *The Sydney Morning Herald*, 15th December, 1984

## Public Accounts Committee

*The PR for the \$1,000-million scheme has been vintage Wran at his entrepreneurial best ... But the gloss has worn off the government which once seemed so secure. Even while the futuristic designs are still on the drawing board, clouds of suspicion, allegations of poor planning and a law suit are hanging over the project. „4*

- 1.25 In March 1985, the New South Wales Division of the Royal Australian Planning Institute published an edited version of a letter sent to the General Manager of the Darling Harbour Authority. The letter began:

*The New South Wales Division of the Royal Australian Planning Institute has examined and considered the material exhibited and published on the Draft Development Plan and Draft Strategy for Darling Harbour.*

*The Division, as a body of professionals, finds it difficult to make meaningful detailed comments on many aspects because of the lack of published factual data. We are concerned that this lack in the exhibition may mean that the plan and strategy may not have been fully researched. "5*

- 1.26 On 4th March 1985, *The Sydney Morning Herald* stated that the project:

*'... is giving Sydney a real-life drama serial which for suspense, intrigue, dark hints and passion will soon rival any TV soap opera.'*

- 1.27 The Architecture column in *The Financial Review* of 18th April, 1985 was headlined '*Darling Harbour - a 'near unachievable' task*':

*'... the Government has entrusted its pet project to the Darling Harbour Authority, whose task it will be to achieve the near unachievable within the two-and-a half years still left to it.'*

- 1.28 A *Sydney Morning Herald* editorial on 9th August, 1985 was headlined: "*The gamble at Darling Harbour*":-

<sup>4</sup> *The National Times*, 15th-21st February 1985, page 3 <sup>5</sup> *The Planner*, March 1985, page 43

## Report on The Darling Harbour Authority

*'[Laurie Brereton is nothing if not brave. Yesterday he unveiled his final plans for the redevelopment of Darling Harbour. It is, of course, a Bicentenary extravagance that he hopes will enhance the Government's chance of reelection. However, building unions, architects, public money and political deadlines are a potentially lethal combination. Darling Harbour could easily become an electoral liability to the Government.]'*

1.29 Throughout 1986 there was much controversy over the proposed casino and construction of the monorail. The withdrawal by the State Government of funds for the proposed National Aquarium, the Day Park Marina and the Space Theatre and regulations providing for additional land to be placed under the control of the Darling Harbour Authority and consequently outside the provisions of the Environmental Planning and Assessment Act created further unfavourable media attention.

1.30 In the State Scene column in *The Sydney Morning Herald* on 28th June, 1986 the following comment was made:

*'What was to be a glorious public relations move for the Government has soured somewhat to become yet another example of how the Government takes action on some matters of extreme concern with either inordinate reluctance or undue haste.'*

1.31 On 31st July, 1986, *The Sydney Morning Herald*, in an editorial headed "*The Darling Harbour Fiddle*", strongly criticised financial aspects of the development and concluded that Government promises that the investment would pay for itself in six years were "*nonsense*."

1.32 Throughout 1987, the media highlighted industrial problems on the site, the impending "*deadline*" of the Bicentenary, and the mounting cost of the project.

1.33 Following the election of the Liberal Coalition Government in 1988, significant controversy continued to haunt the project. The First State 88 Exhibition at Darling Harbour proved so unpopular that the new Premier had to totally drop the admission charge. Longstanding rumours of special work payments to speed up completion of the project continued, with *The Daily Telegraph* on 2nd May, 1988, reporting that:

## Public Accounts Committee

*"Workers at Darling Harbour will be paid up to \$300.00 a day as part of a last minute deal to make the site presentable in time for the official opening by the Queen on Wednesday."*

1.34 In the same article, the paper reported that the Opposition claimed that:

*'... in the six weeks since the Greiner Government took office, fifty per cent of working days were lost on some Darling Harbour projects, putting many of them months behind schedule.'*

1.35 The project which the new Government had for so long criticised from the Opposition benches proved very difficult to handle either in political terms or as a pragmatic management issue. Industrial disputes led to further extensive delays, mounting costs and frustration at the amount of work yet to be completed. Whilst the problems continued, the change of government, the public opening of Darling Harbour and the mood of the Bicentenary meant there was much less coverage of the issues in the media.

1.36 The one major exception was in late November 1988, at the time of what the press variously described either as the "*resignation*" or "*dismissal*" of the Darling Harbour Authority Board and the appointment of an Interim Board of senior public servants and a very public dispute with contractor Chadwick Holdings Pty Ltd.

### THE COMMITTEE'S INQUIRY

1.37 On 7th December, 1987 the then Opposition Leader, The Hon. N. F. Greiner, M.P., released a News Release in which he *'... challenged the Premier to put the Darling Harbour project under the scrutiny of the Parliamentary Public Accounts Committee.'* The Committee is not aware of any formal government response to that proposal.

1.38 The Committee understands that such was the level of official and public concern about the project in 1988 some senior members of the newly elected Liberal Government gave consideration to setting up a Royal Commission into Darling Harbour.

## Report on The Darling Harbour Authority

- 1.39 On 10th August, 1988 the Committee received a formal reference from the Minister for Local Government and Minister for Planning, The Hon. D. A. Hay, M.B.E., M.P. to examine and report on the operations of the Darling Harbour Authority.
- 1.40 On 31st August, 1988 the Minister announced that management consultants were being appointed to undertake a review of the current structure and management systems of the Darling Harbour Authority. This review was completed by Coopers and Lybrand. Copies of their report were not, unfortunately, provided to the Committee by the Authority or the Minister.
- 1.41 The Committee's own inquiry needs to be seen in the context of the controversy surrounding the Darling Harbour project and the turbulent political and social and industrial environment in which the Darling Harbour Authority has operated.
- 1.42 Many of the groups and individuals with whom the Committee and its staff have consulted have had their own "agenda" for this inquiry, their own interests to pursue.
- 1.43 This was not, despite comments in the media, a "government inquiry." The Committee has sought, as a bi-partisan Committee of Parliament, to independently and objectively examine the operations of the Darling Harbour Authority.

### APPROACH OF THE INQUIRY

- 1.44 This has been the lengthiest and the most complex inquiry undertaken by the Committee. There have been four major strands to the inquiry, each of which is reflected in the Committee's Report. The principal thrust was to critically review the operations of the Darling Harbour Authority, with special reference to the issues for review as set out in the letter from the Minister for Local Government and Planning. In addition, the Committee:

## Public Accounts Committee

- \* considered the implications of its findings for the future operations of the Authority, based on the assumption that the Darling Harbour Authority continues in its present statutory form;
- \* considered the future structure of public management of Darling Harbour; and
- \* assessed the implications of 'the Darling Harbour experience' for future large scale public sector or public-private sector works projects.

### METHOD OF INVESTIGATION

1.45 The Committee conducted its examination between September 1988 and November 1989, concurrent with a number of its other inquiries and activities according to its various functions under the Public Finance and Audit Act, 1983. The method of investigation included:

- \* a review of submissions and correspondence received in response to advertisements placed in late September 1988 in *The Sydney Morning Herald*, *The Daily Telegraph* and *The Australian Financial Review* and in September-October 1988 in selected professional and trade journals:

*Engineers Australia*

*Construction Australia*

*Australian Concrete Construction*

*National Constructor*

*Building Owners and Managers Association Magazine*

*The Builder* (see Appendices 1 and 2);

- \* letters of notification to all Members of Parliament;
- \* site visits;
- \* public hearings (see Appendix 3);

## Report on The Darling Harbour Authority

- \* review of Minutes of meetings of the Darling Harbour Authority;
- \* analysis of contract files held by the Authority;
- \* inspection of Expo 88 and selected urban redevelopment projects in North America similar to the Darling Harbour concept; and
- \* extensive formal and informal discussions with parties directly involved the project and a number of practitioners, professional groups, senior academics and other experts in the areas of design and planning, architecture, construction, public works and marketing.

1.46 In addition, senior officials from a number of organisations in New South Wales, including the Auditor-General's Office, the Department of Public Works, the Tourism Commission, the Office of Public Management and Treasury provided information and advice to the Committee. Information was also kindly provided by senior government tourism officers in Tasmania and South Australia and by The Hon J Marshall, Chairman, Casino Supervisory Authority, Adelaide.

1.47 The Committee received extensive co-operation from the Darling Harbour Authority throughout the course of this inquiry. The Committee wishes to acknowledge, in particular, the assistance received from Mr J Starkey (who has now left the Authority) and Mr K Quince.

## 2. MANAGEMENT OF THE PROJECT

### THE DARLING HARBOUR AUTHORITY

#### ESTABLISHING THE AUTHORITY

2.1 Legislation to constitute the Darling Harbour Authority and to specify its powers, authorities, duties and functions was introduced into the Legislative Assembly on 16th May, 1984.

2.2 The Government had considered giving responsibility for the project to the Department of Public Works. Public Works was, however, already heavily committed on several major projects, including the Australian Museum, extensions to the Art Gallery and to the State Library, the Power House Museum and the beautification of both Macquarie Street and The Quay. It was decided, in light of the size and complexity of the redevelopment at Darling Harbour and the tight time-frame for completion, that a separate statutory authority with a clear and single purpose, a specially recruited Chief Executive and a strong board needed to be created.

2.3 The New Darling Harbour Authority Act 1984, assented to on 28th June, 1984, set up a corporation under the name of the *Darling Harbour Authority*, deemed to be a statutory body representing the Crown and subject to the control and direction of the responsible Minister. The Act provided for the Authority to consist of between five and seven members to be appointed by the Governor, one of whom - the General Manager - would be the full-time member.

2.4 The objects and functions of the Authority were set out in Part III of the Act. The objects of the Authority were to:

*'... promote, encourage, facilitate, carry out and control the development of land within the Development Area, whether or not the development is carried out by or on behalf of the Authority.'*

2.5 Clause 10 provided the necessary consequential powers. Clause 11 empowered the Authority to:



Report on The Darling Harbour Authority

- "a) *promote, organise and conduct tourist, educational recreational entertainment, cultural and commercial activities within the Development Area;*
- b) *construct, establish, maintain, and operate tourist, educational recreational, entertainment, cultural and commercial facilities within the Development Area;*
- c) *construct, establish, maintain and operate transport facilities within and outside the Development Area for the purpose of providing transport to, from and within the Development Area; and*
- d) *carry out works for the purpose of beautifying the landscape of the Development Area."*

THE BOARD

2.6 Seven members were appointed to the original Board in September 1984 on the recommendation of the then Minister for Public Works and Ports, The Hon L. J. Brereton, M.P.:

Mr D. Block, Chairman  
Mr L. Ferguson  
Mr G. Coote  
Mr G. Abignano  
Ms J. McCallum  
Mr C. Lloyd Jones  
Mr H. Laan, General Manager of the Authority

2.7 During the next four years, a number of changes occurred within the Board:

**MEMBER RESIGNED**

Mr D. Block, Chairman  
(Nov. 1984)

Mr C. Lloyd Jones  
(Jun. 1985)

**NEW MEMBER**

Mr A. Carmichael, Chairman  
(Nov. 1984)

Mr J. David (Jul. 1985)

## Public Accounts Committee

### MEMBER RESIGNED

Mr H. Laan, General Manager  
(Jan. 1986)

Mr G. Coote (Dec. 1986)

### NEW MEMBER

Mr R. Pentecost, General Manager  
(Feb. 1986 substantive)

Mr T. Kennedy (Apr. 1987)

2.8 The Committee was presented with different opinions about the composition and effectiveness of the original Board. These opinions reflected not only individual *'personalities'*, *"interpersonal relationships"* and dealings with the Board but also the view taken, more generally, of the policy and management roles of boards.

2.9 For example, Mr Laan, the first General Manager of the Authority, argued that overall:

*'... the Board members per se did not do a great deal for me in respect of building the project. They may have had reasonable input as far as the design was concerned and as far as other matters but as far as understanding what the fast track project was all about, the needs of a fast track project, the need for rapid decision taking, no, that went completely over people's heads and they were no help at all'*<sup>1</sup>

2.10 Mr Laan added, in what the Committee noted would be "new twist" to the role of a chief executive officer, that *"in hindsight"*, it *"would have been most beneficial"* for him to have had some input into the selection of the Board. z

2.11 A very different opinion about the Board was, however, expressed by Mr Carmichael, who took over from Mr Block as chairman. Mr Carmichael, who has served on many boards in both the public and private sectors, told the Committee **that:**

*"The Darling Harbour Board was, with one exception, the best board I have ever been on .. It was the right size ... It had the right spread of skills and it had people who, in my view, were absolutely first class in their field"*<sup>3</sup>

1 Minutes of Evidence, 21 March 1989, page 252

2 Ibid

3 Minutes of Evidence, 21 June 1989, page 707

## Report on The Darling Harbour Authority

- 2.12 Several witnesses argued before the Committee that the Darling Harbour Board should have contained a more appropriate "mix" of people, and that areas of expertise including law, finance, tourism and the building industry were under-represented or not represented at all. Other witnesses, however, suggested that attempting to "cover" all areas of operation when appointing a board results in a large, unwieldy structure and is based on the false premise that board members are appointed to provide advice on all aspects of an organisation. The role of a board, they argued, is to know when to seek such advice from management or from specialist firms.
- 2.13 The Committee considers that although it was not possible to appoint board members in all specialist areas related to the Darling Harbour redevelopment, the Board did lack in-depth experience of major commercial fast-track construction projects. Further, with the resignation of Mr Coote in December 1986, the Authority lost significant expertise in marketing and public relations.

### Recommendation 1

It is recommended that the appointments to the board of a statutory authority be based on careful consideration of the objectives and activities of that authority in both the short and long-term.

### INTERIM BOARD

- 2.14 On 22nd November, 1988, five of the seven members of the original Board resigned from the Authority, stating their intention that the resignations be effective from 31st December, 1988. The five were the Chairman, Mr Carmichael, Ms McCallum and Messrs Ferguson, Kennedy and David.
- 2.15 Considerable controversy surrounded the resignations and the Government's move to immediately appoint an Interim Board, Media reports at that time suggested that there were a number of points of conflict between the Board and the Government, including:

Public Accounts Committee

1. contractual obligations and payments related to Chadwick Holdings, a sub-contractor on the National Maritime Museum;
  2. the future of the old casino site;and
  3. reviews of the Authority's operations amid mounting criticism of delays and costs.
- 2.16 In his letter of resignation, Mr Carmichael referred to the *'serious adverse effect on the management of the authority'* of a number of communications, undertakings and government decisions, and to the authority being recently *"subjected to pressures and actions which are improper and unacceptable."* <sup>4</sup>
- 2.17 The Minister for Planning and Local Government, The Hon. D. Hay, M.P. moved to make the resignations effective immediately, as of 24th November, 1988, saying that the continuation of a Board which had effectively resigned and *'which has indicated that it will not work within the direction provided by the Government'* was inappropriate. <sup>5</sup>
- 2.18 Mr Abignano, a member of the Board who was overseas at the time his colleagues resigned, was also removed from his position.
- 2.19 The Minister announced that an Interim Board had been appointed for a period of six months, comprising a small group of senior public servants and the Acting General Manager of the Authority:

<sup>4</sup> *The Daily Telegraph*, 23 November 1989

<sup>5</sup> *The Sydney Morning Herald*, 25 November 1989

## Report on The Darling Harbour Authority

### Interim Board Members

NAME	FULL-TIME OCCUPATION
Mr K. Baxter (Chairman)	Deputy Director-General Premiers Office & General Manager, Office of Public Management
Mr R. Christie	Director, Public works Department
Mr P. Lawson	Secretary, Department of Industrial Relations and Employment
Mrs G. Kibble	Director, Department of Planning
Mr J. Starkey	Acting General Manager, Darling Harbour Authority (Governor's Approval)

#### NEW BOARD

2.20 On 10th July, 1989 a new Board was appointed.

NAME	FULL-TIME OCCUPATION
Mr J. Graham (Chairman)	Managing Director, Gresham Partners Ltd
Mr P. Pearce	Chief General Manager - Finance, Woolworths Ltd
Mr R. Finlay	Partner, Westgarth Middleton, Solicitors
Mr J. Gazal*	Chairman and Managing Director, Gazal Corporation Ltd
Ms D. Fleming	Managing Director, Foresight Management Group
Mr P. Charlton	Chairman, Charlton and Charlton
Mr T. Jones	General Manager, Darling Harbour Authority

\*The Committee notes with regret that Mr Gazal recently passed away. The Committee understands that his position on the Board remains vacant.

## Public Accounts Committee

- 2.21 The new Board represented a complete shift away from the Interim Board of public servants, with the new Chairman, Mr Graham, and other members drawn from the business community.

### IMPLICATIONS

- 2.22 The Committee found, when it sought to examine the events of November 1988, that the members of the original Board were reluctant to talk about the circumstances which led to their resignation. Mr Carmichael, the then Chairman, was prepared to make some comment but only in very general terms. In his evidence to the Committee, Mr Carmichael stated that *The Board believed that it was being placed under pressures to do things which the board regarded as not proper, as not correct.*<sup>6</sup>
- 2.23 Using what he described as "*a hypothetical example*", one which quite pointedly resembled the dispute with Chadwicks, Mr Carmichael said that a board of any authority must implement an explicit decision of government, even one with which it did not agree. *'But'*, he added:

*'... when a government won't issue the instruction and tries to create a situation where your management is pressurised into doing it, without the government taking responsibility, then the board can't live with it.'*<sup>7</sup>

- 2.24 Mr Carmichael stated that the Chadwick case was the major issue which led to the Board resigning but it was not the only occasion *... where people were not prepared to take responsibility for the decisions they want to make.*<sup>8</sup>

- 2.25 The Committee does not propose to comment on the specifics of the Chadwick case or on the claims and counter-claims relating to the *'resignation/sacking'* of the Board which were made in the press and elsewhere. The Committee does not wish to prejudice pending or current litigation relating to the Chadwick case or to be seen to comment upon previous legal decisions. The *'resignation/sacking'* of the Board is a highly emotive issue with the different

6 Minutes of Evidence, 21 June 1989, page 741

7 Ibid

8 Ibid

## Report on The Darling Harbour Authority

perceptions of the parties involved making it difficult to draw any definitive conclusions. The incident itself did have a number of unfortunate consequences. It saw the loss of experienced members of the Authority; it detracted unfairly from all that the members of the Board had contributed to the project; and it generated further negative publicity for Darling Harbour.

- 2.26 The events of November 1988 need to be seen in a wider perspective, in terms of the complex relationship which exists between a statutory authority, the responsible Minister(s) and the government of the day. The potential for disagreement arises where a government directs an authority to act in a way which the board does not feel is appropriate in principle or in the best interests of the particular organisation. The relationship between the responsible minister, the chairperson and the chief executive officer of an authority is of critical importance in managing the process of communication and negotiation.
- 2.27 Evidence was presented to the Committee that the government of the day had a significant influence on decisions taken by the Darling Harbour Authority. Government policy in related areas, such as inner city transport plans and the development of a casino, also had a fundamental effect on the Darling Harbour Project. There have been numerous points of disagreement between the Authority and the Minister, and occasionally between the Chairman and the General Manager, with relations between the Authority and successive governments sometimes severely strained.
- 2.28 Most of these disagreements remain private, with the notable exception of the events of November 1988 which were reported in the media and difficulties at the start of the project which the Committee uncovered in its public hearings.
- 2.29 Mr Laan, the first General Manager of the Authority told the Committee that he and the then Chairman, Mr Block, each had a fundamentally different approach to managing the project. Mr Laan considered that his brief was to commence construction as quickly as possible in order to complete the public works by January 1988, whereas Mr Block "was adamant that we were going to do the job slowly, properly ... "9 Matters "came to a head" when Mr Laan required that

## Public Accounts Committee

tenders for the managing contractor be submitted within only seven days. These differences in approach led, in part, to Mr Block's resignation in November 1984.<sup>10</sup>

2.30 In terms of the events in 1988 leading to the Board's "sacking/resignation", the Committee concurs with the view expressed by Mr Baxter, Chairman of the Interim Board, that part of the problem arose from the change of government and the change in Minister. Rumours were rife during May-November 1988 that the new Government wanted to "appoint its own people" and radically overhaul the management of Darling Harbour.<sup>11</sup> The Committee notes that such rumours often follow a change of government.

2.31 The Committee considers that the relationship between the then Chairman and his Board and the new Minister was not as good as it should have been, and this had a negative effect on the project and on its public image. Mr Baxter rightly argued that in such a situation the chairman should go to the Minister and say:

*"Look Minister, there has been a change of government. I was appointed by a previous government ... these are the objectives that the organisation has. If you are comfortable with them and you wish me to serve I am prepared to do so, but it is your prerogative ... to appoint somebody else.....", 12*

### Recommendation 2

**It is recommended that in future, there be greater clarification of the respective roles of a statutory authority board and the minister in making decisions which affect the authority.**

<sup>10</sup> Ibid, page 255

<sup>11</sup> *The Daily Telegraph*, 24 June 1989

<sup>12</sup> Minutes of Evidence, 31 May 1989, page 657



## Report on The Darling Harbour Authority

### STAFFING THE AUTHORITY

#### GENERALMANAGER

- 2.32 The appointment of a "*top person*" or "*high flyer*" to the post of General Manager of the Darling Harbour Authority was seen right from the outset as critical for the project's success.
- 2.33 The first General Manager, Mr H. Laan, who had previously been Senior Consulting Project Manager on a \$650M construction project in the Cooper Basin for Santos Ltd., started work at Darling Harbour on 29th October, 1984. Mr Laan was General Manager up until January 1986. Since that time, three people have served as General Manager - Messrs Pentecost, Starkey and Jones (see Table 2.1),

TABLE 2.1

General Managers of the Darling Harbour Authority, 1984-89

[R:\PARLIM~1\480003.TIF]

- 2.34 The Statutory and other Offices Remuneration (New Darling Harbour Authority) Amendment Act, 1984 provided for application of the principal Act to the office of General Manager of the Authority. The General Manager is the Chief Executive Officer of the Authority and is responsible for the management of the affairs of the Authority subject to and in accordance with any directions of the Authority. The General Manager was empowered to exercise the functions of a department head in terms of Section 46 and Schedule 2 of the then applicable Public Service Act 1979.

### Public Accounts Committee

2.35 The General Manager exercises delegated financial authority as follows:

- \* General Manager up to \$100,000
- \* General Manager with Chairman up to \$500,000
- \* General Manager with Chairman and Deputy Chairman up to \$1,000,000

### Recommendation<sup>3</sup>

**It is recommended that on any future such project, during the construction phase a senior professional with appropriate qualifications and extensive practical experience in the construction field be appointed to the post of General Manager**

### STAFF

2.36 Under the Darling Harbour Authority Act, provision was made for staff to be seconded from other public authorities. The Authority needed to get its senior staff in place quickly to organise the appointment of the managing contractors and major planning and design consultants and establish financial management and control systems. Evidence presented to the Committee indicates that there were, however, significant delays in appointing senior staff to the Authority in 1984.

2.37 Mr Laan, the first General Manager, told the Committee, that it "*took too long*" to get the secondees, and that although he raised his concerns about this with the Minister and to the Public Service Board... *the wheels grind so slowly it is incredible.*"<sup>13</sup> Mr Laan said:

<sup>13</sup> Minutes of Evidence, 21 March 1989, page 317

## Report on The Darling Harbour Authority

*"You asked about recommendations for future projects. If you are going to start a project, find a way to get people quickly. Do not put whoever is in charge through the same process that I went through. If you are three, four or five months waiting for people, that is diabolical"<sup>14</sup>*

2.38 Mr Laan highlighted the fact that it was not until April 1985 that the Deputy General Manager - Finance and Administration '*finally came on board*'; he rightly described this as '*unthinkable*' in an organisation '*set up to spend literally hundreds of thousands of dollars per day ...*'<sup>15</sup>

2.39 The Committee was very concerned to learn, notwithstanding the time constraints and need for urgent action, that the Authority commenced making major decisions with little or no permanent staff, preliminary control systems and procedures only and no real budget.

### Recommendation 4

It is recommended that on futuresuch **projects no major decisions** be taken until adequate numbers of senior staff**and appropriate** financial management and decision-making systems have been established by**the development and** construction authority.

2.40 The view taken from the outset was that it was not feasible to turn the Authority '*overnight*' into a '*super*' construction company. It was decided instead, as discussed below, to appoint a Managing Contractor and make extensive use of consultants and advisory committees. As a consequence, the staffing profile of the Authority reflected its original emphasis on supervision, coordination, approval and financial administration of construction. The Project Task Force was established to provide the administrative and contractual link between the Authority and the Managing Contractor for the construction phase.

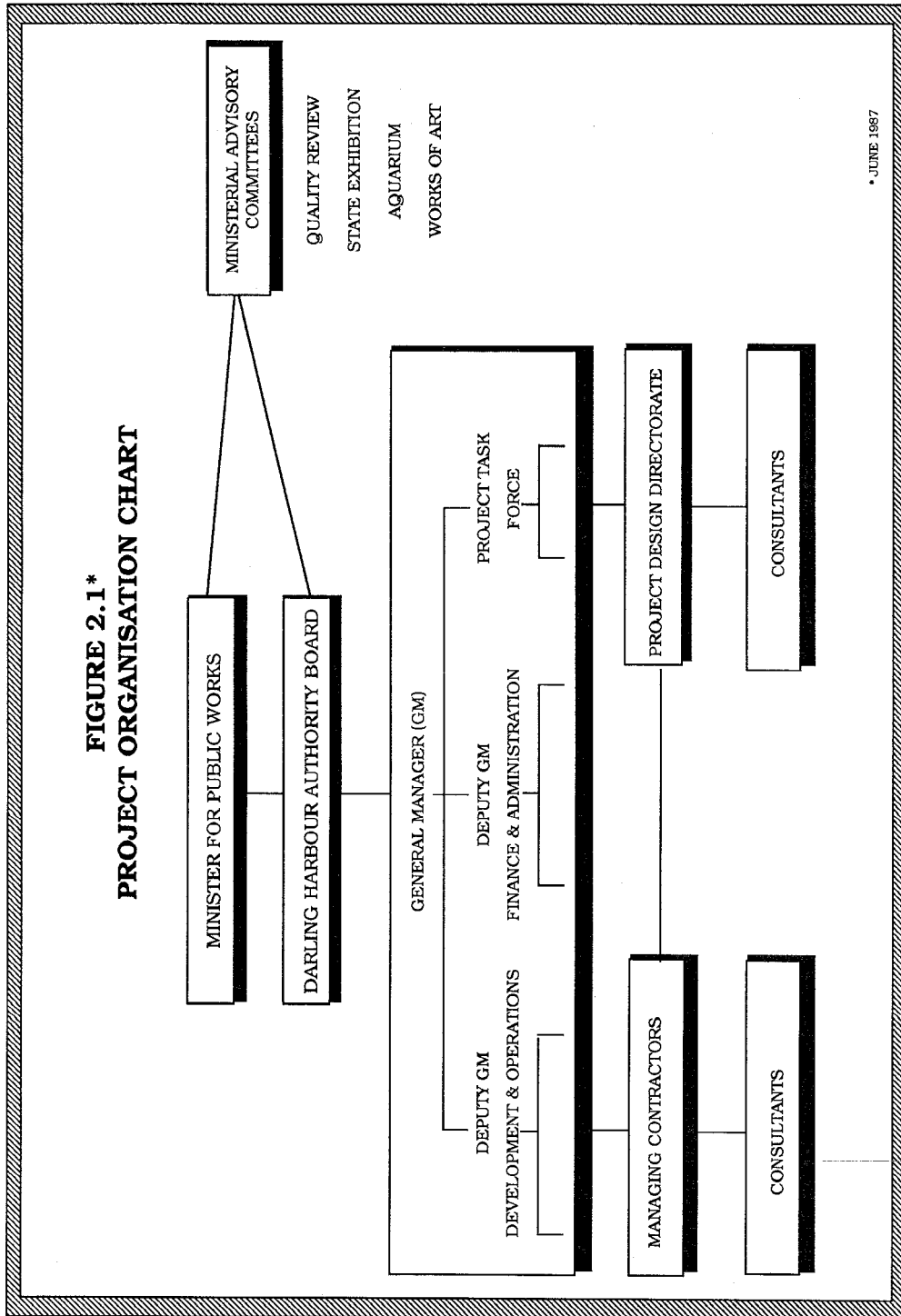
14 Ibid,

15 Ibid, page 264

## Public Accounts Committee

- 2.41 The Task Force proved an effective and constant link between the Authority and the Managing Contractor. There was additional and frequent contact as necessary between the Managing Contractor and other sections of the Authority, in particular the General Manager. The Project Organisation also involved a number of other parties (see Figure 2.1).

**FIGURE 2.1\***  
**PROJECT ORGANISATION CHART**



Public Accounts Committee

- 2.42 Table 2.2 sets out the approved establishment positions and the actual number of staff employed by the Darling Harbour Authority at 30th June for each year 1984 to 1989.
- 2.43 Staff were engaged under the Public Service Act 1979 and later, the Public Sector Management Act, 1982. The Committee notes that the staffing profile of Authority has undergone a number of changes (see Appendices 4-8).
- 2.44 The Committee considers that the staffing profile of the Authority was generally appropriate in 1985-87, with the exception that insufficient emphasis was given to the areas of public relations and marketing (as discussed in Chapter 8).

TABLE 2.2

DARLING HARBOUR AUTHORITY STAFF ESTABLISHMENT

<u>Year</u>	<u>Approved</u>	<u>Actual</u>
1985	29	28
1986	29	36
1987	48	44
1988	55	44
1989	71	32

Source: Darling Harbour Authority

- 2.45 The Committee found, however, that the Authority was slow to reorganise during 1988 to more accurately reflect the change from the construction phase to the operational phase of the project. The Authority suffered some natural attrition in staff with the worst affected area being the Finance Department which recently had lost both the Financial Controller and his Deputy. This loss was particularly serious as it coincided with the end of the financial year, the appointment of a new Board and attempts to restructure the finances of the Authority along functional lines.

## Report on The Darling Harbour Authority

### Recommendation

**It is recommended that on future such projects, the authority review bi-annually its staffing profile and make adjustments where appropriate to reflect the changing nature of its activities. Greater use may need to be made of short-term contract appointments to provide the degree of flexibility required.**

### THE MANAGING CONTRACTOR

2.46 The first General Manager, Mr Laan, explained to the Committee that ~~h~~ had "sold the idea" to the Board of appointing a managing contractor. He recalled that when he arrived on site in October, 1984 he:

*'... needed a large infrastructure immediately. I needed an organisation with all the computers in place, word processors, the whole shebang tomorrow type of thing. The only way I was going to get that was to buy an organisation that had all that and that could bring the bodies on the ground'*<sup>16</sup>

2.47 Mr Laan was asked by the Committee whether in "hindsight" he believed "the decision to have a managing contractor was the way to go?" He replied:

*Absolutely. If I had the same project again I would do it again the same way. It is the only way given the criteria and the circumstances that I had at the time, which is a project that is already late, an horrific bottleneck to getting my own staff in place.'*<sup>17</sup>

2.48 Other submissions to the Committee strongly supported the managing contractor concept as adopted at Darling Harbour. The Australian Federation of Construction Contractors (AFCC), for example, stated that the appointment of a

16 Minutes of Evidence, 21 March 1989, page 290

17 Ibid, page 295

Public Accounts Committee

managing contractor met the Authority's need for an organisation able to immediately mobilise considerable internal resources and bring to the project specialised professional and technical expertise and experience in construction.

- 2.49 Tenders for the Managing Contractor were called for in late 1984. Tenders had to be submitted within seven days. Whilst this is a very much shorter period of time than normal, the limited time-frame for the project encouraged such a decision.
- 2.50 The Committee considers that such a situation should not be repeated. Seven days is not a sufficient period to enable all prospective tenderers to compile the necessary documentation. The Committee was advised that such a time-frame effectively disqualifies inter-state and overseas tenders.
- 2.51 The three final tenderers for the position of Managing Contractor at Darling Harbour were evaluated according to 14 criteria determined by Authority members Mr G. Abignano and Mr H. Laan (the then General Manager), and the Deputy Government Architect, and interviews were held with all parties.
- 2.52 Leighton Contractors Pty Limited was appointed Managing Contractor. In evidence to the Committee, Mr Laan stated that:

*'... we were totally unanimous in the selection of Leighton. They not only had the best procedures, but they also had the best people in place. They were people with the quality we wanted. They were also the cheapest....', 18*

- 2.53 A Contract between Leightons and the Darling Harbour Authority was drafted by legal officers of the Public Works Department and executed on 14th December, 1984. It provided for the following:
- \* Reimbursement of all staff engaged on the project
  - \* Reimbursement of Statutory costs associated with the employment of staff

18 Ibid, page 293



## Report on The Darling Harbour Authority

- \* Reimbursement of a pre-agreed percentage for company overheads
  
- \* Payment of a profit fee calculated as a fixed percentage of total installed costs through the project accounts of the Managing Contractor?

- 2.54 It was put to the Committee by some people, who would only speak *off the record*" and who, it should be noted, might be considered to be in competition with Leighton, that the terms of this contract were too generous.
- 2.55 The Committee found, however, that the on-cost and profit percentages form in part of the contract with Leighton were determined by the tender system with the other organisations tendering amounts substantially higher than those offered by Leighton. A number of controls were included within the contract document, including a requirement for the Darling Harbour Authority to give its approval of staff numbers, expenditure and selection and appointment of both contractors and consultants and actual selection of candidates for key positions. The terms of the contract were consistent with the wide-ranging role of the Managing Contractor and the level of responsibility assumed.
- 2.56 The Managing Contractor was responsible at the Authority's direction for calling and reviewing tenders and awarding contracts for the construction elements of the various projects, and for administration of the construction phase of the redevelopment. The Managing Contractor was also responsible for maintaining accounting and project monitoring systems and providing information to the Authority when required.

## Public Accounts Committee

### Recommendation 6

**It is recommended that on future such projects an adequate period of time be allowed for submission of tenders for project management services, where applicable; and further, that tender documents include full details not only of previous experience and performance but also plans for management of the proposed project.**

#### THE PROJECT DESIGN DIRECTORATE

- 2.57 In December 1984 the MSJ Group was commissioned by the Darling Harbour Authority to form a Project Design Directorate (PDD).
- 2.58 The Authority advised the Committee that the PDD prepared the overall master plan for Darling Harbour and the design brief for all public elements other than the National Maritime Museum. The PDD also prepared design controls for all private sector elements (such as the design guidelines in respect of the Corn Exchange site) and was involved in design, development and monitoring of the whole project.
- 2.59 The MSJ Group consisted of architects, planners, urban designers, landscape architects and researchers. In turn, the Group engaged consultants when necessary, including transportation planners, engineers and graphic designers. Principal staff were engaged on an agreed schedule of hourly rates including a 10% supervision fee in respect of consultants. The PDD was disbanded on 7th March, 1988, but the MSJ Group continued to act from time to time as consultants on specific tasks.

#### USE OF CONSULTANTS

- 2.60 Extensive use was made of consultants on the Darling Harbour Project. The Committee does not consider this inappropriate given the size, complexity and multi-disciplinary nature of the development, the relatively small number of permanent staff at the Authority, and the tight time-frame for completion of the government funded works.

## Report on The Darling Harbour Authority

2.61 Consultants were used most often during the early stages of the project. Mr Laan, the first General Manager, commented that "*We had consultants running out of our ears at Darling Harbour as you would expect.*"<sup>20</sup> Mr Laan provided evidence to the Committee that the Managing Contractor and the Authority negotiated a scale of fees which was, with very few exceptions, lower than the scale followed by the Department of Public Works.<sup>21</sup>

2.62 The MSJ Group was the largest "consultant" to the project. The Project Design Directorate which they formed (discussed above) however, was more a special management structure than a "consultancy" in the traditional sense. Mr Starkey, former General Manager of the Authority, described the Design Directorate as:

*"... the design expertise co-ordination arm of the Darling Harbour Authority. Rather than have it by employing your own bureaucracy it was engaged as a private sector organisation."*<sup>22</sup>

2.63 The use of the Employers Federation as industrial relations consultants is considered separately in Chapter 6.

2.64 In evidence submitted to the Committee, Mr A. Spink, Darling Harbour Project Manager for Leighton, stated that the consultants used at Darling Harbour *were professional consulting firms, like architects, engineers, mechanical engineers ....* ,<sup>23</sup> Mr Spink said that even a company the size of Leighton did not have the resources required to undertake the large amount and wide variety of specialist design work. He added that *'we had something like 50 consulting firms that we had contracts with to do various things.'*<sup>24</sup>

20 - Minutes of Evidence, 21 March 1989, page 295

21 Ibid, page 294

22 Minutes of Evidence, 21 June 1989, page 746

23 Minutes of Evidence, 28 April 1989, page 53

24 Ibid, page 54

## Public Accounts Committee

2.65 The Committee notes that the widespread use of consultants by government has been highlighted in the media and commented upon recently by the Auditor-General. The Committee considers it important therefore to emphasise that the extensive use of consultants at Darling Harbour was necessary to provide the specialist services and advice required. Further, the role of the consultants and the terms of engagement were consistent with general practice in the building and construction industry.

### ADVISORY COMMITTEES

2.66 Section 58 of the Darling Harbour Authority Act provided for the Minister to appoint such advisory committees as the Minister considered appropriate to assist the Authority. Four such committees were established:

1. THE QUALITY REVIEW COMMITTEE  
Set up to advise the Authority on the overall quality of design and finish of all elements of the development strategy, both public and private.
2. THE STATE EXHIBITION ADVISORY COMMITTEE  
Set up to advise on the staging of the State's Bicentennial Exhibition - First State 88 - at Darling Harbour in 1988.
3. THE AQUARIUM ADVISORY COMMITTEE  
Set up to advise on a strategy for establishing and operating a National Aquarium.
4. THE WORKS OF ART COMMITTEE  
Set up to advise on the selection of specific works of art at Darling Harbour.

2.67 By far the most active committee and one most important to the overall project was the Quality Review Committee (QRC), chaired by Professor N. Quarry, Head of the School of Architecture, University of Technology, Sydney. In evidence to the Committee, Professor Quarry stated that QRC sought to '*ensure that the quality of the design of the project was kept at what we would regard*

## Report on The Darling Harbour Authority

as the highest levels" <sup>25</sup> Professor Quarry said that his Committee met regularly with the Minister during the major design stage, from 1984 to 1987, and also reviewed draft plans and submitted recommendations to the Board.

2.68 In his evidence, Professor Quarry said that he felt the QRC played a significant role in ensuring high standards of design at Darling Harbour. Mr Laan, the first General Manager, stated that the QRC':.. *performed a very valuable function. I cannot speak highly enough of that Committee. In my time they did an excellent job*" <sup>26</sup> His successor, Mr Pentecost, described the QRC as '*an excellent group of dedicated people who a lot of the private sector have realized are the cheapest consultants in town.*' <sup>27</sup>

*"You submit your design to the Darling Harbour Authority into the Quality Review Committee and you get eminent people to sit down and kick it around and pull it around and make suggestions. You run away and do them because they have generally got very good ideas and they have been very positive ...."* <sup>28</sup>

2.69 The one limitation of the QRC was that it only operated on a part-time basis. Mr Spink, Leighton Project Manager, stated that he would like to have seen the feedback on draft plans "*accelerated somewhat.*" <sup>29</sup> He explained:

*'... they would come back with some comments which would be generally through the DHA to us and that would start the ball rolling again. They would say, 'Well, maybe this has got to be a bit different', and that would go back one or two times ....*

*"That is probably not unduly abnormal, but from my point of view, I would have just liked to have it move a bit quicker in those early days."* <sup>30</sup>

25 Minutes of Evidence, 29 March 1989, page 474

26 Minutes of Evidence, 21 March 1989, page 319

27 Minutes of Evidence, 30 May 1989, page 583

28 Ibid

29 Minutes of Evidence, 28 April 1989, page 526

30 Ibid, page 528

## Public Accounts Committee

### Recommendation 7

**It is recommended on future such projects that provision be made for the setting up of Advisory Committees to provide both specialist and independent advice to a statutory authority and a link between the community and the authority.**

#### ACKNOWLEDGEMENTS

2.70 The Committee considers that it is appropriate to acknowledge the work of all the people who have served on the Darling Harbour Authority Board and contributed so generously their time, expertise and enthusiasm. Members of the Board have received only very modest fees, much less they would be expected to receive in normal commercial circumstances on such a major project.<sup>31</sup> Some members declined any payment. The senior public servants appointed to the Interim Board did not receive any fees for service.

2.71 It is also appropriate to note that in their evidence to the Committee, all General Managers of the Authority during the past five years paid tribute to their staff for their hard work and commitment to the project.

2.72 For example, Mr Laan, the first General Manager, said:

*'I cannot speak highly enough of the people involved with Darling Harbour. I must confess that I went into this with some trepidation I had a cockeyed notion that all public servants were not motivated, were not terribly innovative, and that generally speaking I would have troubles.*

*"The team that I had at Darling Harbour I would take anywhere for any similar project. I am terribly sorry it has been broken up. That group of people were as motivated as any I have ever seen. They were as skilled as any I have ever seen, and probably more so."<sup>32</sup>*

31 The Chairman receives approximately \$20,000 p.a. and other Board Members \$3,500.

32 Minutes of Evidence, 21 March 1989, page 316

## **Report on The Darling Harbour Authority**

2.73 Mr Laan's successor, Mr Pentecost, referred to:

*'... my deep felt gratitude to the... dedicated men and women that supported me in the development of the Darling Harbour project I think that their effort was well beyond that which could be expected reasonably of anybody ,, 33*

33 Minutes of Evidence, 30 May 1989, page 568

### 3. FAST TRACK CONSTRUCTION

#### THE CONCEPT OF FAST TRACK

3.1 *'Fast track'* is a term used in the construction industry to describe a set of procedures which are designed to ensure faster design, documentation, construction and project completion. In fast tracking, generally the client engages consultants to prepare sketch plans and an *outline document* describing:

- \* the form of building;
- \* major materials and construction techniques; and \* major services.

3.2 The outline is submitted for development approval, and is usually sufficient to also gain building approval. Work then begins under a construction management (fee for management services) contract, on the basis of *cost estimates*, whilst further design and detailed specification is undertaken. This may be compared with the traditional process where construction does not commence before a building is fully designed and costed and documentation is complete, and where the drawings, specifications and bill of quantities form part of a contract usually tendered on a lump sum basis.

#### THE DECISION TO FAST TRACK THE DARLING HARBOUR PROJECT

3.3 From the time it first announced the redevelopment of the Darling Harbour area, the Government was committed to completion of the public works by 1988.

The then Premier, The Hon. N. F. Wran, Q.C., M.P. stated in his Second Reading Speech on the New Darling Harbour Authority Bill on 16th May, 1984, that the area was to be "*.. the focal point of the Bicentenary celebrations for New South Wales in 1988....* "

3.4 In his evidence to the Committee, Mr Laan stated that at the time he was asked to consider taking up the foundation post of General Manager of the Darling Harbour Authority, he spoke with the then Minister for Public Works and Ports. Mr Laan recalled that:



## Report on The Darling Harbour Authority

*'... the scope of the project, the nature of the project and the absolute need to be finished by 1988 were brought home to me in no uncertain terms ...*

*"... At the time they approached me, they felt they were 8 to 10 months behind, which was conservative as it turned out to be." 1*

3.5 The volume and complexity of overall planning and building design to be done, the amount of demolition, construction and site services work, and the very tight timeframe for completion of the public works, led to the decision *"fast track"* the project.

3.6 In its submission to the Committee, the Australian Federation of Construction Contractors (AFCC) argued that fastracking at Darling Harbour *'... was the only approach, given the objectives for the project.* Design, documentation and construction had to be overlapped with a view to minimising the total project duration.

### CONSEQUENCES OF FAST TRACKING

3.7 Evidence presented to the Committee indicated that the *"fast tracking"* of the Darling Harbour project had a number of consequences.

### PLANNING AND DEVELOPMENT APPROVALS

3.8 In an attempt to expedite work on the project, certain powers were conferred upon the Authority pertaining to land acquisition, planning and development approval.

3.9 The Darling Harbour Authority was exempted from the provision of a number of regulatory instruments and planning controls, including Parts XI and XII of the Local Government Act 1919 and the Environmental Planning and Assessment Act 1979.

## Public Accounts Committee

- 3.10 From the point of view of the Authority, this made the project *free*", in the words of Mr Pentecost, former General Manager, *'from a lot of extraneous influence which can come into the planning process and slow things down dramatically.*"<sup>2</sup>
- 3.11 In evidence to the Committee, former Chairman Mr Carmichael pointed out that although Darling Harbour was exempt, for example, from Ordinance 70 of the Local Government Act (relating to fire regulations), *as a matter of policy we have always insisted that Ordinance 70 be complied with.*<sup>3</sup>
- 3.12 Concerns were, however, expressed by some people who considered that the Darling Harbour Authority was being set up as *a construction consent authority*; with the Authority cast in the unusual role of being in some sense both developer and approval authority.
- 3.13 There is no doubt that fast tracking resulted in much less opportunity for community consultation and input than many people regard as desirable. Professor Quarry, Head of the School of Architecture, University of Technology, Sydney, and Chairman of the Quality Review Committee, was asked by the Committee what he had learned from Darling Harbour as an architect and *what messages* he would send to a government about such projects in the future. He summed up the situation as follows:

*'I think the most important thing is to let the community know what is happening, and give them an opportunity to be involved in it and respond to it and comment on it "*

*"There was practically no opportunity for that in Darling Harbour because it went so fast Had there been ... it probably would have taken twice as long., 4*

- 3.14 The Committee considers it imperative on projects involving public money and assets (such as land), that there be ample opportunity for the community to make its opinions felt at the planning stage and during any subsequent design work.

2 Minutes of Evidence, 30 May 1989, page 590

3 Minutes of Evidence, 11 November 1988, page 34

4 Minutes of Evidence, 29 March 1989, page 483

## Report on The Darling Harbour Authority

### FORM OF CONTRACTS

- 3.15 The Darling Harbour redevelopment was organised along similar lines to other major fast track projects, whereby a managing contractor was appointed to manage the building process on a fee for service basis. A corollary of this was that much of the early work was not tendered in the form of a lump sum contract. This was not unusual because many contractors are reluctant to take on the risks associated with "lump sum" when documentation (on design, materials and site conditions) is incomplete. The contracts are discussed in Chapter 5.

### URGENCY MANAGEMENT

- 3.16 Fast tracking meant that the project proceeded on the basis of what Professor Quarry rightly described as "urgency management."<sup>5</sup> Mr Laan, the first General Manager of the Authority went further:

*'Fast track projects, to a large extent, survive or get done by crisis management. That is the nature of the beast.'*

*'... Darling Harbour was super fast track It was the fastest fast track project that anyone could ever hope to be involved with.'*<sup>6</sup>

- 3.17 Once the project started, there was very little time, as one person described it, for "quiet contemplation". Critical decisions had to be made very quickly, often with limited information, and the consequences of a faulty decision would be the choice between expensive remedial work or living with an unsatisfactory product.
- 3.18 The Committee considers that the speed with which the Authority moved to effectively get the project underway was quite remarkable. For example, in the 40 working days after Mr Laan took up his appointment on 29th October, 1984, the following was achieved:

- \* Public Works Department interim management group demobilised.
- \* Full-time supervision of site works installed.

<sup>5</sup> Ibid, page 467

<sup>6</sup> Minutes of Evidence, 21 March 1989, page 273

## Public Accounts Committee

- \* Consultants engaged to prepare draft development strategy and gain approval of both Government and Authority.
- \* Modus operandi prepared for execution of project and the following appointments executed:
  - Legal Advisors
  - Managing Contractor
  - Quality Review Committee
  - Project Design Directorate
  - Public Relations Consultants for launch of the development strategy
- \* Formal launch of the draft development strategy including all accompanying documentation.
- \* Outline of proposed organisation of Authority for review by Authority members.
- \* Approved design and award of contracts for substantial portion of the permanent accommodation for the Authority.
- \* Formal interfaces with other relevant public authorities established.
- \* Award of supply contract for urgently required materials to Stormwater Augmentation Project.
- \* Review recommendation by Managing Contractor and subsequent award of Phase II demolition contract based on parameters designed to have the work completed within the Authority's time requirements and with minimum industrial unrest.

### FLUIDITY OF THE PROJECT

- 3.24 At the time the project got under way, the Government had only a very general image in mind, some might say "Vision", of the overall redevelopment of the area. Reference is made elsewhere in the Report to what became known as the "tracing paper sketch"-a conceptual plan, literally a drawing on tracing paper, showing the various elements of the project, marked with the word "approved" and signed in 1984 by the then Premier, Minister Brereton and others (see Appendix 9). Mr Laan recounted to the Committee that the Authority started out on the basis of a pre-plan developed by a small team from the Department of Public Works and:

*"We said, 'Let's run with that, develop it and see how it works'. One by one [the various elements] dropped out,*

## Report on The Darling Harbour Authority

*or changed, and we put other things in their places. It was a constantly shifting target."*<sup>7</sup>

- 3.25 It may be argued, on the one hand, that the constant "changes", or rather the "fluidity" of the project, led to increased costs. On the other hand, as discussed in Chapter 4, the original figures were indicative estimates only and the final product cannot reasonably be compared with the initial tracing paper plan.

### EFFECT ON COSTS OF THE PROJECT

- 3.26 The Committee was presented with different views on the economics of fast tracking.

- 3.27 Mr Carmichael, a former Chairman of the Authority, stated the "conventional" view is that comprehensive planning prior to construction "ought" to save money. On the Darling Harbour project, he said:

*"I think the answer is it would have saved money ... it wouldn't have saved 10 per cent of the cost or anything like that. It might have saved 1 or 2 per cent of the cost through a better planned approach."*<sup>8</sup>

- 3.28 The Committee notes that a 1 or 2 per cent saving on the forecast total public sector expenditure at Darling Harbour would equal \$10.9M or \$21.8M respectively.

- 3.29 Mr Carmichael told the Committee that he thought with more pre-planning "you would have finished up with a better estimate ... and in turn "... if we had a more precise budget then government could have decided that was what they wanted to spend"<sup>9</sup>

- 3.30 One of the consequences of fast tracking is that where foundation work is begun prior to full documentation, additional work may be required later depending on

<sup>7</sup> Minutes of Evidence, 21 March 1989, page 274

<sup>8</sup> Minutes of Evidence, 21 June 1989, page 704

<sup>9</sup> Ibid

## Public, Accounts Committee

the final building design. The AFCC Director, Mr Sexton, advised the Committee that this did occur at Darling Harbour, although *that's nothing new* on fast track projects. He added that in this early work at Darling Harbour, the aim, quite rightly, *'was to err on the conservative side.'*<sup>10</sup>

3.31 In a submission to the Committee, the AFCC argued overall that although additional costs may be incurred when elements are designed without full knowledge of the completed structure, these costs are offset by savings in holding and escalation costs for the duration of the project.

3.32 In evidence to the Committee, Mr Jones, Managing Director of Baulderstone Hornibrook, argued that:

*'Normally if you are developing a job, the best solution is to overlap design and construction because that is the shortest time it will take to deliver the facility.'*<sup>11</sup>

3.33 Mr Jones noted, in addition, that this will result in lower financial costs.

3.34 The Committee found that the Darling Harbour Authority was aware of the financial consequences of its decision to fast track the project and the pressure this placed on the Authority and the Managing Contractor.

3.35 The Auditor-General commented in his Report to Parliament that the costs of fast tracking the Darling Harbour redevelopment:

*'... may have been greater than those actually incurred had it not been for the constant supervision, control and management procedures adopted by the Authority.'*<sup>12</sup>

3.36 The "costs" of fast tracking, which are impossible to quantify on the Darling Harbour project, must be weighed up against what it would have cost had construction been delayed until completion of all planning and design.

10 Minutes of Evidence, 9 March 1989, page 197

11 Minutes of Evidence, 29 March 1989, page 429

12 Auditor-General's Report for 1988, vol 2, page 14

## Report on The Darling Harbour Authority

3.37 In a submission to the Committee, the Darling Harbour Authority stated that in 1985 construction costs in the Central Business District rose by more than 27% and this trend continued. Professor Quarry, Professor of Architecture at the University of Technology, Sydney, commented in his evidence to the Committee:

*The axiom in building is that whatever you want to build cheaper you are going to have to build now. There will never be a cheaper rate for building than now.*<sup>13</sup>

3.38 The Committee was also advised that because of the high cost of finance and the considerable fixed costs on a construction site, "the faster you build something the better."

3.39 If either the start of construction at Darling Harbour been delayed or construction had taken place over a longer period, there would have been a considerable incremental cost impact.

### MEETING THE DEADLINE

3.40 The final, and in many ways the most obvious, result of fast tracking the redevelopment at Darling Harbour was the completion by 1988 of many of the government funded elements of the project.

3.41 In evidence presented to the Committee, Mr Laan said that the project was "very fast. An awful lot got done in an awfully short space of time. He added:

*Perhaps this is a little crowing on my part, but I think the biggest time saving and the biggest time pick up was during my tenure when we made the greatest time saving and gave it the opportunity to be finished on time."*<sup>14</sup>

3.42 In order to meet the deadline, the Authority had to significantly overlap the design and construction processes. Evidence presented to the Committee indicated that many of the delays which occurred on the project and the increased costs did not arise directly from fast tracking the early phases of the

13 Minutes of Evidence 29 March 1989, page 499

14 Minutes of Evidence, 21 March 1989, page 306

## Public Accounts Committee

project'S; they related more to industrial relations and other issues.

3.43 Mr Spink, the Project Manager for Leighton, argued that:.. *people underestimate ...*" what was achieved at Darling Harbour given that the project began with only a very general conceptual plan, and there had been very limited pre-planning prior to construction commencing concurrent with detailed design and approval.  
16

3.44 When asked by the Committee whether the Authority needed more time for pre-planning, Mr Pentecost, a former General Manager of the Authority, offered this considered perspective:

*'... everybody needs more time ...'*

*"... if you are fast tracking there comes a stage when you have got enough down on paper to commence construction ... There is no exact day or week when you know you should start, there is some sort of range of time when it would be the right time to start. Darling Harbour started at the hard end of that, at the very beginning. But I do not believe that had we had an extra three months there would have been a real significant difference at the end of the day.<sup>17</sup>*

3.45 Notwithstanding the pressure which it placed on those managing the project and the unknown but probably marginal cost implications, the Committee considers that fast-tracking was the only way of approaching the task of completing the major public works at Darling Harbour, as envisaged in late 1984, in time for the Bicentenary celebrations.

Minutes of Evidence, 11 November 1988, page 40

16 Minutes of Evidence, 28 April 1989, page 531

17 Minutes of Evidence, 30 May 1989, page 591



## Report on The Darling Harbour Authority

### CONCLUDING NOTE

- 3.46 Whilst the Committee acknowledges there may be situations which demand fast tracking of a publicly funded construction project and that the rewards of fast tracking are potentially significant, the extra "r/s/cs" involved, the *fluidity* of initial costings, the imperative for timely completion of design information and tight control and the special demands on management must also be recognised. It is important to undertake a cost-benefit analysis of the appropriateness of fast tracking a particular project.
- 3.47 Fast track projects, such as Darling Harbour, clearly require a greater degree of management and co-ordination skills and also a greater degree of *give and take* and higher tolerance for ambiguity than is the case with other more traditional approaches in the construction field.

#### Recommendation 8

It is recommended that a cost-benefit analysis of each government construction project be undertaken to ensure **that the most cost-effective procedure** for design and construction is adopted.

#### Recommendation 9

**It is recommended, should fast tracking be undertaken by government, that professional advisers, particularly in the programming and cost planning fields, be employed to ensure that control of the project is retained.**

#### Recommendation 10

It is recommended for future projects that as much pre-planning, design work and costing of the project as possible be done prior to construction.

## Public Accounts Committee

### 4. COSTS AND COST OVERRUNS

#### INTRODUCTION

4.1 Much of the publicity and controversy surrounding Darling Harbour has been related to claims about the costs of the project, specifically:

- \* what exactly the project was costing;
- \* whose figures were to be "believed";
- \* apparent cost increases; and
  - \* the final cost.

4.2 Questions were also raised during 1984-88, especially by the then Opposition, about government priorities and whether the money spent on redeveloping Darling Harbour would have been better spent on health care, education and law and order.

4.3 In attempting to ascertain the "true cost" of redeveloping Darling Harbour and the extent of cost "overruns", the Committee was faced with a myriad of figures from different sources, including: the Darling Harbour Authority, Ministerial statements, Auditor-General's reports, Treasury, media reports and witnesses who appeared before the Committee.

4.4 The Committee's analysis often disclosed very little congruence in the way "costs" were defined and measured. Invalid comparisons were frequently drawn between initial estimates and ultimate costs, ignoring the very nature of indicative estimates and changes in project specification and the design of individual elements.

4.5 The Committee considers that the Auditor-General's Report for ~~1988~~ presents the best analysis to date of the cost of redeveloping Darling Harbour. The Committee sought, wherever possible, to update the figures which the Auditor-General reported for the year ended 30th June 1988. The Committee has not been able to get all the information in the required form from the Darling Harbour Authority. This is due, in part, to a loss of "corporate memory" with the departure of several senior officers in the Authority and changes in the form of

## Report on The Darling Harbour Authority

records kept by the Authority and by the Managing Contractor:

- 4.6 This Chapter reports the best estimates available on the total cost of the construction, concentrating primarily on public rather than private sector investment; looks at the "extra" construction costs and the factors which contributed to the so-called "cost overruns"; and comments on cost management by the Darling Harbour Authority. The Committee considers that it is also appropriate to acknowledge the social and economic benefits of the redevelopment and this point is made in the final part of the chapter.

### ESTIMATES, GUESTIMATES AND PRONOUNCEMENTS

- 4.7 Much of the media, political and general public interest in the cost of the Darling Harbour has been based on a perception of mounting costs and of public expenditure well above the figures originally mooted.

- 4.8 In announcing the plans for Darling Harbour in Parliament on 16th May, 1984 the then Premier, The Hon. N.F. Wran, Q.C., M.P., referred to the "*major features of the new development, estimated to cost approximately 200 million in today's dollars.*"

- 4.9 Despite the Premier's qualifters, namely that it was an *estimate in today's dollars*, \$200M is the figure people tended to remember. The finer detail, including the fact that in May 1984 there was only a very broad outline, a conceptual "*plan*" of the redevelopment, was also lost as each subsequent estimate or report of expenditure increased and was compared unfavourably with the figure of \$200M.

- 4.10 Early press reports certainly gave widespread publicity to the figure of \$200M, which although it was not made clear by the Premier in May 1984 presumably referred only to public sector expenditure.

- 4.11 In 1985 the figure of \$1 billion became standard, representing both public and private sector investment:

\* "*Expenditure, which is a combination of both private and public monies is expected to total more than \$1,000 million*"

## Public Accounts Committee

### *Financial Review '7.2.85*

- \* *"Four hundred million dollars poured in by 1988. Eventually, well into the 1990s, \$1000 million spent." Daily Telegraph 9.8.85*
- \* *"Mr Brereton said yesterday detailed developments worth about \$430 million, to be completed by 1988, would form the first phase of the redevelopment.*

*The State Government's contribution would cost \$350 million over the next three years.*

*The government estimated the total cost would be about \$1 billion." Sydney Morning Herald 9.8.85*

- \* *"∴ plans for Sydney's \$1-billion bicentennial site in Darling Harbor." The Bulletin 20.8.85*
- \* *"∴ part of the \$1 billion Darling Harbor Redevelopment project." Daily Telegraph 20.11.85*

- 4.12 Figures reported thereafter, most of which referred only to government expenditure at Darling Harbour, continued to highlight the apparently rising cost of the overall project and of the high profile elements, such as the Convention Centre and Exhibition Centre. By late 1987, government estimates put the cost at well over \$500M, with the cost of the Exhibition and Convention Centres alone said to be approaching almost \$200 million.
- 4.13 In a submission to the Committee, the Darling Harbour Authority rightly argued, in the Committee's view, that *"much of the financial information reported by the media was incorrect and led to discussions which were poorly reasoned and emotive."* The Authority added that attempts by its representatives to explain the *'factual situation ... were not always successful.'*
- 4.14 The Committee considers it must be said that the Authority failed to protect its own interests by not taking the action required to deal with the spread of inaccurate or misleading financial information.
- 4.15 The Committee is especially critical of the very bland and purely descriptive annual reports presented to Parliament in the period 1984-1988. They do not provide a serious and balanced analysis of the performance of the Authority. Moreover, the Authority did not take the opportunity such reports provide to

## Report on The Darling Harbour Authority

reveal or comment upon the many problems it was facing or to explain the "factual situation" and present progressive totals of "costs", "rebuff" claims of "massive cost overruns" or forecast total expenditure.

### Recommendation 11

It is recommended for future such projects that the authority **responsible disclose** from time to time readily understandable summaries that **show actual and forecast** total expenditure against the appropriate budget

### Recommendation 12

It is recommended that for future such projects **the annual** report of the **responsible** authority **contain not only financial statements as prescribed in legislation and** regulations but **also a clear, readily understandable overview of the authority's performance** ~~in~~ keeping the project within the budget.

- 4.16 It was the Auditor-General in his 1988 Report who offered the first comprehensive analysis of cost and who emphasised, quite rightly in the Committee's view, the importance of comparing *like with like*, distinguishing between public and private sector expenditure, allowing for escalation, talking in equivalent dollar terms and understanding the nature of the original Capital Works Committee budget.

## PUBLIC SECTOR AND PRIVATE SECTOR INVESTMENT AT DARLING HARBOUR

- 4.17 It is important to recognise that Darling Harbour comprises a mixture of private and public sector developments.

## PRIVATE SECTOR INVESTMENT

Public Accounts Committee

- 4.19 It is difficult to define the value of private sector investment in the Darling Harbour area. Development plans and the parties involved often change and much of the information is commercially sensitive and is therefore not made public.
- 4.20 The Darling Harbour Authority estimated the value at 30th June, 1989 of private sector development completed was \$223M with an additional \$1940M committed/in progress.
- 4.21 Details of the private sector's investment at Darling Harbour based on estimates provided by the Darling Harbour Authority are provided in Table 4.1.

TABLE 4.1  
PRIVATE SECTOR DEVELOPMENTS

<u>Description</u>	<u>\$m</u>
<b>Completed:</b>	
Harbourside Festival Market Place	110
Sydney Aquarium	25
Monorail	65
Pumphouse Tavern/Brewery	7
Southern Carpark	16
	223
<b>Committed/InProgress</b>	
Northern/Southern Hotel	250
	200
Corn Exchange Hotel	
Studio City (Paddys Market)	300
Darling Walk/Discovery Village	150
Eastern Promenade/Darling Park	1000
Dixon Street Triangle (Gardenside)	40
	1940

Source: Darling Harbour Authority, December 1989

## Report on The Darling Harbour Authority

### PUBLIC SECTOR INVESTMENT

4.22 The total value of public sector involvement in redeveloping Darling Harbour to 30th June, 1989 of \$1093M comprised:

**1. Land Acquired Free of Repayment Obligation**

Under Section 12 of the Darling Harbour Authority Act, 1984 lands and buildings previously owned by other government departments and authorities was vested in the Authority. No compensation was paid. The Valuer-General's valuation as at the date of vestment was \$163M.

**2. Works undertaken and funded by other government bodies**

Certain works associated with Darling Harbour have been undertaken by State Government bodies other than the Darling Harbour Authority. The value of such work undertaken by the State Rail Authority, Sydney County Council and Department of Main Roads is estimated to be approximately \$12M.

**3. Associated works (funded by other government bodies) carried out by the Darling Harbour Authority.**

Work undertaken by the Darling Harbour Authority on behalf of other State Government bodies and the Commonwealth Government to 30th June, 1989 was valued at approximately \$72M, including direct construction costs and indirect costs. This figure does not include costs associated with staging the First State '88 Exhibition.

**4. Capital Works Expenditure**

Forecast total capital works expenditure by the Darling Harbour Authority as at 30th June, 1989 was approximately \$718M.

**5. Debt Servicing Costs**

Debt servicing costs to 30th June, 1989 less interest earned from the investment of short-term surplus capital funds was \$110M.

Public Accounts Committee

**6. Capitalised costs - other**

The value of other capitalised costs to 30th June, 1989 was \$18M.

TOTAL COST

4.18 The total cost of private and public sector development of Darling Harbour to 30th June, 1989 excluding contingent liabilities and operating costs (charged against revenue) is estimated to be approximately \$3,256,000,000 (see Table 4.2).  
This figure comprises:

- \* Private Sector Investment - \$2,163,000,000
- \* Public Sector Investment - \$1,093,000,000



## Report on The Darling Harbour Authority

TABLE 4.2

### TOTAL COST OF THE DARLING HARBOUR REDEVELOPMENT

(Private and Public Sectors)

		\$M	\$M
1.	Private Sector Developments		
	1.1 Completed	223	
	1.2 Committed	1940	
	1.3 Future		2163
2.	Public Sector Developments		
	2.1 Land Acquired from Other Government Bodies Free of Repayment Obligation		163
	2.2 Darling Harbour Authority Forecast Total Construction Costs (a)	718	
	Associated Works (Funded by Other Government Bodies) (b)	72	
	Debt Servicing Costs Actually Paid to 30.6.89 (Net) (c)	110	
	Capitalised costs - other	18	918
	2.3 Works Undertaken and Funded by Other Government Bodies		12
	Total(d)		3,256

SOURCE: Darling Harbour Authority, December 1989. Figures requested in a form comparable to Table 1 in the Auditor-General's 1988 Report, vol. 2, p. 19.

**Key**

- a) Excludes the cost of staging the First State '88 Exhibition.
- b) Includes \$30m for National Maritime Museum funded by Commonwealth Government.
- c) Net of interest earned from the investment of short-term surplus capital funds.
- d) Excludes contingent liabilities which existed as at 30 June 1988...

Excludes operational costs which are charged against revenue...

## Public Accounts Committee

### PUBLIC SECTOR EXPENDITURE: THE QUESTION OF "COST OVERRUNS"

- 4.23 *"The cost" of redeveloping Darling Harbour has frequently been compared with figures "floated" in 1984 and subsequent estimates and the original Capital Works Committee Budget (January 1985) in such a way as to give the impression of "massive" cost overruns and 'budget blowouts.' The conclusions drawn have often been based on a genuine lack of understanding of the different figures. On some other occasions, however, figures were used for the purposes of exaggeration or to mask uncertainty about the "costs" of the project.*
- 4.24 Table 4.3, adapted from the Auditor-General's Report and updated from information supplied by the Darling Harbour Authority in December 1989, clearly sets out the precise basis of comparison across the various project components, at various points in the budget and expenditure cycle ( See also Appendix 10).

## Report on The Darling Harbour Authority

TABLE 4.3  
CAPITAL WORKS - PUBLIC SECTOR ELEMENTS

	Capital Works Committee Budget (Jan 85 \$)	Escalated Capital Budget (End Cost \$M) March 1988	Forecast Total Project Expenditure Sept 1989	Forecast Total Project Expenditure
Site Services	32.144	39.703	43.000	45.100
Exhibition Centre	66.140	103.360	123.000	125.700
Convention Centre	54.640	97.307	154.000	183.500
Parks & Gardens	20.740	31.518	35.000	41.600
Foreshore Promenade	19.170	30.576	29.500	29.500
Other DHA	71.700	110.740	111.500	131.850
Recovery of Construction Construction	Incl 264.534	Incl 413.204	Incl 496.000	(40.000)
	517.250			
Indirect project Costs	63.900	79.805	75.900	
	93.400			
Recovery of Indirect Cost	(7.240)			
Land Acquisition	39.660	49.788	50.600	
	500.600			
Orig. Cap. Budget Items	368.094	542.797	622.500	654.010
DHA Admin (Const. Phase)		12.735	13.400	13.300
Casino Site		10.000	12.810	12.810
	369.094	565.532	648.710	680.120
First State 88 Exhib.		20.000	22.000	22.000
	368.094	585.532	670.710	702.120
Unrecouped Works:				
Casino			4.000	4.000
Urban Transit Authority			1.250	1.250
Nat. Maritime Museum			10.000	54.600
Rec. of Museum Cost			Incl	(31.000)
			685.960	731.870
Annual Provisions			9.000	1.600
Claims against DHA/Contingency General			Excl	7.800
			694.950	741.270

Notes included in March 1988 Forecast:

- A. Assumes full recovery of the costs of M.W.S.&D.B. and SCC works.
- R- Does not cover interest (debt servicing) subsidy or the operations shortfall which is to be met from recurrent funding.
- C. Does not include new borrowings required as a conversion program to rollover maturing principal on existing loans.

Notes on the September 1989 Forecast:

- A. Nett increase on March 1988 is \$46.320m
- B. DHA Administration Construction Phase includes cost of DHA Site Integration
- C. Annual Provisions now includes only increased cost of First State 88 Exhibition notified in June 1988

Source: Darling Harbour Authority, December 1989.

Public Accounts Committee

ORIGINAL CAPITAL BUDGET ITEMS                      FORECAST TOTAL EXPENDITURE  
COMPARED WITH THE ORIGINAL BUDGET

- 4.25        The Committee concurs with the view expressed by the Darling Harbour Authority in a submission to the Inquiry that the issue of "cost overruns" concerns the difference between the forecast end cost for all original items and the appropriately escalated Capital Works Budget. The Committee notes that the Auditor-General adopted the same view in his analysis of the situation as at June 1988.
- 4.26        In attempting to draw a valid comparison between the original budget for the public sector investment and forecast total expenditure at 30th June, 1989 (see Table 4.3), the Committee noted:
- \*            the Capital Works Committee Budget, prepared in January 1985 and expressed in January 1985 dollar terms was \$368.1M;
  - \*            the Budget expressed in end cost dollar terms (\$ March 1988) is \$542.8M;
  - \*            forecast total expenditure for completion of the original capital budget items is \$654M.
- 4.27        Forecast total expenditure on the original capital works budget items therefore exceeds the current Capital Works Committee budget (\$ end cost) by \$111.213M or 20.49%.
- 4.28        This represents a worsening of the position since June 1988, when the forecast end cost at that stage of \$623M exceeded the appropriately escalated Capital Works Budget by only 14.7%, and indeed since May 1989 when in a submission to the Committee the Authority anticipated effectively an "overrun" on the original budget items of around 15% (forecast end cost - \$630.7M).
- 4.29                      The Authority had argued in an earlier report to the Minister for Local Government and Minister for Planning, that "*Many government and private enterprise projects do exceed budget, sometimes by amounts much larger than 15%*"

## Report on The Darling Harbour Authority

The Authority did acknowledge that whilst the percentage overrun was not excessive in comparative terms, the absolute magnitude of the increase in project cost *'... is a cause for considerable concern....'*

- 4.30 Further, the Authority argued, there were so many unknowns and so many subsequent changes in the scope and design of the project that:

*'It must be said that for the project built, the 1985 budget was wrong. Having regard to the information available when it was prepared, it is perhaps surprising that the difference is only 15%.'*

### ITEMS NOT INCLUDED IN THE ORIGINAL BUDGET

- 4.31 Forecast total project expenditure also includes the cost of items ~~not~~ included in the original budget. These are:

	\$'000
DHA Admin (Construction Phase)	13.300
Casino Site	12.810
First State Exhibition	20.000
Unrecouped Works	
Casino	4.000
Urban Transit Authority	1.250
Nat. Maritime Museum	54.600
Recovery of Museum Cost	(30.100)
Annual Provisions	1.600
Claims against DHA/Contingency General	7.800
	87.250

- 4.32 The two major additional items are costs associated with staging the First State '88 Exhibition and the National Maritime Museum. Both matters are discussed elsewhere in the Report.

Public Accounts Committee

EVIDENCE ON COST FACTORS

- 4.33 The Committee has identified a number of major sources of increased costs on the Darling Harbour project outside straight market escalation in the Building Industry.
- 4.34 The Committee notes that the Auditor-General attributed \$73.1M of additional construction costs at June 1988 to seven major factors, as set out in Table 4.4.

Public Accounts Committee

TABLE 4.4

ADDITIONAL COSTS OF CONSTRUCTION TO 30 JUNE 1988 Auditor-General's Report,  
September 1988

		\$M	\$M
1.	Redundancy/Attendance Package		2.5
2.	Building Industry Holidays - "Disability Allowance"		2.5
3.	Public Access		10.0
4.	Ground Conditions		3.0
5.	Non-development of Site - "Discovery Village"		1.0
6.	Industrial Disputes		
	6.1 Exhibition Centre	1.0	
	6.2 Union Official Dispute	0.5	
	6.3 Electrical Trades Union Dispute	<u>2.0</u>	3.5
7.	Costs Incurred through Increased Construction Time (industrial disputes) and Design Modifications		
	7.1 Exhibition Centre		
	7.1.1 Delays in Construction	12.1	
	7.1.2 Design Modifications	<u>8.0</u>	20.1
	7.2 Convention Centre		
	7.2.1 Delays in Construction	16.0	
	7.2.2 Design Modifications - Link Building (a)	<u>14.5</u>	<u>30.5</u>
	TOTAL		73.1

Key

- a) Excludes the additional costs associated with a significant change in shape and complexity resulting in an overall increase in area of 23%. These additional costs have not been quantified.

4.35 The Darling Harbour Authority advised the Committee that "precise figures under the headings" contained in this Table to June 1989 "are not available."

## Public Accounts Committee

- 4.36 The Committee's analysis draws in part on the Auditor-General's Special Project Audit but presents further evidence below.

### CHANGES IN SCOPE AND DESIGN OF PROJECT

- 4.37 The scope, composition and complexity of the redevelopment was ~~sub~~ subject to frequent and significant changes. Individual elements were repositioned within the area. Design development from original concept to completion necessitated addressing design issues that had not originally been contemplated and was influenced by latent site conditions, government policy and representations from end users. Foundation works, materials, construction techniques, fittings and schedules for completion were all affected. Examples of major changes are noted below.

#### 1. Convention Centre

The original Capital Works budget for the Convention Centre was based on a rectangular building covering an area of 26,000 square metres. The final design provided for a semi-circular building covering an area of 32,000 square metres - an increase of some 23% in area. Following advice from potential end users of the facilities the final design incorporated the following additional features:

- \* 1,500 square metres of exhibition space
- \* six meeting rooms
- \* change rooms and waiting rooms to upgrade
  - the auditorium to theatre standard
  - \* increased circulation space.

#### 2. Exhibition Centre

The 1985 budget for the Exhibition Centre, which it must be emphasised had not been designed at that time, was based on standard area costing for a building with an estimated gross floor space of 28,000. The Authority opted for a more complex single span, column free building. Such a design is of considerable advantage now the building is operational but presented technical problems during



## Report on The Darling Harbour Authority

construction.

The final gross floor area of this building turned out to be 84,000 square metres and a 1,000 space carpark was added.<sup>1</sup>

### 3. **Link Building**

The original budget papers submitted to the Capital Works Committee did not include provision for necessary kitchen services and backup facilities for the Exhibition Centre and Convention Centre. Such facilities were added and costed to the Convention Centre.

### 4. **Pymont Bridge**

The original budget for the restoration and refurbishment of Pymont Bridge was set without the benefit of detailed examination of timber quality and load carrying capacity.

The bridge was more than 80 years old and had not been maintained since the Department of Main Roads stopped using it in 1980-81. The Committee was informed that prior to the awarding of the restoration contract, consultants advised that approximately 10% of load bearing timbers would need replacement. As the restoration project progressed, additional structural timbers began to fail. By the time the restoration was complete, some 25% of the timber had been replaced as well as significant additional support across full truss lengths.

4.38 New items or planning changes often, in turn, affected other elements of the project. For example, the original design of the Eastern Promenade was modified as a result of the decision to interlink the Promenade with the proposed Hotel/Casino Complex. The Managing Contractor estimated the additional costs of these works amounted to some \$3.1M. In his evidence to the Committee, MrSpink, Leighton's Project Manager, noted cases where the public infrastructure attracted subsequent private development and introduced new demands. He explained, for example, that:

<sup>1</sup> Submission from the Darling Harbour Authority, 31 May 1989, Page 5

## Public Accounts Committee

*"Something like the monorail was put into the job after eight or nine months, the mute decided, and of course that took a lot of detailed integration into our design at that time, and construction."*<sup>2</sup>

- 4.39 Further expenditure has been incurred on several items not included in the original budget, such as acquisition and development of the casino site and work on the National Maritime Museum over and above that financed by the Commonwealth Government.

### PUBLIC ACCESS

- 4.40 The Darling Harbour area was opened to the public in January 1988 prior to completion of major site services and construction work. This had a significant cost impact on the project through the creation of many more construction zones than had been provided for in the estimates, with consequent control and safety problems and direct and indirect disruption of work.

- 4.41 In his evidence to the Committee, Mr Jones, the Managing Director of Baulderstone Hornibrook, Principal Contractor on the Convention Centre, described the interference with work as *fundamental*, adding:

*"If you cannot make a noise" whilst a convention or other gathering is being held, "there is not much building work you can do."*<sup>3</sup>

- 4.42 Mr Spink, Leighton's Project Manager, told the Committee that.. *it certainly cost more money ... to work in a functioning building* saying that:

*"We put a submission in to the Authority [on this point]... and I believe it was something to the order of \$5M over the whole period of extended time."*<sup>4</sup>

<sup>2</sup> Minutes of Evidence, 28 April 1989, page 532 <sup>3</sup> Minutes of Evidence, 29 March 1989, page 410 <sup>4</sup> Minutes of Evidence, 28 April 1989, page 561

## Report on The Darling Harbour Authority

### INDUSTRIAL SETTLEMENTS

- 4.43 Industrial settlements refer to a number of special payments made to workers:
- \* on several occasions employees were paid during industrial disputes;
  - \* a redundancy package was negotiated as the project drew to a close, in line with general trends in the building industry;
  - \* to accelerate work to meet the Government's request to open the area to the public on 16th January 1988, the Authority paid a "disability allowance" in return for employees forfeiting the traditional period of annual leave in the building industry (mid December to mid January) and working twelve straight weeks with breaks only for public holidays;
  - \* a small number of workers were required day and night to protect the Convention Centre from a major ingress of water in May 1988. Special pay arrangements were necessary to compensate for work carried out in storm conditions.

### GROUND CONDITIONS

- 4.44 Latent ground conditions across many areas of the site requiring special fill or the redesign of structures together with delays to the program caused by these unforeseen circumstances added to costs.
- 4.45 In a memo to the Darling Harbour Authority on 25th March, 1988, Leighton noted that many of the problems reflected the historical fact that Darling Harbour had been used as a dumping ground for fill over a period of time and also that the Service Authority's historical records were generally inadequate.

### CONCERN WITH QUALITY

- 4.46 The Committee was advised that a "*concern with quality*" in design and construction was uppermost in the minds of the Darling Harbour Authority. In his evidence to the Committee, the Chairman of the influential Quality Review

## Public Accounts Committee

Committee (QRC), Professor Quarry, stated that the brief of the QRC was not to make *'Judgements in terms of economics'* - that was the role of the Board. Rather, the QRC was to judge and advise on *'... what is going to look best and perform best ... Against the standards of what we know operated best in the world.'*<sup>5</sup>

4.47 Professor Quarry told the Committee that, in his view, when the Darling Harbour Authority had to choose between quality and cost; *.. they would go for quality.'*<sup>6</sup> Professor Quarry supported this emphasis on quality because, he said, *..in the long-term that is cost effective.'*<sup>7</sup>

4.48 When asked by the Committee whether it was *'myth or fact'* that the publicly funded elements of Darling Harbour are *'more robust and more expensive in design than, say a normal commercial project would be'* Mr Sexton, Director of AFCC, commented:

*'...yes, there is a difference, a very clear difference. When you put in a public sector element of a project like that, it is put with a clear permanence. In other words. the Convention Centre and the Exhibition Centre, just taking two structures as an example, are being put there not just for a life of 50 years, or 60, 70 years, they are being put there as a public building for a long term future.'*

*"On the other hand, if you look at the Harbour Festival Markets that are at Darling Harbour, the quality of the construction in that compared with the quality of construction in the public buildings is quite different, and you will see that in the finished and in the basic structure itself, and that is, I guess, because the Festival Markets are a private enterprise construction that has been built to a design package and a budget that is going to make it commercially viable to be run as a market, and given, I don't know, 15 years or 20 years down the track from now, you will probably find that that Festival Market building there will be demolished, and there will be a developer again, who will put up a new structure on that site."*<sup>8</sup>

5 Minutes of Evidence, 28 March 1989, page 477

6 Ibid, page 509

7 Ibid

8 Minutes of Evidence, 9 March 1989, pages 200-201

Report on The Darling Harbour Authority

DELAYS AND INCREASED TIME FOR CONSTRUCTION

- 4.49 Delays are very costly in building and construction work. The Darling Harbour project was no exception.
- 4.50 Cost per day of construction is a direct result of:
- \* the number of employees on site; and
  - \* shedding, establishment costs, scaffolding and holding financing charges (known as "fixed costs").
- 4.51 The Managing Contractor assessed the standing costs at Darling Harbour, with the peak workforce running at 3,000 workers, as follows:
- \* Cost per week where workers' wages are payable and fixed costs are being met - \$5.9M
  - \* Cost per week for fixed costs only - \$2.7M.<sup>9</sup>
- 4.52 As the Auditor-General noted, these figures do not take into account any profits or overheads of the individual contractors or financing and material costs associated with construction. Rather they represent the actual costs that are applicable where work is delayed, disrupted or undertaken inefficiently for whatever reason on the site.<sup>10</sup> Standing costs on the Convention Centre alone were as high as \$1.5M per week.
- 4.53 At Darling Harbour, delay, which is a "second order cost factor," was the product of a variety of situations discussed above, such as design changes and working in an area opened to the public, and many others factors, including time lost due to:
- \* weather conditions;

<sup>9</sup> LC/DHA/M.F60-0021, 25 March 1988

<sup>10</sup> Auditor General's Report for 1988, vol. 2, page 29

Public Accounts Committee

- \* industrial disputes - selective bans, official or unofficial "go-slows", strikes;
- \* stoppages whilst safety issues were resolved; and
- \* material supply problems - e.g. shortages or industry shutdowns (such as in the concrete industry in November 1987), and general delays in the delivery of special material from China for the Chinese Gardens.

4.54 In evidence before the Committee, the AFCC estimated that 37% of available manhours were lost at Darling Harbour, attributable to:

- \* inclement weather - 16%;
- \* "straight industrial relations" - 8%; and
- \* matters related to the Occupational, Health and Safety Act - 13%<sup>11</sup>

IRREGULAR COST FACTORS

4.55 In Appendix 11, the Committee considers the "Fact or Fiction" of a variety of work practices which could have had an impact on costs at Darling Harbour. In view of its resources and Terms of Reference, and the impressionistic nature of the information, the Committee did not investigate individual incidents or allegations. The Committee simply places on public record the information which it received.

THE "COMPOUND EFFECT"

4.56 The Convention Centre provides just one illustration of significant cost increases which arise from a combination of circumstances.

4.57 Work on the Convention Centre was wracked by high levels of industrial disputation, much of which was attributed to the way the Occupational Health and Safety Act was interpreted (as discussed in Chapter 6). Productivity was affected and construction delayed. Work had to be undertaken out of sequence.

11 Minutes of Evidence, 9 March 1989, page 212

## Report on The Darling Harbour Authority

- 4.58 There were significant increases in the workforce to attempt to accelerate construction and recover lost time and additional project management was required. The Auditor-General reported in September 1988 that the estimated cost of additional labour and management was \$4M and delays through industrial disputes \$12M.
- 4.59 In addition, extensive design modifications were made to the building further affecting construction and materials costs. The host of *unforeseen difficulties* and the Government deadline for completion led to conversion of the original contract and arguably greater cost to the Authority (see Chapter 5).
- 4.60 Due to forward bookings and the official visit by Her Majesty the Queen in May 1988, the building was opened prior to completion resulting in significant disruption to construction and to advance bookings as completion was further delayed.
- 4.61 In addition, abnormally inclement weather between November 1988 and July 1989, (particularly May to July 1989) substantially delayed work on the Centre.
- 4.62 The original anticipated completion date for the Centre was January 1988. The Committee has been advised by the Authority that the completion date is September 1990.<sup>12</sup>
- 4.63 As a result of all this, the cost of the Convention Centre has substantially increased. The original January 1985 budget for the Convention Centre was \$54.6M. The escalated budget is \$97.3M, which if adjusted in proportion to the 23% increase in the size of the building is in the order of \$12M. According to the Darling Harbour Authority, the total cost at 30 October 1989 with all contracts finished but with variations and other claims not yet finalised was, however, \$166.8M. Forecast total expenditure is \$183.5M.

12 DHA: 3695N/IGP/aln/4.12.89

## Public Accounts Committee

### COST MANAGEMENT

#### BUDGET CONTROL

- 4.64 The Committee was advised that as part of the State budget preparation process, initial budget bids were prepared by the Darling Harbour Authority. These bids were processed at Treasury together with competing bids from other government budget sector agencies. The Treasury budget branch reviewed the competing bids in accordance with the government's overall budget strategy. After various budget reviews, the State's Capital Works Budget was presented to the Parliament.
- 4.65 The Committee concurs with the opinion expressed by the Darling Harbour Authority in May 1988 to the Minister for Planning and Minister for Local Government that:

*"The information utilised to prepare the budget in early 1985 was an inadequate basis for detailed control. This is because at that stage many major decisions concerning the project and the individual components had not been made."*

- 4.66 What is of particular concern to the Committee is that even when it became clear that the actual project being built was not the one budgeted for, the Authority continued to build without getting new budget approvals.
- 4.67 The major explanation for this put forward by the Authority is that when major changes were proposed, advice was obtained from quantity surveyors that the new designs could be built within the budget. It seems extraordinary that so many of those estimates were wrong.
- 4.68 The Committee accepts that it was not possible to be more precise in early 1985 about the cost of the public funded elements of the project. This was very apparent to the Committee in reviewing the Order of Magnitude Estimates prepared in April 1985 for the purpose of establishing a "first order budget and cash flow ...." Contingency sums were allocated to cover "industrial allowances, latent conditions and lack of definition of final designs" but the number of "unknowns" and amount of further planning and design required was very



## Report on The Darling Harbour Authority

substantial. This placed an even greater onus on the Authority and on the Treasury to continually review the project and seek to adjust the budget as more and more information became available.

### Recommendation 13

**It is recommended that for future such project, that the responsible Authority seek new budget approvals for all work outside that originally budgeted for and which reflect changes not only in quantities but also in function, standards and services required.**

## AUDIT RESULTS

### INTERNAL AUDIT

- 4.69 The Darling Harbour Authority engaged the chartered accounting firm Deloitte Haskins & Sells as internal auditors to comply with the Internal Control and Audit requirements under Section 11 of the Public Finance and Audit Act, 1983.
- 4.70 The Committee reviewed the Internal Audit Plan, examined the scope of audit determined in conjunction with the Auditor-General and received a confidential briefing from Mr Holmes of Deloitte Haskins & Sells.
- 4.71 The Committee noted that in addition to regular appraisal of the adequacy of and compliance with the system of internal control and review of operations and programs, special assignments were undertaken by the auditors. These included a review of the principal contract for the Convention Centre and its conversion and of the Northern Carpark contract and an analysis of the First State '88 financial system.
- 4.72 The Committee was advised that the internal auditors believed the procedures and controls adopted by the Darling Harbour Authority, including its controls over the Managing Contractor, were adequate.

## Public Accounts Committee

### EXTERNAL AUDIT

4.73 The Auditor-General has acted, in accordance with the Public Finance and Audit Act, 1983, as external auditor of the Darling Harbour Authority.

4.74 The accounts of the Authority have complied each year with the requirements under the Act and have been certified by the Auditor-General as exhibiting a true and fair view of the financial position.

4.75 In 1988, the Auditor-General reported to Parliament on a Special Project Audit of the Darling Harbour Redevelopment. The particular objectives of this audit review were to ascertain:

- \* Whether sound tendering procedures were followed when awarding contracts;
- \* Whether the level of managerial review (monitoring procedures) was sufficient to ensure the project was properly controlled;
- \* Whether appropriate building industry indices were used in projecting budgeted end cost; and
- \* The total cost of the redevelopment

4.76 The Auditor-General reviewed, in terms of cost management, the procedures used to monitor the project, viz. those employed on-site by the Managing Contractor and Authority staff and those overviews conducted by Authority Head Office personnel. The Auditor-General noted that the Authority anticipated total expenditure will be contained within 15% of the original 1985 budget escalated in accordance with general construction industry costs. The Auditor-General stated:

*'In my opinion, this may be attributed to the extensive procedures utilised by the Authority and its Managing Contractor to monitor the physical progress of construction against both time deadlines and contractors' claims.'*<sup>13</sup>

13 Auditor-General's Report for 1988, vol. 2, page 18

## Report on The Darling Harbour Authority

### WEIGHING UP THE BENEFITS

- 4.77 The cost to the State of the Darling Harbour redevelopment has often been emphasised without sufficient recognition being given to the amount of work undertaken or the social and economic benefits of the project.
- 4.78 One needs to appreciate, above all, the massive scale of the redevelopment, including the sheer number, variety and interdependence of projects at Darling Harbour and the complexity of site development, planning and design, exterior construction, fitting out and commissioning.
- 4.79 The redevelopment was completed during a period of rapid escalation of building costs, with the building industry "over-heated" in the lead up to the Bicentennial year. Design and construction at Darling Harbour were carried out against a very demanding political time scale which affected all aspects of the project, from severely limiting the scope for pre-planning through to creating a peculiar industrial climate on site.
- 4.80 In a report to the Minister for Local Government and Minister for Planning in May 1988, the Darling Harbour Authority contended that *any discussion of costs* "must consider the special nature of the redevelopment and be placed in the context of *'what we regard as the highly successful outcome of the Darling Harbour project'*":

*"The task the Authority was given in late 1984 was ill defined, but essentially was the development of long-term,*

*quality facilities which would make the area attractive for people. The crowds flocking to Darling Harbour are testament to its attractiveness arising from the quality of planning and design."*

- 4.81 It is very difficult to assess the *'social benefits'* of the transformation of Darling Harbour, its considerable value as a public recreation and entertainment venue, the educational benefits of the exhibitions and conventions which it attracts or how much it adds to the *'quality of life'*.
- 4.82 Individual projects within the development Area have received several architectural and engineering awards. These include the Exhibition Centre which

Public Accounts Committee

was joint winner of the prestigious Sir John Sulman Award. The Royal Australian Institute of Architects *Architecture Bulletin*, August 1989 noted:

*"The building's expression is derived from an elegant 'mast and cable' structure designed to reflect the nautical theme of Darling Harbour Park;"*

*"The great achievement of this building is its use of steel and lightweight material that tests the limits of contemporary steel technology. Technically the building met unprecedented time constraints for the 1988 Australian Bicentennial celebrations being conceived and completed within the space of two years. It met brief requirements for spanning halls, without columns, of 80 metres long and 60 metres wide and involved the largest use of steel material in a public building ever seen in this country."*

- 4.83 In economic terms, thousands of jobs were created during the major construction period. Huge orders were placed for building materials.
- 4.84 Direct receipts include those associated with up front lease payments from private developers, proceeds from property sales and ongoing rental, leasing and percentage of turnover agreements.
- 4.85 Property values in surrounding areas have soared, favourably affecting Land Tax revenue, Stamp Duty on conveyancing and local rates.<sup>14</sup> Hundreds of people are employed at Darling Harbour. Service industries support the complex. Tourist dollars flow into Sydney and to Darling Harbour.
- 4.86 The Committee notes, in particular, the economic and cultural value of the magnificent new Exhibition and Convention Centre at Darling Harbour. The Centre is the "jewel" in the State's conventions market.
- 4.87 The Committee was advised that generally convention centres throughout the world do not cover their operating expenses from door receipts or venue hire charges. The benefits, however, flow through to the whole community and cannot be precisely measured. These benefits include: increased hotel occupancy rates; additional business and tourists coming into the country; and

## Report on The Darling Harbour Authority

the overall multiplier effect on government revenues due to increased business generated by a regular cycle of national and international conventions.

- 4.88 The Committee noted that in Baltimore, the City Council constructed a major convention facility, knowing from the start that it would be unprofitable in its own right but that it would significantly enhance hotel occupancy rates throughout the city.
- 4.89 The 1987/88 Annual Report of Tourism South Australia shows that while the Adelaide Convention Centre receives an operating subsidy from the South Australian Government, the Centre has booked 89,000 room nights accommodation on behalf of delegates since opening in June 1987. This represents \$10M to the economy on accommodation alone with an estimated \$9M for delegate spending on transport, entertainment and associated activities.
- 4.90 The effect of larger, more attractive convention facilities in Sydney is already evident. For example, the NSW Division of the Australian Society of Accountants holds an annual convention attracting participants principally from within NSW. For many years, the Society held its convention at a city hotel with limited space which restricted the number of participants. In 1988, the convention attracted 1,780 delegates. In 1989, the convention was held at the Darling Harbour Convention Centre and attracted 2,010 delegates, in addition to an estimated 7,000 to 7,500 persons visiting the associated exhibition.
- 4.91 The Committee notes that the Centre's Director of Marketing was reported in *The Australian* on 6th November, 1989 as saying that the 24 national conventions and 60 exhibitions held at Darling Harbour from January - October 1989 attracted 27,000 delegates, half of whom came from outside the city and generated an income of about \$7M.
- 4.92 The overall transformation of the Darling Harbour area was described recently in the *magazine Airlines* as follows:

*"Only a few years ago, Sydney's Darling Harbour was a Port Jackson backwater surrounded by ramshackle old railway yards, grimy vacant buildings, disused warehouses and derelict wharves."*

**Public Accounts Committee**

*Today it's been transformed into a new half-billion dollar entertainment, cultural, business and leisure activity centre which incorporates many of Australia's most exciting and elegant attractions.*<sup>15</sup>

4.93 The transformation of the Darling Harbour Area is vividly illustrated in the photographs reproduced below. The first was taken on 9th June 1985; the second in July 1989.<sup>16</sup>

15 *Airlines*, Vol. 4, No. 2, 1989, page 138

16 Photographs kindly supplied by the Darling Harbour Authority.

[R:\PARLIM~1\480009.TIF]

[R:\PARLIM~1\480010.TIF]



## **5. CONTRACTUAL ARRANGEMENTS AND ADMINISTRATION**

### **INTRODUCTION**

- 5.1 A central issue under the Terms of Reference for the Inquiry was to assess the performance of the Darling Harbour Authority in the area' of contractual arrangements and administration.
- 5.2 The Committee examined contract documentation and contract files, spoke informally with many contractors and sub-contractors who tendered, successfully or unsuccessfully, for work at Darling Harbour, received numerous submissions on contractual arrangements, and during its public hearings raised issues relating to the sizeable number and variety of contracts awarded and administered by the Darling Harbour Authority.
- 5.3 The Committee's investigations focused on six main areas, each of which is addressed in this Chapter:

- \*tendering procedures;
- \* form or type of contract;
- \* documentation;
- \* variations;
- \* conversion of type of contract; and
- \* public accountability and contractual arrangements.

### **TENDERING PROCEDURES**

- 5.4 The Committee found that on the available evidence, administrative procedures established for calling for expressions of interest, the selection of tenderers, calling of tenders, tender review and awarding of contracts were generally consistent with good public contract practices.
- 5.5 In brief, the steps followed by the Authority leading to the short listing of tenderers were as follows:

Public Accounts Committee

1. The Managing Contractor identified the scope of work and made a budget estimate;
  2. The Authority approved the calling of expressions of interest;
  3. The Managing Contractor reviewed the expressions of interest;
  4. The Managing Contractor selected a list of contractors to tender on the following criteria:
    - a) experience in work of the type and scale;
    - b) financial capacity;
    - c) available resources; and
    - d) inspections of similar work done, or in progress by the tendering contractor;
  5. The Managing Contractor recommended to the Authority a short list of tenderers (normally between 3 and 7) and listed any special conditions required, for example, experience in handling asbestos removal in a demolition contract.
- 5.6 The overwhelming majority of individuals and companies who submitted evidence to the Committee, considered that the preselection of tenderers and the awarding of contracts was conducted in a fair and equitable manner and in accord with sound commercial principles. For example:
- \* Mr Sexton, Director of the Australian Federation of Construction Contractors (AFCC), stated that *'normal commercial practice was pursued'* with formal notice of tender, a formal basis of tender to be bid on, a proper dosing date, and a proper formal opening, then judging of tenders;<sup>1</sup> and

<sup>1</sup> Minutes of Evidence, 9 March 1989, page 4

## Report on The Darling Harbour Authority

- \* Mr Madson, the Managing Director of Stowe Electric Pty Ltd which worked on electrical services on the Maritime Museum project and subcontracted to AWA for fibre optic cabling for security cameras, said that he would "*commend the selection process*". He explained to the Committee that there was a pre-registration, where the company had to qualify on the basis of experience and financial capability, tenderers were selected '*based on their credentials*', and tenders were "*then called to a specification*" with an option to submit alternatives. Mr Madson stated:

*'7 have no problems with the evaluation process, that was done fairly as it was on the other projects down there. On the other projects I was unsuccessful. On this one, the Maritime Museum, I was successful " 2*

### FORM OF CONTRACTS MAJOR TYPES

- 5.7 The Committee found that, as Mr Spink, Project Manager for Leighton's stated, virtually "*the whole gamut*" of contract types available in the construction industry was used at Darling Harbour to "*suit the circumstances of the job*".<sup>3</sup> The three major forms of contract used were:

**Bulk Sum** - a contract in which the contractor quotes a bulk sum (or lump sum) to complete the work, usually subject to rise and fall provisions;

Schedule of Rates - a contract on the basis of payment for each element of the work, typically subject to rise and fall provisions, for example, a calculated price per cubic metre for concrete or steel work at price per tonne, and

2 Minutes of Evidence, 8 March 1989, page 44 3 Minutes of Evidence, 28 April 1989, page 34

## Public Accounts Committee

Cost Price Fixed Fee - a fixed fee is quoted to carry out the work on the basis that the contractor will be reimbursed for the value of items of labour and materials and sub-contractors.

- 5.8 The Committee found that the major problem was the awarding of contracts on the basis of incomplete design and documentation.
- 5.9 This situation is inevitable in 'fast track' projects where the processes of design and construction overlap. The result is, however, that the work to be carried out and the materials required cannot be fully specified at the outset. Designs are elaborated upon, original concepts altered and new elements added.
- 5.10 Recognising that there would be conditions and problems which could not reasonably be foreseen by contractors at Darling Harbour, a special *latent conditions* clause was written in to the modified National Public Works Contract. As Mr Cunningham, Associate Director of the AFCC, submitted to the Committee, without this clause, bids would have been inflated or heavily qualified in view of the risks associated with construction at Darling Harbour. 4

## DOCUMENTATION

- 5.11 The Committee was presented with differing views on the level of contract documentation on the Darling Harbour project.
- 5.12 On the one hand, evidence was presented to the Committee that the contracts were very complex and unduly difficult to interpret. For example, Mr Madson, of Stowe Electric Pty Ltd, said that the contracts *'could not readily be understood'* by company management, *'let alone your site personnel'*:

*"There were two volumes of contract conditions which based on an industry standard contract, the National Public Works Contract. The special conditions far outnumbered the standard contract, and the site industrial provisions again were quite voluminous."*

4 Minutes of Evidence, 9 March 1989, page 7

## Report on The Darling Harbour Authority

- 5.13 Mr Madson went on to say that the *special* conditions of contract caused particular confusion, and that "*The only way to really understand your obligations was to get professional advice.*" <sup>5</sup>
- 5.14 On the other hand, it was put to the Committee that the documentation was very thorough and it was simply necessary to study the material carefully.. Mr Argent, Divisional Director of Matthew Hall Pty Ltd which worked on the Exhibition and Convention Centres and the Maritime Museum, told the Committee that whilst the "*conditions were fairly extensive*":

*"... as a major contractor we did review them in great length before we tendered, and had a fairly clear understanding of the conditions that we went into."* <sup>6</sup>

- 5.15 The Darling Harbour Authority had sought the views of the AFCC on the most appropriate contract documentation. Consideration was given to using the Australian Standard Contract Document 2124 but the Authority finally decided to use a modified version of the National Public Works Contract (NPWC). The contract placed the onus on the contractor to establish the case for any special conditions and payments. <sup>7</sup> The difficulties in administering this contract related to the provision for variation and the claims lodged by contractors.

### VARIATIONS

- 5.16 Variations are inevitable in a large construction project involving fast track and a firm time limit. The Committee notes, however, a number of disadvantages associated with variations of contracts:

\* they are frequently awarded in a non-competitive manner;

<sup>5</sup> Minutes of Evidence, 8 March 1989, page 44 <sup>6</sup> Minutes of Evidence, 8 March 1989, page 61 <sup>7</sup> Minutes of Evidence, 9 March 1989, page 5

## Public Accounts Committee

- \* they tend to have a compound effect on the overall cost of the project because the work required by the variation disrupts other contractors who may then demand recompense by claiming for prolongation, compression or loss of productivity; and
- \* a variation can cause variations of other contracts. s

5.17 In a submission to the Committee, the Darling Harbour Authority stated that contract administration was one area in which *"the Authority's public accountability obligations can be seen as affecting what would otherwise be seen as a purely commercial process"*

5.18 The Authority argued that private companies are *"alive to the tactic of tendering low and then attempting to claw back a profit by continual variation claims."* The public sector tendering process puts greater pressure on administrators to accept the lowest tender, even where it is suspected that a tender is artificially low or where the tenderer has a *"reputation"* for making such claims. The Authority submitted to the Committee that consequently there is:

1. likely to be a greater number of variations; and
2. *"a tendency"* for contracts on government projects to *"involve a greater degree of dispute with the contractor during performance of the contract."*

5.19 The Committee found that there were indeed a substantial number of variations, claims and disputed contracts on the Darling Harbour project. This, in part, reflected the unusual practice followed in some cases in respect of variations.

### VARIED RATHER THAN NEW CONTRACTS

5.20 There were, as reported by the Auditor-General many instances where contracts were varied to accommodate what could be considered as unrelated works which would normally have necessitated the calling of fresh tenders. The Auditor-

8 Commonwealth Auditor-General, Efficiency Audit Report,

*Parliament House Construction Authority: construction project management* June 1987, page 47

## Report on The Darling Harbour Authority

General reported that while the Authority acknowledged such to be the case, a number of reasons were advanced for the adoption of this practice:

- \* *Contractors were already established on site and as such benefit would be derived in not having to meet additional establishment costs;*
- \* *Work could commence without delay as a result of labour and equipment already being on site;*
- \* *Standing costs would be minimised;*
- \* *Additional works were undertaken at existing scheduled rates in accordance with the original contract (awarded on a competitive basis); and*
- \* *Additional works were only awarded to contractors with satisfactory performance on similar types of work on site."*<sup>9</sup>

5.21 The Committee's review supports the finding of the Auditor-General that whilst this practice was a departure from generally accepted tendering procedures, it was commercially justifiable under the circumstances which existed at Darling Harbour.

### PROCESSING OF VARIATIONS

- 5.22 Evidence was also presented to the Committee about how variations and any claims arising were administered.
- 5.23 The Committee found that consistent with what the Authority itself described as its '*public accountability obligations*'; extensive controls were set up by both the Authority and the Managing Contractor to deal with variations and disputes over contract performance and conditions.
- 5.24 Some witnesses were, however, very critical of that control system. For example, in his evidence before the Committee, Mr Egan, Project Manager for Girvan Ltd, described the '*paper work for extensions of time, for changes to the work*' as '*unforgivable*,'<sup>10</sup> later adding:

<sup>9</sup> Auditor-General's 1988 Report, Vol. 2, pages 16-17 <sup>10</sup> Minutes of Evidence, 21 March 1989, page 346

## Public Accounts Committee

*'... paper work is created ... to protect the taxpayer's dollar. Where does that end? That is the problem. The Federal Department of Construction has the same problem. There is this endemic lack of trust in contractors that upsets me greatly. We are all professionals. There is an engineer there, and I am an engineer. Why am I a crook? Why am I inevitably ripping off the taxpayer?.'*"<sup>11</sup>

5.25 Mr Egan told the Committee that the large number of design changes caused severe problems: *'...there was no way we were being reimbursed for the delays and inefficiencies that were occurring.'*<sup>12</sup> He referred to a number of contractors at Darling Harbour, including Girvan, who suffered major cash flow shortages as a result of these delays and the time taken to process claims.

5.26 Comments were made *'off the record'* to the Committee by other people in the building industry suggesting that numerous sub-contractors on the Darling Harbour project suffered financial hardship. There were also contractors who advised the Committee informally that they were not satisfied with individual settlements reached with the Authority. Unfortunately, these people were not willing to appear before the Committee and present sworn evidence or lodge formal submissions.

5.27 The Committee did receive evidence suggesting that variations were processed too slowly. For example, Mr Argent, of Matthew Hall Pty Ltd, stated that:

*'... we found ... in the case of variations it took an extraordinarily long time to get variations approved*

*[before we] were able to get hold of the money that we*

*believe we had an entitlement to earlier.'*<sup>13</sup>

5.28 The Committee considers that such delays need to be seen in the context of the size and complexity of the project and the fluidity of design. Further, the Committee recognises that the Managing Contractor and the Authority established a thorough system of evaluation and review. The Managing Contractor exercised very strong control in respect to applications for approval

<sup>11</sup> Ibid, page 347

<sup>12</sup> Ibid, page 337



13 Minutes of Evidence, 8 March 1989, page 158

-83-

## Report on The Darling Harbour Authority

for variations and extra payments, and was able to examine claims based on extensive experience in the construction industry. The Authority exercised its right of final approval with due regard to standards of public accountability.

- 5.29 It is apparent, however, that the Darling Harbour Authority underestimated the number of variations and claims which almost inevitably arise during a fast track project. The system established was not adequate to cope with the volume of variations and claims, resulting in numerous and often lengthy delays.

### Recommendation 14

It is recommended that for future such projects, special attention be given to developing effective procedures to manage and minimise contract variations.

### CONVERSION OF TYPES OF CONTRACT DURING THE PROJECT

- 5.30 The Authority encountered problems due to the large number of claims for variations and "*additional*" payments based on "*special conditions*." This meant that bulk sum contracts became, in effect, almost impracticable to administer. In some cases, they were converted to reimbursable costs plus fee contracts. Where this happened, the Darling Harbour Authority had to pick up the costs which had been incurred during the bulk sum phase but over which it had exercised no control or review function.
- 5.31 In evidence to the Committee, Mr Saxelby, a Civil Engineer who worked on the Convention Centre, described the problems which arose from "*substantial changes to the design*" of the Convention Centre.<sup>14</sup> After approximately 30-35% of work had been completed, the contractor applied to convert the fixed lump sum contract to a construction management contract (management services and reimbursement of costs).

14 Minutes of Evidence, 29 March 1999, page 399

## Public Accounts Committee

5.32 The Committee was anxious to explore with its witnesses the reasons for this application and the consequences of the Darling Harbour Authority agreeing to this conversion.

5.33 The line of questioning continued as follows:

*Q. 'Prior to that you said the risk was all yours. Did you in fact lose money as a result of the redundant materials, prior to the conversion?'*

*A. (Mr Jones) 'We were losing it prior to the conversion, but in the conversion the client picked up all costs that had been incurred prior to it.'*

*Q. 'What was the reason for the conversion?'*

*A. 'Well I guess the answer to that is better known by the client but what we proposed, or our reason for proposing a conversion, was because it was our belief that to achieve the time targets it was essential that all parties worked together as a team, that is, ourselves who were constructing it, the designers who had to detail it, and the client who knew the sequence in which he needed the building to be completed, that we work as a team to give ourselves the best chance of meeting the timetable.'*

*Q. 'That sounds okay, but prior to the conversion you were losing money on the contract?'*

*A. 'Yes'*

*Q. 'And subsequent to the conversion, you ceased to lose money on the contract?'*

*A. 'I do not know how much you understand of how contracts work: We were losing money on the contract, if you looked at the revenue in and revenue out, but there were a large number of variations and prolongation claims that were being assembled, that we believed would recover those costs. It was a matter of going through the normal processes of the contract, settling on the variations, sorting out the claim for extension of time and reimbursement for costs, and we believed we would recover those negative cash flows that we were carrying ourselves up until that time.'*

*Q. 'You were much happier with the second form of contract?'*

A. *"Of course."*<sup>15</sup>

5.34 Mr Jones explained that the new contract *"took the risk out of reimbursement for the costs"* which were then immediately picked up by the Authority. 16

15 Ibid, pages 406-407

16 Ibid, page 407

## Report on The Darling Harbour Authority

- 5.35 The Committee understands that the Authority decided that varying the form of the original contract was the best option, rather than calling new tenders or selectively paying for acceleration of work.
- 5.36 The Committee considers in hindsight, however, that the better option would have been to maintain the original contract and fund accelerated work. This would still have allowed for flexibility in the pace of construction based on the flow of design information, without making every cost increase, through whatever cause, a cost to the Authority. Although the Authority would have been exposed to major claims for costs of delays and disruptions had the existing contract continued, under the original form of contract *the contractor* had an incentive to minimise costs which he had to carry until such time as claims were lodged and settled.
- 5.37 In late 1986, when the contract for the Convention Centre was converted, the Darling Harbour Authority estimated cost of completion was \$72M. Mr Jones stated, in evidence before the Committee, that *"We had a figure of about \$80.2M", "targeting on completion by February 1988. As you all know [March 1989], it is still going on."*<sup>17</sup> Whilst the significant increase in costs can, in part, be attributed to the effects of industrial disputation and design/construction modifications, clearly under the new contract, costs were not contained nor was the target date for completion achieved.
- 5.38 The Committee is very concerned to note the forecast total expenditure on the Convention Centre is \$183.5M.

### Recommendation 15

It is recommended that for future such projects, greater pre-planning be undertaken to assist the construction authority to determine the optimal form of contract in both the short and long-term.

<sup>17</sup> Ibid, page 410

## Public Accounts Committee

### Recommendation 16

**It is recommended that for future projects the construction authority agree to convert a contract only in exceptional circumstances and with due regard to the operational and financial consequences of such a conversion.**

#### PUBLIC ACCOUNTABILITY AND CONTRACTUAL ARRANGEMENTS

5.39 In fast track projects, such as Darling Harbour, where designs evolve as the work proceeds and where the number of variations involved are extensive, it is generally inappropriate to use the bulk sum type of contract except for discrete elements which have been reasonably fully designed. Mr Pentecost, a former General Manager of the Authority, rightly pointed out, in the Committee's view, that *"there was insufficient design work on which to base a proper bulk sum contract."*<sup>18</sup> It was submitted to the Committee, however, that commercial considerations were not the dominant influence on the contract system adopted by the Authority.

5.40 Mr Pentecost, and another former General Manager, Mr Starkey, both suggested to the Committee that the contracts which were adopted at Darling Harbour were, as Mr Starkey said, *"more a product of the audit requirements of government expenditures rather than the approach that the private sector would have adopted"*: Mr Starkey explained:

*'... it is that trade off between public funds accountability and doing it in a commercial manner .... I do feel there would have been meet in more of a negotiated process which would give the objectives of the contracting party and the government more in harmony and have more capacity to be flexible rather than a hard and fast contractual situation, which from day one was trying to pre-empt all sorts of details, especially at that stage in the fast track process where a number of design details were just not finalised'*<sup>19</sup>

18 Minutes of Evidence, 30 May 1989, page 570

19 Minutes of Evidence, 31 May 1989, page 651

## Report on The Darling Harbour Authority

5.41 In his evidence to the Committee, Mr Pentecost said:

*'If you go into the Public Works Department there is probably a whole room full of files which have debated over the last 50 years the appropriate form of contract on government projects. I think it really comes down to a situation that in the private sector we would not attempt to do the sort of work that was done at Darling Harbour with that type of contract. What we would do would be negotiate with the contractor on an open book agreement*

Mr. Pentecost added:

*'...that, I guess, is politically something which is pretty unacceptable to government.....',<sup>21</sup>*

5.42 The Committee recognises that tensions were experienced by the Darling Harbour Authority because of "*commercial consideration*" versus public accountability.

5.43 The Darling Harbour Authority was subject to a lot of what the Committee considers to be unfounded criticism in the building industry and in the media for what were portrayed as "*pedantic*" and "*bureaucratic*" controls.

5.44 The Committee has found that the Darling Harbour Authority, quite properly, was concerned to ensure proper documentation of contractual relationships and establish proper internal procedures and controls. The systems established, and indeed the operating philosophy of the Authority, reflect the difference between managing a private enterprise construction project and general management of a statutory authority undertaking a fast-track project on behalf of the public.

5.45 Whilst the Committee considers that the Darling Harbour Authority could perhaps have done more to explain to contractors and subcontractors this "*public accountability factor*", it does not believe that those groups were unaware of the Authority's level of accountability.

20 Minutes of Evidence, 30 May 1989, page 570

21 Ibid

Public Accounts Committee

Recommendation 17

It is recommended for future such projects that the construction authority attempt to ensure that all parties are aware of the special nature of accountability in the public sector and its implications for contractual procedures and all other facets of project management.



## 6. MANAGEMENT OF INDUSTRIAL RELATIONS

### INTRODUCTION

- 6.1 Management of industrial relations at Darling Harbour was an important issue examined by the Committee under the Inquiry Terms of Reference.
- 6.2 In a submission to the Committee, the Darling Harbour Authority noted that in the early stages of the development, *it was made clear to the Authority that priority was to be given to preserving good industrial relations.*"
- 6.3 The Committee considers this was a challenge for all the parties involved. The size, complexity and high public profile of the project, the number of contractors, sub-contractors, trades and workers on site, and the political nature and context of the project meant there was considerable potential for industrial conflict.
- 6.4 Industrial conflict has been defined not simply as strike action but as *the total range of behaviour and attitudes that express opposition and divergent orientation*" between industrial owners and working people and their organisations<sup>1</sup>. Such conflict is in many ways endemic in the building and construction industry in Australia, and the situation at Darling Harbour must be seen in this context.

### THE SITE AGREEMENT

- 6.5 The basic industrial relations framework was set out in the Darling Harbour Development Project Site Agreement signed on 16th August 1985, and filed with the Industrial Registrar on 3rd September 1985.
- 6.6 Parties to the Agreement were:
- \* the Employers' Federation of NSW, representing the contractors and sub-contractors engaged on construction work at Darling Harbour; and

1 S Deery and D Plowman *Australian Industrial Relations* Second Edition, Sydney: McGraw-Hill, 1985

Public Accounts Committee

\* the Labor Council of NSW and Affiliated Unions, representing employees to be engaged on the site.

6.7 In his evidence before the Committee, Mr Sams, Assistant Secretary of the Labor Council of New South Wales, explained that there are two basic objectives of such a site agreement:

1. to establish a special rate or a "site allowance"; and
2. to set out the obligations of the contractors and the unions and define the dispute settlement procedures.

6.8 The Site Agreement established rates of pay, hours of work, leave and other conditions of employment, provided for certain site amenities, such as kiosk facilities and first aid facilities, and defined dispute settlement procedures.

6.9 It was a comprehensive Agreement, with 37 clauses, which applied to all employees of contractors and sub-contractors performing on-site construction work for public sector elements within the Development Area described in Schedule 1 to the New Darling Harbour Authority Act, 1984 (see Appendix 12).

SITE ALLOWANCE

6.10 The site allowance to be paid to all employees working on the site was initially set at \$1.35 per hour.

6.11 Site allowances are common practice in the construction industry and are intended to compensate employees for the physical and other disabilities associated with working on a particular construction site. The level of this allowance was set through an independent arbitration process by then Senior Conciliation Commissioner Wells.

## Report on The Darling Harbour Authority

6.12 Mr Sams' understanding was that the site allowance at Darling Harbour was the highest in the CBD at the time.<sup>2</sup> In his evidence before the Committee, Mr Camden-Birmingham, Senior Industrial Officer, Employers Federation of New South Wales, said, however, the allowance was four cents less per hour than the Central Business District average.<sup>3</sup> The Darling Harbour Authority, in a submission to the Committee, described the rate struck as *the prevailing median rate for large CBD projects.*"

6.13 Under the Site Agreement, the allowance was subject to percentage adjustments equal to those handed down by the Commonwealth Conciliation and Arbitration Commission in any National Wage Case decisions during the period 1 January 1985 to 30 June 1988.

### SETTLEMENT OF DISPUTES PROCEDURES

6.14 The Site Agreement established procedures for the settlement of demarcation and other industrial disputes.

6.15 Demarcation disputes were, in the first instance, to be resolved by agreement between the Unions concerned. Where agreement could not be reached within 7 days, the ACTU was to be notified and a private arbitrator appointed. Where a dispute could still not be resolved, it was to be referred to the Australian Conciliation and Arbitration Commission for determination.

6. :1. 6 Industrial disputes were to be resolved initially between the employee or Job Steward and the employer. If this failed, the "matter" was to be resolved *by agreement between the Employer, and a State Official of the Union*(Clause 20.2). The Labor Council was to be advised of any matters still outstanding and assist in resolving the dispute.

<sup>2</sup> Minutes of Evidence, 30 May 1989, page 600

<sup>3</sup> Minutes of Evidence, 8 March 1989, page 115

## Public Accounts Committee

- 6.17 If the matter was still not resolved within 5 working days, it was to be referred to an independent Private Arbitrator, who would then mediate and make a determination.
- 6.18 Senior Conciliation Commissioner Wells was nominated to be the Private Arbitrator, a position which he continued to hold after his subsequent appointment as Deputy President of the Industrial Commission.
- 6.19 Clause 20 of the Agreement stipulated that work was to "*continue normally*" during the negotiation and arbitration processes, i.e. strikes were to be banned. The only exception to this provision was in the event of industry-wide or even broader stoppages in support of conditions of employment.
- 6.20 Clause 21 of the Site Agreement stated:

*'All parties hereby agree to abide by the decision of the Private Arbitrator.'*

## MANAGEMENT AND INDUSTRIAL RELATIONS

- 6.21 In his evidence to the Committee, the first General Manager of the Darling Harbour Authority, Mr Laan, explained that the "infrastructure" for the management of industrial relations which he helped put in place reflected a policy decision that: *'... neither the authority nor the managing contractor should have direct interface with the unions.'*<sup>n</sup>
- 6.22 Mr Laan told the Committee that he saw the Employers Federation as the critical link, representing the contractors and acting as advisers to the Managing Contractor on industrial relations issues.<sup>5</sup>

**4 Minutes of Evidence, 21 March 1989, page 299** <sup>5</sup> Ibid

## Report on The Darling Harbour Authority

- 6.23 In evidence before the Committee, Mr Oakes, Director of Industrial Relations for the Employers Federation of New South Wales, said that following initial discussions with Mr Laan and the appointment of Leightons as Managing Contractor, the Federation submitted an *industrial relations plan* to Leightons along with other employer organisations. The Federation, as the successful tenderer, was appointed industrial relations consultant, employed by the Managing Contractor on the basis of cost plus a 10 percent management fee. Under the agreement between the Darling Harbour Authority and the Managing Contractor, this meant, in effect, that these costs were met by the Authority.
- 6.24 The Committee has some concerns about the appropriateness of this structure. Whilst the Employers Federation had experience in the management of industrial relations on a number of other major projects throughout New South Wales, including the Tomago project, expansions at ICI Botany and the Alcan Currie Smelter, on the Darling Harbour project the Federation was in a seemingly anomalous position. In Mr Oakes' own words, the Federation was to *"act on behalf of the contractors and subcontractors on the scheme"* and yet, as Mr Oakes emphasised, the Federation's *direct responsibility was quite clearly to Leightons.* Further, as Mr Argent of Matthew Hall Pty Ltd. pointed out in his evidence before the Committee, the role set down for the Employers Federation, *"took away any powers that contractors normally have to deal with their own people."*<sup>9</sup>
- 6.25 The role played by the Employers Federation served the interests of the Darling Harbour Authority insofar as the system addressed the Authority's concern that without someone *"running interference"*, to use Mr Laan's description, every little grievance or dispute to be taken straight to the Authority. Yet this concern could have easily been addressed by setting out the appropriate Disputes Settlement Procedure and related procedures in the Site Agreement.

6 Minutes of Evidence, 8 March 1989, page 94

7 Ibid

8 Ibid, page 95

9 Ibid, page 162

Public Accounts Committee

- 6.26 The Committee questions how realistic it was to create a system with the intention that neither the Darling Harbour Authority nor the Managing Contractor would have any "*direct interface*" with the unions. It was often not dear, especially to the unions, just who was making the decisions.
- 6.27 The Employers Federation was employed by Leighton's and yet it acted on behalf of the contractors. Leightons worked for the Authority. As noted above, the Authority in effect paid for the services of the Employers Federation, yet in the words of Mr Oakes, "*our sole arrangement was with Leighton's*".<sup>10</sup> The Authority had ultimate responsibility for all facets of the project, including industrial relations, and yet it had no specialist industrial relations staff or advisers of its own. Successive General Managers Of the Authority became intimately involved in industrial relations, initially through intermediaries, such as the Managing Contractor and the Federation. Mr Laan, for example, said that he did not get involved directly with the unions but "*net regularly - sometimes twice, three times a week*" with the Employers Federation and "*thrashed out*" any problems. n
- 6.28 In addition, there was the question of what role the government of the day was playing in decisions on industrial issues at Darling Harbour.
- 6.29 The Committee is concerned that the system established at Darling Harbour appears to have blurred the lines of management's responsibility for industrial relations.
- 6.30 The Committee received evidence suggesting that as the level of construction increased, and as the Bicentenary year drew closer, the Darling Harbour Authority became increasingly involved in industrial issues. Managing Director

10 Ibid, page 95

11 Minutes of Evidence, 21 March 1989, page 302

## Report on The Darling Harbour Authority

of Boulderstone Hornibrook, Mr Jones, expressed the view that this changed the rules of the game, as the Authority *'began communicating directly with the key project delegates on important decisions that had ramifications over the whole site.'*<sup>12</sup>

6.31 The Committee noted the view expressed in evidence by Mr Starkey, former General Manager of the Authority, that the structure set up in the early days was really *'?lying a little in the face of reality'* in suggesting that industrial relations *"wasn't an issue that government was going to concern itself with."* Mr Starkey added:

*'... I can understand the objectives of being at arm's length, but what we do see is that the events as they turned out over the course of the development was that the Darling Harbour Authority and the government did become a factor and a target in that industrial relations process .....'* <sup>13</sup>

### PROJECT DELEGATES

6.32 In November 1985, a proposal was put forward by the unions that the Head Contractors should employ three union delegates to operate as full time on-site union delegates (Project Delegates). This was to match three full-time Industrial Officers employed by the Employers Federation whose costs were met by Leightons and in turn by the Authority.

6.33 In a submission to the Committee, the Darling Harbour Authority stated that the unions were concerned that the Employers' Federation was beginning to adopt a confrontationist approach, more so than the unions would have expected from organisations such as the Australian Federation of Construction Contractors (AFCC) and the Master Builders' Association (MBA) which are generally used for private sector CBD construction projects.

12 Minutes of Evidence, 29 March 1989, page 430

13 Minutes of Evidence, 31 May 1985, page 663

## Public Accounts Committee

- 6.34 The unions' proposal was initially rejected by the Contractors. The Federated Engine Drivers and Firemen's Association (FEDFA) then imposed a ban on the movement of material onto the site. The proposal for full-time project delegates was then taken straight to the Government<sup>14</sup> - a further indication of the complexity of industrial relations management at Darling Harbour.
- 6.35 In February 1986, Authority management instructed the Contractors to employ the three nominated union delegates on the basis that the Authority would meet their wages and on-costs. This was subsequently done and the three Project Delegates were appointed as Labor Council representatives.
- 6.36 As the workforce grew larger, the number of Project Delegates increased to six. The number of Employers' Federation industrial officers remained at three.
- 6.37 The evidence received by the Committee is mixed as to whether it was beneficial to have full-time paid union representatives on the Darling Harbour site.
- 6.38 The contractors and sub-contractors at Darling Harbour generally expressed concern about how the project delegate system operated, especially when the number of delegates increased from 3 to 6.
- 6.39 For example, in evidence before the Committee, Mr Egan, of Girvan, said:

*I think the thing that upset us more than anything was the introduction of the industrial relations organisers, the industry organisers from each of the unions being paid by the Authority. These guys were foisted upon us and KBH were forced to take two on ... one from the BWIU and one from the Plumbers Union."*<sup>15</sup>

14 Darling Harbour Authority Submission to the Public Accounts Committee Inquiry, 31 May 1989, page 9

15 Minutes of Evidence, 21 March 1989, page 358



## Report on The Darling Harbour Authority

6.40 Mr Sexton, AFCC Director, commented:

*'I think that it's a thing to be avoided wherever possible and the problem at Darling Harbour was that you had a whole group of people that spent their day moving from -as said to you, it's a multi-contractor site- who spent their time going from one project through the fence to the next project. and passing the problems around, real .or imagined.'*<sup>16</sup>

6.41 Mr Easson, Secretary of the NSW Labor Council, was asked by the Committee whether it would have been possible to exclude full time Project Delegates from the site, to which he replied:

*'No, I don't think you could totally exclude them. My own perception was that perhaps six was a little too many, maybe the three or four which was the initial concept, should have been preserved.'*<sup>17</sup>

6.42 The point was made repeatedly that much depends on the attitude of individual project delegates. For example, whilst he was critical of the way the system was established, Mr Egan told the Committee that the idea is "not necessarily" a bad one:

*'It depends once again on the guy from the union side and his attitude and his idea of working hand in hand with management to achieve a result. Given the proper attitude, it could be a good thing. Anything that creates proper communication has to be a step in the right direction'*<sup>18</sup>

6.43 Deputy President Wells, in evidence to the Committee, testified that a full time union presence could enhance communications and resolve disputes.<sup>19</sup>

16 Minutes of Evidence, 9 March 1989, page 207

17 Minutes of Evidence, 30 May 1989, page 609

18 Minutes of Evidence, 21 March 1989, page 360

19 Minutes of Evidence, 8 March 1989, page 238

## Public Accounts Committee

- 6.44 The Committee concluded that the very strength of the project delegate system, namely that delegates are available to deal full-time with industrial issues and liaise with workers, contractors and other parties is also its weakness because there is pressure for the delegate to "find" issues and take action to justify his or her presence.
- 6.45 It is the Committee's view that in certain circumstances it may be appropriate for full-time Union representation on site. However people so engaged should be kept to an absolute minimum and should be selected on the basis of their commitment to dispute minimisation.

### THE PROJECT COUNCIL

- 6.46 The Project Council was a body established under the Chairmanship of the Labor Council with a charter to monitor people working on the site and ensure adherence to the provisions of the Site Agreement.
- 6.47 In his evidence before the Committee, Mr Easson of the Labor Council described the setting up of the Project Council and the appointment of project delegates on site as an *'innovative'* response to the management of industrial relations issues on such a large, multi-disciplinary site. 20
- 6.48 Membership of the Council initially comprised six Union representatives, three Project Delegates, three Contractor representatives and three Employers' Federation site Industrial Officers. The Council was to meet at least fortnightly with the intention of minimising disputation and promoting industrial harmony.
- 6.49 Mr Sams of the Labor Council told the Committee that in effect the project delegates dealt with *"minor issues on the job"* and

## Report on The Darling Harbour Authority

*'∴.. therefore the need for a meeting of the Project Council only really occurred when we had major issues before us, for example, when the question of severance pay arose or workers compensation or major matters affecting the entire site ....'*<sup>21</sup>

6.50 Mr Sams added that since he had assumed responsibility for the Darling Harbour project for the Labor Council in early 1987, the Project Council met on eight or nine occasions. It was disbanded when the major part of the project was completed in 1988.

### INDUSTRIAL RELATIONS DURING THE FIRST TWO AND A QUARTER YEARS OF THE PROJECT

6.51 The industrial climate on site was generally fairly good during the first two and a quarter years or so of the project.

6.52 In his evidence before the Committee, Mr Easson of the Labor Council said that during this period the project *'went extremely well'* Indeed, he suggested

*'∴.. if one took a snapshot of Darling Harbour in December 1986, what would have been the judgement? The judgement would have been an outstanding project, hardly any industrial disputation, the project delegates working very effectively, a model of how a major project might be operating.'*<sup>22</sup>

6.53 Mr Laan, the first General Manager of the Authority, told the Committee that he could not recall any significant industrial problems through until his departure in early 1986.<sup>23</sup>

21 Ibid, page 601

22 Ibid, page 614

23 Minutes of Evidence, 21 March 1989, page 304

## Public Accounts Committee

- 6.54 The Committee considers that this situation owed much to the decision by all parties to establish a comprehensive Site Agreement. The Agreement settled from the outset many potentially contentious issues.
- 6.55 Demarcation, in particular, was not a major issue at Darling Harbour and the evidence suggests that negotiation of the Site Agreement facilitated initial agreements between Unions on divisions of work to apply at Darling Harbour.
- 6.56 Mr Sexton, AFCC, commented to the Committee, for example, that there was "*a much greater potential for demarcation disputes at Darling Harbour than on a normal CBD job*" because Darling Harbour "*involved a whole series of multi disciplines*" and a "*much greater range of work type than a CBD job on its own.*" Demarcation disputes were, however, kept to a minimum by the Site Agreement to which all the unions were party. Mr Sexton described this as.. *one of the very good things, sensible things out of Darling Harbour in the industrial area...*<sup>24</sup> A similar view was expressed by Mr Oakes of the Employers Federation who stated that the Agreement "*saved us from serious demarcation problems.*"<sup>25</sup>
- 6.57 Mr Laan, the first General Manager of the Darling Harbour Authority, told the Committee that the Authority viewed the Site Agreement as pivotal in the management of industrial relations:

*'7 set out very deliberately to have a document developed that was fair, equitable and that spelt everything out in very clear language. I personally edited this document from cover to cover.*

- 6.58 The Committee notes that site agreements similar in purpose and scope to that negotiated at Darling Harbour are now commonplace. A typical example would be the Sydney Harbour Tunnel Industrial Agreement.

24 Minutes of Evidence, 9 March 1989, page 204

25 Minutes of Evidence, 8 March 1989, page 105

26 Minutes of Evidence, 21 March 1989, page 300

## Report on The Darling Harbour Authority

6.59 The Committee noted, however, one significant difference. The Darling Harbour Authority, the essential "owner" of the Darling Harbour Project, was *not* a signatory to the Site Agreement and technically was not bound by its provisions. In contrast, Transfield Kumagai Contracting Pty Limited is the Employer signatory to the Harbour Tunnel Project Industrial Agreement and in the Agreement has nominated the Metal Trades Industry Association (MTIA) to be Industrial Relations Manager. MTIA is not a signatory.

### A RAPIDLY DETERIORATING INDUSTRIAL CLIMATE

6.60 Evidence presented to the Committee suggests that the industrial climate on the Darling Harbour site deteriorated rapidly in the first few months of 1987.

6.61 The Committee put it to Mr Sams of the Labor Council that:

*"... the project itself went down into a tail spin about March 1987 near the end of the project, and that management lost control and the workforce became the dominant influence in terms of the completion of the project. Can you comment on that?"*

Mr Sams replied:

*'7 think that is probably right. There were deadlines being set in terms of political decisions, there were expectations in terms of what might happen after the job had completed .... "*

*'... there was the pressure of getting the job completed on time, and the normal pressure in a building industry job of an upturn in industrial activity towards the end of the project.<sup>27</sup>*

27 Minutes of Evidence, 30 May 1989, page 612

Public Accounts Committee

6.62 Mr Easson of the Labor Council also admitted that the industrial relations climate deteriorated in 1987. He suggested:

*"... one of the causes to some of the industrial problems was related to the need to get things done on time and to really crack the whips to ensure the opening date commitments were achieved...."*<sup>28</sup>

6.63 The Committee identified four major causes of the significant problems which occurred:

1. the events of March 1987 where the workers refused to accept the arbitrator's decision to return to work and the Authority decided to pay for time lost to get the workers back on the job;
2. the pressure to complete much of the work in time for the opening for the Bicentenary;
3. a "slow down" of work as many of the publicly funded elements drew nearer to completion; and
4. difficulties within the union movement

**MARCH 1987: A WATERSHED?**

6.64 During March 1987, a dispute occurred between all site employees and management over the interpretation of the Occupational Health and Safety Act and award conditions for working after wet weather. The dispute arose initially over whether workers should be required to walk over wet ground between their amenities sheds and the Exhibition Centre, where dry working conditions prevailed.

28 Ibid, page 608

## Report on The Darling Harbour Authority

- 6.65 For three weeks the workforce reported for duty but remained in the amenities sheds and refused to return to work unless payment was made for the period when no work was done.
- 6.66 This claim proceeded through the normal dispute procedures and finally was presented to the Private Arbitrator.
- 6.67 In evidence before the Committee, the Arbitrator at that time recalled:

*'... I looked at the agreement and I quoted the parts from the agreement where they said that while the disputes were on there would be no strikes. I also quoted the part that said any decision of the private arbitrator would be accepted.'*

*"[I] told them that they would not get the money and that they should take pride in the Darling Harbour job. They were getting a sufficient amount. They should go back to work. With that I retired from the bench.....29*

- 6.68 The Unions concerned refused to accept this judgement.
- 6.69 The Darling Harbour Authority then directed the Contractors to pay the workforce for the subject three weeks and they returned to work.
- 6.70 Despite persistent questioning of the parties involved, the Committee was not able to identify who actually took the final decision. Even the General Manager of the Authority at that time, Mr Pentecost, could not assist the Committee:

*Q. "So you made the recommendation. Who made the decision.*

*Mr Pentecost: 'I guess all decisions of that nature were made collectively by myself, the Board with reference to the Government "*

*Q. "So who made the decision to go back; to pay that idle time? Was it the DHA? Was it you? Was it the Minister? Who?"*

## Public Accounts Committee

*Mr Pentecost: 'I can't be precise on that. Those decisions tend to be done in committee.'*<sup>30</sup>

6.71 Subsequent to the decision, then Deputy President Wells resigned as the Private Arbitrator. He recalled:

*'... I got a phone call from Darling Harbour to say the boys hadn't gone back but they'd been paid the strike pay.*

*That was enough ... in good faith I heard it, decided it, and it wasn't accepted by a) the unions and b) I think it must have been the Authority, I'm not too sure, but somebody paid them against my decision.'*<sup>31</sup>

6.72 Deputy President Wells explained to the Committee:

*"One of the stipulations I always place on accepting such a position (as arbitrator) is my decisions will be accepted by both sides and when that is not done it's no good my continuing as a private arbitrator because they've broken the agreement that put me there. I've never had that happen except in one instance (Darling Harbour).'*<sup>32</sup>

6.73 The decision, in effect, "tore up" the Site Agreement. It was "torn up" by both sides - by the workers who refused to accept the decision that they return to work, and by the Authority who acted against the spirit of the Agreement. It needs to be remembered, however, that the Darling Harbour Authority was not, as noted earlier, a signatory to that agreement and thus was not technically bound to abide by the Arbitrator's decision.

30 Minutes of Evidence, 30 May 1989, page 580

31 Minutes of Evidence, 9 March 1989, pages 232

32 Ibid, page 231



## Report on The Darling Harbour Authority

6.74 Mr Easson of the Labor Council stated:

*'7 think Darling Harbour also reinforced in my mind the need for adherence to the Site Agreement, adherence to the dispute settlement procedures, and adherence to the principle that there should not be payment for industrial action where an arbitrator has ruled against such payment.'*<sup>33</sup>

6.75 Mr Easson added that the Site Agreement was the framework governing the industrial relations on site and the decision to not accept, in effect, the decision of the Private Arbitrator, was:

*'... crippling, particularly when Senior Commissioner Wells determined to resign, that is the Arbitrator, and I think that was a damaging decision that he made, I can understand the decision he made.'*<sup>34</sup>

6.76 In a submission to the Committee, the Darling Harbour Authority defended its decision to pay the workforce for days on strike to avoid further delays and minimise the overall cost of the project. The Authority saw this as consistent with its general approach throughout this period, which was:

*'... to seek to preserve industrial relations while ensuring completion on time. The intention was to act commercially and practically to achieve deadlines as is done in the private sector, rather than to take stands on matters of principle to bring about fundamental improvements in industrial relations in the construction industry.'*

6.77 In his evidence before the Committee, Mr Pentecost, the General Manager of the Authority at the time of the dispute, said that the situation was further complicated by considerations of the cost of the dispute and because the stoppage had occurred over a safety issue:

<sup>33</sup> Minutes of Evidence, 30 May 1989, page 616

<sup>34</sup> Ibid

## Public Accounts Committee

*'... there was a total confrontation on a safety issue. We had significant expenditure being incurred, actual cheques being paid for equipment, for materials, for interest charges so that the end result for us at that time was going downhill very rapidly. It became clear to me that there was difficulty in trying to organise how to resolve a safety dispute, whether the site was safe enough. Certainly Wells did not say whether the site was safe. He said he thought there had been no breach of the Occupational Health and Safety Act and that the men should go back to work: That didn't solve the problem that the site was still unsafe.'*<sup>35</sup>

6.78 Mr Jones, of Baulderstone Hornibrook, was asked by the Committee whether he thought *'from a management point of view'* the payment of strike pay or payment of idle time was *good industrial relations practice, or a good commercial decision, given the time constraints of the project.* He replied:

*'I believe it was a bad commercial decision because, as soon as you give in once you are obviously telegraphing what is important to you on that project. You are telegraphing that time is important, so the unions are going to exploit you to get every dollar they can.'*<sup>36</sup>

6.79 A similar view was expressed by Mr Egan who told the Committee *'Once you start you are dead, and you have displayed a weakness that you can never pay enough for.'*<sup>37</sup>

6.80 The representatives from the Employers Federation who appeared before the Committee said that the Federation had advised against the payment of strike pay.

6.81 Mr Oakes, of the Employers Federation of NSW, told the Committee that the project had *'gone very well'* until March 1987:

35 Ibid, page 581

36 Minutes of Evidence, 29 March 1989, page 423

37 Minutes of Evidence, 21 March 1989, page 362

## Report on The Darling Harbour Authority

*'... the real turning point came in March 1987 when following a protracted strike of two weeks and three days, a decision was made to pay strike pay at the Exhibition*

*Centre. '38*

6.82 Mr Oakes said that following that decision *'it became a difficult task to look after industrial relations on the site.* Mr Camden-Birmingham of the Employers Federation went further, stating:

*"... the problem came ... when there was a capitulation in regards to demands for payment, because once you open the door, there is no stopping it after that, and you lose total control of industrial relations."*

*Q. "That is the strike pay you are referring to?"*

*,4. "That is right. I think that everybody sitting around the table that has ever been involved in industrial relations realises one thing, there is one lesson that you have to learn real quick if you want to survive. You cannot buy industrial peace. '39*

6.83 **In a letter of 22nd April, 1987** protesting against the Authority's decision, the **Employers Federation** also noted that: *'The decision to pay ... exposes the position of the private arbitrator to ridicule by the workforce.'*

6.84 The Committee acknowledges that to pay "strike pay" was seen by the Darling **Harbour Authority** at that time as a sound commercial decision. The Committee notes that the estimated cost to the Authority of the "pay-out" was \$1M; however, as noted above, the decision carried a much heavier price. The Committee considers that, in hindsight, the decision proved to be an error of judgement.

38 Minutes of Evidence, 8 March 1989 page 97

39 Ibid, page 104

Public Accounts Committee

6.85 It must be noted, however, that had the Authority refused to pay and the strike continued, there would have been substantial direct and indirect costs. The dilemma facing the Authority is perhaps best illustrated by the case of the National Maritime Museum where the refusal to meet union demands and continued industrial action resulted in very substantial delays on the project and sizeable standing costs as the site stood idle

UNREST WITHIN THE UNIONS

6.86 In evidence before the Committee, Mr Saxelby, of Baulderstone Hornibrook Pty Ltd, Principal Contractor on the Convention Centre, said that prior to 1987 there were only:

*'niggling small disputes ... that would be part and parcel of any major job at that time with 80 to 100-odd people on it. Until the building trades commenced there was probably not what I would call any significant industrial problems on the site.'* 40

6.87 Mr Saxelby explained that whilst there was no specific incident to which he could point, he *'had a gut feeling'* that the situation deteriorated as the building trades slowly came on to the site.<sup>41</sup>

6.88 Mr Jones, of Baulderstone Hornibrook, told the Committee that *'the number one reason'* for the deterioration was the increasing presence of the Building Workers Industrial Union. He said that there was in-fighting in the BWIU, especially between the carpenters and scaffolders; the BWIU found it difficult to control the scaffolders; and the BWIU was unhappy with the degree of control which the multi-member Project Council exercised on site.<sup>42</sup>

40 Minutes of Evidence, 21 March 1989, page 420 Ibid

42 Ibid, page 421

## Report on The Darling Harbour Authority

6.89 The Committee is also aware that the activities of ex-Builders Labourers Federation officials and members were a disruptive influence on the Darling Harbour site.

6.90 Mr Starkey, former General Manager of the Authority, told the Committee that the volatility of the environment following the events of March 1987 was:

*... affected by issues flowing from the deregistration of the BLF and the fighting for members of the BLF various unions and then the internal activities within the BWIU leading up to their election.* "43

### TIME IS OF THE ESSENCE

6.91 Mr Jones of Baulderstone Hornibrook told the Committee that the unions were very well aware of the deadline for the project. Indeed as the months of 1987 went by:

*'Everyone knew there was a panic to finish it. Politicians were standing up and saying that. It was on the front page of the papers.'*

6.92 The Committee's line of questioning continued as follows:

*Q. From a commercial point of view, wasn't that insanity?"*

*A. "Yes"*

*Q. "So, really, the unions had the weapon already and they knew it?"*

*A. "They reckoned it was the best thing since Father Christmas."* 44

43 Minutes of Evidence, 31 May 1989, page 654

See also a report on the BWIU elections in *The Sun Herald*, 25 October 1987

44 Minutes of Evidence, 29 March 1989, page 423

## Public Accounts Committee

6.93 In his evidence before the Committee, Professor King, a member of the organising committee for the International Psychology Congress held at Darling Harbour in 1988, said that he believed:

*'∴ the setting of opening dates ... was an inadvertent invitation to anarchy on the site because there was so much muscle left available to anybody who cared to use it*

.45

6.94 The Committee noted that the New South Wales Secretary of the Electrical Trades Union was quoted in *The Sydney Morning Herald* of 24th October, 1987 as saying that unions have *'been out to get whatever they can get, an inevitable result of a finish-at-all-costs attitude.'*

6.95 Mr Argent of Matthew Hall Pty Ltd told the Committee that in his experience, the pressure to meet completion dates and *'get buildings finished'* had a significant impact on the way disputes were handled:

*Mr Argent: "With Leightons and the Darling Harbour Authority having completion dates that they were trying to meet, every time there was a stoppage, whether it was a legitimate stoppage or not, the pressure was on the Darling Harbour Authority to resolve it quickly so that the buildings could be built and inevitably they advised through the Employers Federation to pay."*

*Q. "So the Darling Harbour Authority every time there was a dispute said: "Pay and get on with it"?"*

*Mr Argent: 'In the majority of cases, yes.'*<sup>46</sup>

45 Minutes of Evidence, 8 March 1989, pages 176-77

46 Ibid, page 162

## Report on The Darling Harbour Authority

### DRAGGING THE WORK OUT

6.96 All projects tend to experience a slowing down of activity as the end of a project approaches. In the case of Darling Harbour, the approach of the completion date was obviously seen by certain members of the workforce as providing an opportunity to exert industrial pressure in order to extract additional payments. This particularly applied to work carried out over the Christmas 1988 period.

6.97 Mr Sexton of the AFCC stated that in the later half of 1987 there was an *"element in the workforce" who felt "We have got a good job here fellows, slow it down"*:

*'... I don't have any doubt at all that there was a conscious awareness of the workforce by prolonging or slowing that job, it was going to keep them going till Christmas, they weren't going to be laid off a month or so before Christmas when they couldn't get another job very easily'*<sup>47</sup>

### GOVERNMENT THREATENS TO CLOSE DOWN THE SITE

6.98 The level of industrial conflict at Darling Harbour reached the point where on 23rd October 1987 the then Minister for Public Works and Ports, The Hon L.J. Brereton, M.P., moved to stand down the site workforce of 1600 and the then Premier, The Hon B.J. Unsworth, M.P., threatened to defer the opening of Darling Harbour indefinitely.

6.99 The most serious dispute at that time involved the Electrical Trades Union (ETU) pay claim which was outside the 4 per cent guideline. The ETU imposed work bans which had a major flow-on effect on work across the site, and the

47 Minutes of Evidence, 9 March 1989, page 190-91

## Public Accounts Committee

Employers Federation advised contractors that their employees should be stood down if they could not be gainfully employed. <sup>48</sup> Plumbers also stopped work on four buildings on the site, including the Convention Centre and the Maritime museum.

6.100 The then Premier was reported in *The Sydney Morning Herald* of 24th October, 1987 as saying: "*We are not going to allow those who are working on the project to hold the Government to ransom.*"

6.101 That particular dispute was quickly settled and work resumed, but different elements of the project continued to be hit by industrial trouble, most notably the National Maritime Museum.

### OCCUPATIONAL HEALTH AND SAFETY - A MAJOR ISSUE

#### THE OBJECTIVES OF THE ACT

6.102 The prime objective of the Occupational Health and Safety Act 1983 is to secure the health, safety and welfare of persons at work. The main obligation of achieving this objective rests with the employer as defined in Section 15 of the Act which states, in part:

*"(1) Every employer shall ensure the health, safety and welfare at work of all his employees.*

*(2) Without prejudice to the generality of subsection (1), an employer contravenes that subsection if he fails-*

*(a) to provide or maintain plant and systems of work that are safe and without risks to health;*

*(b) to make arrangements for ensuring safety and absence of risks to health in connection with the use, handling, storage or transport of plant and substances;*

*(c) to provide such information, instruction, training and supervision as may be necessary to ensure the health*

48 Minutes of Evidence, 8 March 1989, page 133



Report on The Darling Harbour Authority

*and safety at work of his employees;*

(d) *as regards any place of work under the employer's control -*

(i) *to maintain it in a condition that is safe and without risks to health; or*

(ii) *to provide or maintain means of access to and egress from it that are safe and without any such risks."*

**PROBLEMS**

6.103 The Committee received a great deal of evidence from people who suggested that the issue of occupational health and safety was used by elements of the workforce at Darling Harbour as a way of creating industrial conflict to promote their own interests.

6.104 In his evidence before the Committee, Mr Sexton of the AFCC, stated that safety issues were a "vehicle":

*"...the [Occupational Health and Safety] Act was a vehicle to allow them to put pressure on for reasons outside that [site] agreement and it gave them areas of dispute where invariably they will get some money... It was always more in favour of the employee because it was seen to be a safety issue."*<sup>49</sup>

6.105 The Committee found that particular difficulties lay in the interpretation of the Occupational Health and Safety Act, 1983 (hereafter "the Act") and in the operation of the occupational health and safety committees set up pursuant to Section 23 of the Act, and that the issue of safety became caught up in the industrial relations environment at Darling Harbour.

6.106 In drawing attention to these problems in its Report, the Committee in no way questions the basic intent of the Act. The Committee strongly supports the thrust of this legislation, and indeed supports any measure designed to secure the health, safety and welfare of persons at work and the health and safety of all

49 Minutes of Evidence, 9 March 1989, page 207

## Public Accounts Committee

other persons at a place of work.

6.107 Further, it is important to note the excellent safety record for which all parties, the Authority, the Managing Contractor, contractors and sub-contractors, members of the safety committees and the individual workers themselves, must take credit.

6.108 On the question of the safety record on the project, Mr Spin. k, Project Manager for Leighton, stated in a memo to the Darling Harbour Authority that:

*"The most notable safety achievements on the Project are that there have been no fatalities and only one Class 1 accident classified as one where the victim suffers permanent damage..... ,<sup>50</sup>*

6.109 Mr Spink noted that it is difficult to make comparisons with other projects because detailed statistics are not readily available in the industry. On the basis of construction cost, Mr Spink estimated that two to three fatalities would have been expected on the Darling Harbour Project.<sup>51</sup>

6.110 In a submission to the Committee, the Darling Harbour Authority noted:

*'Where was constant argument about application of the Occupational Health and Safety Act. The Authority endorses its provisions and notes that there were no deaths of construction workers during the project. However, the Authority believes that a number of complaints made pursuant to the Act were motivated by considerations other than health and safety and that some union delegates misused the Act as an industrial weapon.'*

6.111 A similar view was presented in evidence before the Committee by Mr Pentecost, former General Manager of the Authority:

*'A lot has been said about safety and the Occupational Health and Safety Act and there is no doubt that that Act is a very difficult Act to administer in its current form, and there is no doubt that Darling Harbour took the brunt of the union testing of that Act. Nonetheless we did have an*

50 Memo LC/DHA, AO9-0011

51 Ibid. The Committee notes with sadness there was one fatality prior to construction.

## Report on The Darling Harbour Authority

*exceptional safety record If we put the industry standard of safety and accidents on to the Darling Harbour project we would have seen the loss of three or five lives and many dozens of serious debilitating injuries. That in fact was not the case .... ,,52*

6.112 Many of the submissions to the Inquiry commented on the difficulties of interpreting the Act. Darling Harbour was in some ways was a "testing ground" for the legislation on a large construction project.

6.113 The Act applies to all work places such as offices and factories as well as construction sites. Application of the Act to construction sites is complex because of the continually changing physical environment as work progresses.

### OCCUPATIONAL HEALTH AND SAFETY COMMITTEES

6.114 Under Division 3 of the Act, an occupational health and safety committee (hereafter simply referred to as a safety committee) must be established at a place of work where:

- \* there are 20 or more persons employed at the place of work and a majority of the persons so employed requests the establishment of such a committee; or
- \* the Occupational Health, Safety and Rehabilitation Council directs the establishment of such a committee at the place of work.

6.115 Employee representatives to safety committees are elected by employees at the particular place of work. Employer representatives are as nominated by the employer.

6.116 Under the Act, such a committee:

*"(a) shall keep under review the measures taken to ensure the health and safety of the persons at the place of work,"*

## Public Accounts Committee

- (b) shall investigate any matter at the place of work -
  - (i) which a member of the committee or a person employed thereat considers is not safe or is a risk to health; and
  - (ii) which has been brought to the attention of the employer;
- (c) shall attempt to resolve any such matter but, if unable to do so, shall request an inspector under the associated occupational health and safety legislation to undertake an inspection of the place of work for the purpose; and
- (d) shall have such other functions as are prescribed"<sup>53</sup>

6.117 Evidence presented to the Committee indicates there were a number of difficulties associated with safety committee operations at Darling Harbour.

### **SAFETY ISSUES: EXAGGERATED .OR IMAGINED**

6.118 It was put to the Committee that safety issues at Darling Harbour were often exaggerated, and indeed that some alleged hazards to the "health, safety and welfare" of persons at work were more imagined than real.

6.119 It was suggested that this was, in part, a consequence of a situation where there were a large number of people whose job it was to move around the site "looking" for safety problems to solve and, of course, finding them. In addition, industrial grievances were pursued under the guise of "safety" concerns.

6.120 In his evidence before the Committee, Mr Egan of Girvan stated that:

*'...[it] was a very difficult problem because the Occupational Health and Safety Act was coming though at that time and it became flavour of the month. Everything became a safety strike... Anybody can make an issue out of safety, as you know. The slightest thing can become an issue of the men are so minded. It requires a proper attitude on both sides, in my opinion.'*<sup>54</sup>

<sup>53</sup> Clause 24 (i), Occupational Health and Safety Act, 1983

<sup>54</sup> Minutes of Evidence, 21 February 1989, page 360

**LOCALISED PROBLEMS SPREAD THROUGHOUT THE SITE**

- 6.121 Evidence indicates that on some occasions safety issues at particular locations resulted in a total site shutdown.
- 6.122 In this respect, the situation at Darling Harbour was even more difficult than at a conventional construction site. In his evidence before the Committee, Mr Argent of Matthew Hall Pty Ltd commented:

*'... it's usually a one off site and one off building as such whereas as down there you had a series of different buildings and they all seemed to get moulded in together so if there was a stoppage on one it tended to flow across quite easily onto the others and affect the total projects down there.'*<sup>55</sup>

- 6.123 Mr Madson of Stowe Electric Pty Ltd was asked *Did the safety committee impact on your company's performance ?*

A. *'I believe they had an overbearing role in the conduct of the site.'*

Q. *'Amplify that please.'*

A. *'They dictated supremely or ultimately as to whether you could or could not work Instead of highlighting a problem, confining an area of dispute on safety to an area and work could continue in other areas, the site, in my opinion, stopped every time there was a minor safety issue.'*<sup>56</sup>

**LACK OF TRAINING**

- 6.124 The Committee received submissions from a number of sources that emphasised the need for safety committee delegates to receive adequate training on safe working practices. Mr Sexton, AFCC, emphasised, for example,:

<sup>55</sup> Minutes of Evidence, 8 March 1989, page 165

<sup>56</sup> Ibid, page 146

## Public Accounts Committee

"... if somebody asked us as an association to be involved in a review of this Act, we would be recommending that members of a safety committee on the side of both employer and employee should have a training in safety'<sup>57</sup>

### COMMITTEE SIZE

- 6.125 Safety committees at Darling Harbour had, at one point, as many as 19 members.
- 6.126 Mr Jones, of Baulderstone Hornibrook, said that during his period on site the Safety Committee comprised "*three from management and I think 16 from the unions*" which, he noted, was well outside the guidelines, which suggested an equal representation of 4 and 4 on a project that size.<sup>58</sup>
- 6.127 It proved difficult on such a large site to contact and assemble these committees quickly, and the size of the group mitigated against effective decision-making.

### A MATTER FOR THE SAFETY COMMITTEE OR FOR INDUSTRIAL DELEGATES?

- 6.128 Mr Sams of the Labor Council advised the Committee that there were '*difficulties from time to time*' in the relationship between the project (or industrial) delegates and members of the safety committees. There were disagreements between the two groups as to whether a problem was a safety issue or an industrial issue, who should be involved, which grievance procedures were appropriate and what settlements should be reached. <sup>59</sup>

Minutes of Evidence, 9 March 1989, page 210

58 Minutes of Evidence, 29 March 1989, page 427

59 Minutes of Evidence, 30 May 1989, page 607

## Report on The Darling Harbour Authority

6.129 In his evidence before the Committee, Mr Jones, of Baulderstone Hornibrook, said that industrial issues and safety issues are quite often blurred and *You have a power struggle as to who is running the job, the safety committee or the industrial committee. That went on all the time.*<sup>60</sup>

### DEPARTMENTAL INSPECTION

6.130 The Act provides for the safety committee to attempt to resolve safety matters, and if unable to do so, to call for an inspection of the workplace by a Departmental inspector.

6.131 The Committee found that Department of Industrial Relations inspectors were not always readily available to carry out safety inspections at short notice.

6.132 Mr Easson, Secretary of the NSW Labour Council, told the Committee that it is very important:

*'... to have the inspectors from the Department of Industrial Relations available very quickly when a health and safety dispute arises, so that those responsible officers of the Department can make an objective assessment and make a recommendation appropriate to the parties.'*<sup>61</sup>

6.133 In his evidence, Mr Oakes of the Employers Federation stated that the delays in inspections experienced at Darling Harbour reflected a shortage of departmental inspectors to accommodate the needs of industry as a whole. Mr Oakes referred to the Private Arbitrator's decision of 13 March 1987 which noted, in part, that departmental inspectors "*must be brought in quicker*"; adding:

*'... After that dispute itself an approach was made to the Minister himself to ensure that a permanent DIR inspector was put on the site and that did eventuate.'*<sup>62</sup>

60 Minutes of Evidence, 29 March 1989, page 427

61 Minutes of Evidence, 30 May 1989, page 613

62 Minutes of Evidence, 8 March 1989, pages 121-122

**Public Accounts Committee**

**IMPLICATIONS OF THE PROBLEMS EXPERIENCED**

6.134 The experience on the Darling Harbour project illustrates how a commitment by all parties to occupational health and safety can result in an excellent safety record, even on a very large, multi-discipline construction site. Yet there is the potential for safety issues to become another vehicle for industrial conflict. Mr Easson of the Labor Council commented before the Committee:

*'I think the Occupational Health and Safety Legislation we have is absolutely first class, but how do you prevent that kind of legislation being used as an industrial weapon in an unfair way?'*

He added:

*'I think the best way that can be dealt with is by allocating the resources to the Department of Industrial Relations to play the umpire and an investigatory role of contemplating what are the issues at stake when a health and safety issue arises and quickly being on the spot to resolve those particular problems.'*

6.135 Mr Easson noted that *"it also requires responsible people on both sides to ensure that the legislation is properly applied."*<sup>63</sup>

6.136 A similar view was expressed by Mr Sams, also of the Labor Council:

*Q. 'Do you think that the Occupational Health and Safety Act was used as another weapon to slow the project down?'*

*A. 'Yes, it was used on occasions.'*

*Q. 'How can you overcome that?'*

*A. 'I think that having the integrity and the vigilance of responsible industrial delegates and trade union officials to ensure that the Occupational Health and Safety Act is administered properly, and you don't get it abused or used as a means of settling or having an industrial dispute, so that you might either seek to attract payment for lost*

63 Minutes of Evidence, 30 May 1989, page 618



## Report on The Darling Harbour Authority

*time, or you might seek to have the upper hand in the settlement of a dispute by using it in that fashion.*<sup>64</sup>

The Committee strongly supports this analysis.

6.137 The Committee also considers that it is essential for occupational health and safety to be integrated into a Site Agreement or similar agreement negotiated at the start of a project, with particular reference to procedures for the resolution of safety disputes. This was not done at Darling Harbour,

6.138 The Committee notes that the Industrial Agreement for the Sydney Harbour Tunnel includes a clause which seeks to clarify obligations under the Occupational Health and Safety Act, and which defines procedures for the resolution of safety problems. This Agreement also requires all new employees to attend an induction course on Project Safety Procedures and the Project Agreement. All employees are required to sign for receipt of the Site Safety Handbook. The Committee understands that these procedures are working well.

### Recommendation 18

It is recommended that for future large scale public sector projects, management of industrial relations should be based on the early establishment of a Site or Industrial Agreement.

### Recommendation 19

It is recommended that the government authority responsible for a future large scale construction project be a signatory to the Industrial or Site Agreement.

64 Ibid, page 612

Public Accounts Committee

Recommendation 20

It is recommended that the Industrial or Site Agreement:

- \* stipulate weekly wage rates to apply for the duration of the project, except as adjusted by National Wage decisions, and including an appropriate level of site allowance; with wage rates to be in a number of categories to cover the level of skills involved and to reflect current wage margins;
- \* provide for dispute settling procedures and allow the appointment of an Arbitrator, acceptable to all parties, whose decision shall be final and binding;
- \* clearly define the separate dispute settlement procedures for both industrial and health and safety issues, incorporating where necessary statutory requirements related to occupational health and safety.

Recommendation 21

It is recommended for future projects that contractors on the site be represented by an appropriate employer's organisation, whose role will be to coordinate the interests of employers

Recommendation 22

It is recommended for future projects that contractors on the site attend, as far as possible, to industrial relations with their own staff, and have an unfettered right to choose their own employees.

## Report on The Darling Harbour Authority

### Recommendation 23

It is recommended for future projects that the Labor Council provide a representative to be allocated full-time to the site to provide coordination with the Unions, and that this representative be an employee of the Labor Council, although it could be appropriate for the costs of this employee to be reimbursed by the Constructing Authority.

### Recommendation 24

It is recommended for future projects that each employee to be engaged on the site undergo an induction and training course covering site conduct and safety procedures, at the end of which the employee should sign an acceptance of the Site Agreement and site safety procedures.

### Recommendation 25

It is recommended that Site Agreements for public sector projects include detailed procedures for resolving on-site safety issues.

### Recommendation 26

It is recommended that effective means should be provided for the rapid determination of whether or not a matter is a health or safety hazard.

Public Accounts Committee

Recommendation 27

It is recommended that a system be established to provide for fast access to a Departmental Inspector when required.

Recommendation 28

It is recommended that regardless of the number of workers or quantum of construction, a safety committee comprise no more than 8 members.

Recommendation 29

It is recommended that where more than one safety committee is established on a multi-project site, its responsibility be limited to a specific construction zone as defined in the site or Industrial Agreement.

Recommendation 30

It is recommended that both employee and employer representatives on a safety committee:

- \* have adequate experience appropriate to the particular industry; and
- \* be required to pass an initial construction safety course and attend regular in-service education courses on safe working practices and the objectives and operation of safety committees.

## Report on The Darling Harbour Authority

### Recommendation 31

It is recommended that the review by the Government of the Occupational Health and Safety legislation include an assessment of the need for special provisions applicable to the construction industry.

#### PUTTING INDUSTRIAL RELATIONS AT DARLING HARBOUR IN PERSPECTIVE

6.139 The Committee wishes to emphasise that, as noted in the introduction to this chapter, the size and multi-disciplinary nature of the Darling Harbour Project and its socio-political context meant there was considerable potential for industrial conflict. In his evidence before the Committee, Mr Cunningham, AFCC, stressed that the level of industrial disputation Darling Harbour must be put in perspective:

*Its a large project that's in the CBD or close to the CBD. It was a very high profile project. It did have time limits on it and it was multi disciplined. Now, with those five elements all together it is inevitable that that would be seen by the more radical elements as a good target.*<sup>65</sup>

6.140 Moreover, the events at Darling Harbour must be seen in the context of major, longstanding industrial relations problems in the Australian construction industry and the implementation of relatively recent initiatives in the area of occupational health and safety.

6.141 The majority of witnesses and parties who made submissions to the Committee argued that the types of disputes, the overall level of disputation at Darling Harbour and the difficulties of industrial relations management were not and are not dissimilar to those on other major construction sites in and around the CBD. Other sites which, it would appear, have faced similar, major industrial problems

65 Minutes of Evidence, 9 March 1989, page 210

## Public Accounts Committee,

include the Sydney Police Centre, Sydney Entertainment Centre, Grosvenor Square and the Greater Union Theatre. Mr Sexton, AFCC, told the Committee that *on "multi-storey projects going on in Sydney now you've got problems being fabricated on safety issues every other day."* <sup>66</sup> The events at Darling Harbour have, however, been subject to, and in some sense fuelled by the full glare of publicity; by what Mr Sams, of the Labor Council, described as *'huge media and political circus'*.<sup>67</sup>

66 Ibid

67 Minutes of Evidence, 30 May 1989, page 614

**Report on The Darling Harbour Authority**

**7. PROPERTY LEASING, LICENSING AND  
MANAGEMENT ARRANGEMENTS**

**INTRODUCTION**

7.1 The nature of the Darling Harbour development required the Darling Harbour Authority to enter into various types of agreements, often complex in formulation, in respect of property. The major agreements can be classified as:

- \*leases;
- \* agreements for lease;
- \* licences;
- \* management agreements.

7.2 The Committee received information regarding the major leases, licences and management agreements entered into by the Authority. It is the Committee's view that summary details of each should be disclosed in the Report in view of the speculation surrounding this aspect of the Authority's management and accountability.

7.3 Examination of the Authority's management of property leasing arrangements by the Committee focused on the following issues:

- \* leases
  - procedures for leasing
  - 99 year leases
  - agreements for lease;
- \* licences;
- \* management agreements;
- \* income derived by the Authority;
- \* issues in property management

Information presented in this Chapter pertains to the period up to July 1989.

## Public Accounts Committee

### LEASES

#### PROCEDURES FOR LEASING

7.4 The Committee was advised that the Authority adopted the following procedures for entering into lease arrangements:

1. the Authority called for expressions of interest;
2. expressions of interest were culled by Authority staff for suitability;
3. the General Manager reported to the Board to determine suitability;
4. Authority solicitors, Freehill Hollingdale and Page, drafted a *common document* containing general conditions; and
5. bids were invited.

7.5 Except in the case of the Eastern Promenade, the Authority accepted the highest bid in every instance. In the case of the Eastern Promenade, the highest bid was non-conforming and the next highest bid was accepted.

7.6 The leases entered into by the Authority are summarised in Table 7.1 below and the following paragraphs.



## Report on The Darling Harbour Authority

**TABLE 7.1 MAJOR LEASES**

SITE	LESSEE	TERM
Harbourside Festival Markets	Merlin International Properties	99 Years No Option
Entertainment Car Parks	Darecase Pty Ltd (Merlin)	40 years Option: 20 Years
Sydney Seaport	Sydney Maritime Museum Limited	10 Years Option: 10 Years
Pumphouse Tavern/ Brewery	Centerpac Ltd	10 years Option: 2 for 10 years
Sydney Aquarium	Jonray Holdings Ltd	49 years Option: 5 for 10 years
Palm Pavilion	AMF Bowling Pty Ltd	3 years Option: 3 Years
National Maritime Museum	Commonwealth Government	99 Years (2)
Studio City	Valtone Pty Ltd (Girvan)	99 Years (3)
Eastern Promenade	Lend Lease Development Lenfork Pty Ltd Fodasa Pty Ltd	99 Years
Corn Exchange Hotel	Galibal Pty Ltd (Shimuzu)	99 Years
Gardenside	Mr R Oayda	99 years

**Notes**

1. An existing lease of 40 years commencing in 1981 was transferred to the Authority in 1985.
2. A lease is currently under negotiation between Ministers of the State and Commonwealth Government. Construction proceeded on the basis of a Memorandum of Understanding.
3. The Committee understands that Girvan has recently sold its interest in Studio City.

## Public Accounts Committee

### HARBOURSIDE FESTIVAL MARKETS

Lessee/Operator

Merlin International Properties Pty Ltd (formerly the Hayson Group). The site was constructed under an Agreement to Lease.

Status

Trading commenced in approximately 200 shops on 5 March, 1988.

Term

99 year term - no option.

#### Rental

Year 1-3	i)	base rent \$200,000 pa indexed by minimum 5% CPI;
	ii)	6.5% of Gross Income Receivable pa above \$12.3M; and
	iii)	additional 1.625% when above \$23M pa.
Year 4-5		6.6% of total + 1.65% extra above \$22.7M.
Year 6-99		Rate increases yearly, starting from 6.7% on the total amount of Gross Income Receivable plus 1.675% on all amounts over \$22.4M for year 6 and varying to year 11 when the rate stabilises until year 99 at 7% on the total amount plus an additional 1.75% on all amounts over \$21.4M.

Comment

Lessee has right of first refusal to purchase land if it is to be made available to non-public agencies.

### ENTERTAINMENT CARPARKS

Lessee/Operator

Lessee - Darecase Pty Ltd (Merlin).

Carpark operator - Secure Parking.

Status

Operational and under construction (800 plus 1200 vehicle spaces respectively).

## **Report on The Darling Harbour Authority**

### **Form of Agreement**

An existing Lease between the Crown and the Mutual Life and Citizens' Assurance Company was transferred to the Authority in 1985. MLCs interest in the Lease was subsequently purchased by Darecase Pty Ltd (Merlin).

#### **Term**

A Lease term of 40 years which commenced on 21 September 1981 and terminates on 20 September 2021.

Option for renewal of 20 years.

### **Rental/Payments**

Annual rent of \$100,000.

Additional rent of 10% of the amount (if any) by which the Lessee's' gross income exceeds \$1M

If in any calendar month there are less than 5 evening performances at the Entertainment Centre the annual rent shall abate for that month (under review).

## **SYDNEY SEAPORT**

Lessee/Operator

Leased to Sydney Maritime Museum Ltd.

#### **Term**

Lease for 10 years with option to renew for 10 years.

### **Rental**

\$1 per annum where vessels are berthed for public exhibition plus an amount to be determined from time to time for vessels used for holding functions.

Rental for use of the ferry Kanangra and related facilities for functions at Sydney Seaport provides for the Authority to share a return on percentage turnover on a scale 4% to 6%.

## Public Accounts Committee

### **PUMPHOUSE TAVERN/BREWERY**

Lessee/Operator

Centerpac Limited.

Status

Operational. The Pumphouse Tavern commenced operation in February 1988. The Brewery commenced operations in February 1989.

The Authority has given approval for the development of a courtyard restaurant between the brewery and the tavern. A request has recently been received for permission to defer this work.

#### **Form of Agreement**

The Pumphouse project was implemented with an Agreement to Lease to cover the design and construction phase and a Lease to cover operation.

The term is 10 years with two options of 10 years.

#### **Rental/Payments**

A minimum rental of \$75,000 per year (+ CPI adjustment) plus between 6% and 14% of Gross Income over \$2M per year depending on the success of the facility.

### **SYDNEY AQUARIUM**

Lessee/Operator

Jonray Holdings Limited.

Status

Operational since July 1988. A further floating steel tank to hold mammals is intended for May 1990.

#### **Form of Agreement**

The design and construction phase of the Aquarium was undertaken under an Agreement for Lease which formed the basis of the current Lease and made provision for:

## Report on The Darling Harbour Authority

- \* construction of the Aquarium at no cost to the Government in accordance with the approved proposal and the Authority's design guidelines;
- \* operation of the Aquarium as a first class facility by international standards;
- \* provision of a construction bank guarantee of \$25M;
- \* indemnification of the Authority against any claims of liability;
- \* clearing of the land at the expiration of the Lease or sooner if required under the Agreement;
- \* provision of pedestrian coach parking spaces by the Authority outside the Lease area; and
- \* provision of pedestrian access from Market Street and Pyrmont Bridge by the Authority.

The Lease term is 49 years with five 10 year options.

### Rental/Payments

The rent is the greater of the following:

- i) \$100,000 pa indexed; or
- ii) 50 cents indexed for each visitor between 1,250,000 and 1,500,000 visits, \$1.00 indexed for each visitor between 1,500,000 and 1,750,000 visits, \$1.50 indexed for each visitor in excess of 1,750,000; or
- iii) 10% of gross revenue in excess of \$ 7,000,000 partially indexed, plus 20% of gross revenue in excess of \$11,000,000 indexed, plus 25% of gross revenue in excess of \$13,000,000 indexed.

## Public Accounts Committee

### PALM PAVILION

Lessee/Operator

AMF Bowling Pty Ltd

Status

Operational from January 1988.

#### **Form of Agreement Lease**

Term

Lease for 3 years from 16th January, 1988 with option to renew for 3 years.

#### **Rental/Payments**

Rent payable on scale from 15% to .18% of turnover.

### NATIONAL MARITIME MUSEUM

Lessee/Operator

Construction has proceeded on the basis of Memorandum of Understanding entered into between Ministers of the State and Commonwealth Government.

#### **Status**

Under construction.

Term

Lease for 99 years being negotiated with the Commonwealth (not the National Maritime Museum).

#### **Rental/Payments**

Construction costs of \$30M have been paid in full by the Commonwealth. Liability for additional costs is subject to negotiation.

Lease being negotiated provides for rental of \$1 per year.

## **Report on The Darling Harbour Authority**

STUDIO CITY

Lessee/Operator

Valtone Pty Ltd (Girvan)

### **Status**

Vacant occupancy of Market Buildings 1 and 2 was sought and subsequently obtained during June 1988. Permits for preliminary site works have been granted, removal of asbestos roofing has been completed and hoarding commenced. Commencement of major works has been delayed by ongoing litigation. The major Permit Application was lodged in June 1989. A Committee comprising the Authority, the Sydney Market Authority, Valtone and the Stall Holders Association has been formed in an attempt to resolve issues relating to future Paddy's Market operations.

### **Form of Agreement**

A Lease was entered into by Valtone Pty Ltd (Girvan) on 26 April 1988. A Sub-Lease between Valtone and the Sydney Market Authority will commence on the date of practical completion of complex.

Term

99 years

### **Rental/Payments**

The Authority has received full payment of \$43M for the 99 year Lease of the site.

### **Obligation/Performance Requirements**

Construction of the improvements to take place within three years of granting of necessary approvals. Use of the site is for entertainment, retail, commercial complex or other purposes agreed to by the Authority. Sub-Lease allows for use of the premises as a public market on weekends.

Comment

Following an amendment to the Darling Harbour Authority Act in November 1988 the Authority now has legislative obligations in relation to the return of a Paddy's Market operation to the site.

## Public Accounts Committee

### EASTERN PROMENADE

Lessee/Operator

Lend Lease Development 60%.

Lenfork Pty Ltd (Nomura Real Estate) 25%o.

Fodasa Pty Ltd (Toyo Real Estate) 15%.

Status

The Eastern Promenade site is being developed for 126,000 sq.m of commercial office space, a waterfront all suite hotel comprising 100 suites and a themed harbourside retail plaza of 10,000 sq.ms. A permanent pedestrian access will be provided from Market Street to Pyrmont Bridge and over the freeways to the Waterfront Promenade. A monorail station will be incorporated in the development.

A permit application for the overall development concept was lodged with the Authority in June 1989.

**Form of Agreement**

An Agreement for Lease was executed on 3 May 1989 and the Lease was signed on 15 June 1989. The Lease covers both construction and operational phases of the development.

**Term**

Rental/Payments

Rent of \$135.5M for the 99 year Lease has been paid in advance.

### CORN EXCHANGE HOTEL

Lessee/Operator

Galibal Pty Ltd



## **Report on The Darling Harbour Authority**

### **Status**

The site is being developed by the Shimizu Corporation. Construction has commenced, including piling works, demolition and dismantling of buildings to be reconstructed. The developer and its consultants are currently working with the Authority and other relevant authorities on design. Development building approvals will be given on a staged basis. The hotel development is expected to be completed in November 1990.

### **Form of Agreement**

An Agreement for Lease was executed in March 1988 between the Authority and Galibal. The Lease was signed in June 1988 and covers both construction and operational phases of the development.

### **Term**

Lease for 99 years.

### **Rental/Payments**

Rent of \$25.1M for the 99-year Lease was paid in advance on the execution of the Lease in

June 1988.

## **GARDENSIDE**

### **Lessee/Operator**

Sale and lease of land to Mr R. Oayda.

### **Status**

The area is known as the Dixon Street Triangle (land bounded by Dixon, Liverpool, Harbour, Goulburn Streets).

Under construction. A permit has been granted for retail/commercial development of the site. Excavation and service relocation works have commenced.

### **Form of Agreement**

A freehold sale was finalised and Lease entered into on 10 January 1989. The lease only covers a stratum of part of Dixon Street to allow the developer to extend carpark under the street.

## Public Accounts Committee

Term

Lease for 99 years.

### **Rental/Payments**

The negotiated sale price was \$8,819,813. The contract documents required Mr Oayda to pay interest at the State Bank reference rate plus 1% from 1 March 1988 until the actual date of settlement (that is, 14.25%). On settlement the Authority received \$9,077,785.48.

### NINETY-NINE YEAR LEASES

- 7.7 An issue which emerged from the committee's review of leasing arrangement was the Authority's frequent settlement of 99 year leases for largely unimproved sites.
- 7.8 Commercial considerations leading to such a decision may include the encouragement of large scale private investment in a site through long term leases and the immediate availability of funds paid in advance at the commencement of the lease. The Committee considers, however, that the 99 year leases entered into by the Authority raise several questions including;
- \* equivalence to "selling" the asset base
  - \* accounting treatment of 99 year leases
- 7.9 The Authority has disposed of the effective use of a number of sites by entering into 99 year lease arrangements rather than selling the freehold title. Lease payments for the entire period were in all cases fully pre-paid at the commencement of the lease.
- 7.10 The Committee's view is that these arrangements in effect constitute a sale of the relevant property since the Authority has disposed of any rights to use the property for a 99 year period and, consequently, the economic value of it to the Authority is zero.

## Report on The Darling Harbour Authority

7.11 Accordingly, proceeds from the sale of these leases are brought to account by the Authority as extraordinary income whilst the book value of the property disposed of is written off as constituting the cost of sales. This policy has been implemented with effect from the 1988/89 financial year. The previous policy was to treat the amount received in advance as a reserve and to bring to account as revenue each year the appropriate proportion of this amount which related to that year. The comparative figures for 1987/88 as recorded in the Authority's balance sheet and income and expenditure statement reflect the former approach.

### AGREEMENTS FOR LEASE

7.12 The Authority entered into "agreements for lease", at a preliminary stage during the construction of a project prior to reaching the operational stage of a site, and settlement of a lease. Table 7.2 below summarises the current agreements for lease.

TABLE 7.2  
AGREEMENTS FOR LEASE

SITE	LESSEE	TERM ON COMMENCEMENT OF LEASE
Darling Walk	Uras Holdings Pty Ltd	41 Years Option: 2 for 29 years
Northern and Southern Hotels	Chalford Holdings (Citistate)	99 Years

### DARLING WALK

Lessee/Operator

Uras Holdings Pty Limited and Merlin International Properties.

## Public Accounts Committee

### Status

Darling Walk is intended to be a world class entertainment complex which will combine sophisticated theatres such as The Omnimax and Showscan Theatres, with live entertainment and themed rides and attractions.

Under construction. The Agreement for Lease made provision for the following staged development:

Stage 1A -	30 April 1988
Stage 1B-	30 November 1988
Stage 1C-	30 November 1989
Stage 2 -	31 January 1993
Stage 3 -	31 January 1993

The current status is:

Stage 1A	comprising lake, hoardings and Bathurst Street pedestrian link is complete
Stage 1B	was approved and operated as a temporary attraction during December 1988 and January 1989
Stage 1C	the master plan for Stage 1C and 2 was approved by the Authority conditionally in December 1988
Stage 2 -	see above. Due for completion in 1993 under the Terms of the Agreement to Lease but expected to commence operation at the end of 1989
Stage 3	due for completion at the end of January 1993. If not completed, land reverts to the Authority

Piling for Stages 1C and 2 has been approved and is underway.

### Form of Agreement

The Agreement for Lease between the Darling Harbour Authority, Uras Holdings Pty Limited and Merlin International Properties was signed on 17 March 1988. It deals with the design and construction phase of the development. The Agreement for Lease makes provision for Leases, negotiated in conjunction with the Agreement for Lease, to be executed on the commencement of operation. Three leases have been negotiated to cover the three stages of development. The agreement to lease is being renegotiated to offset current design and construction proposals.

## **Report on The Darling Harbour Authority**

### **Term**

The Lease term is 41 years with two options of 29 years for all three lease areas. The term expires 41 years after the commencement of the Stage 1 Lease.

### **Rental/Payments**

The rental for the project is based on a share of revenue, with the Authority receiving a minimum percentage of admission income of 4% in the early years to between 8% and 14% in later years depending on the success of the development. The Authority also receives 7% of all concession income. The Lease makes provision for a review of the financial arrangements after 25 years.

### **Termination Indemnity**

The Lessor is required under the terms of the Lease to provide a \$20M Guarantee.

### **NORTHERN AND SOUTHERN HOTELS**

#### **Lessee/Operator**

Chalford Holdings (Citistate).

### **Status**

Two tourist class hotels with a total of 900 rooms to be developed in the airspace above Harbourside Carpark.

Consideration is being given to use of the southern end of the carpark roof for a child care centre.

Planning construction. Permit approval has been granted for both hotels. Construction on southern hotel has commenced. Preliminary works for Northern hotel were due to commence August 1989.

### **Form of Agreement**

Agreement for lease entered into on 24 August 1987.

The Lease will commence on practical completion of the works or the hotel operations commencement date.

The Darling Harbour Authority is currently considering an application for a separate agreement for each of the hotels.

## Public Accounts Committee

Term

Term of the Lease is 99 years.

### Rental/Payments

On commencement of the Lease an annual ground rent is payable of \$100,000 indexed by the CPI.

The Lessee will also pay a room revenue rent being equal to 3% of total room revenue of the complex.

### Termination Indemnity

A bank guarantee of \$10M is in place as security for the obligations under the Agreement of Lease and Lease. This is to remain in place until the Certificate of Practical Completion for the complex is issued.

## LICENCES

7.13 A licence agreement is one whereby the Authority remains in full ownership of the asset and contracts out its operations. Licences entered into by the Authority are summarised in Table 7.3.

TABLE 7.3

### LICENCES

SITE	LESSEE	TERM
Carousel	Merlin International Properties	Currently under negotiation
Charter Boats	Sydney Charter Boat Harbour Pty Ltd	3 years
Chinese Garden Tea House and Shop	Marn Lian and Co Pty Limited	2 Years

## **Report on The Darling Harbour Authority**

### CAROUSEL

Licensee/Operator

The carousel is owned by the Authority. Operation is contracted out to Merlin. Maintenance is contracted out to Public Works Department workshops at Leichhardt.

#### **Status**

The carousel runs daily in summer and at other times on weekdays, school and public holidays. The charge is \$1 for a 3 minute ride.

#### **Form of Agreement**

Exchange of letters pending finalisation of a formal licence to operate.

#### **Rental/Payments**

Rental to Authority is 60% of net income.

### CHARTER BOATS

Licensee/Operator

Sydney Charter Boat Harbour Pty Ltd

Status

Charter boat base comprising berths for up to 9 vessels together with temporary shore facilities comprising office space, food preparation and storage areas.

Full-time operation commenced 1 June 1988.

Term

Licence for 3 years from 1 June 1988.

#### **Rental/Payments**

\$11,000 per month from 1 June 1988 to 30 September 1990.

\$20,000 per month from 1 October 1990 to 31 May 1991.

### CHINESE GARDEN TEA HOUSE AND SHOP

Licensee/Operator

Marn Lian and Co. Pty Ltd.

## Public Accounts Committee

### Status

Operational. Tea House opened in October 1988 and Shop at end December, 1988.

### Term

2 years from 10 October 1988.

### Rental/Payments

12.5% of turnover provided that a minimum of \$3,500 for Tea House and Shop is paid monthly.

## MANAGEMENT AGREEMENTS

7.14 The Authority entered into management agreements where it desired to retain ownership and a substantial right to control the asset, whilst contracting out the management and daily operation (see Table 7.4). In most cases, such operation required specialist expertise.

TABLE 7.4  
MANAGEMENT AGREEMENTS

SITE	LESSEE	TERM
Convention Centre, Exhibition Center and Link Building	Arena Management Convention and Exhibition Pty Ltd (now known as SCEC)	6 Years Option: 5 Year extensions
Harbourside Car Park	Wilson Parking	Currently under negotiation.

### CONVENTION CENTRE, EXHIBITION CENTRE AND LINK BUILDING Operator

Arena Management Convention and Exhibition Pty Limited (AMCE) (Now called SCEC).



## **Report on The Darling Harbour Authority**

### **Status**

World class exhibition facility comprising 25,000m<sup>2</sup> of undercover column free space capable of being divided up into any combination of 5 halls each of 5,000m<sup>2</sup> Parking for 850 vehicles is available under the Exhibition Centre.

Although operational there are many "defects" which need to be rectified.

### **Form of Agreement**

AMCE is engaged under a Management Agreement which was executed on 24 April 1987.

### **Term**

The current Management Agreement expires on 30 April 1993 with an opportunity for 5 year extensions.

### **Rental/Payments**

A management fee is paid to AMCE based on a complex formula which effectively provides for AMCE to receive 28% of net Profit.

### **Obligations/Performance Requirements**

Part 5 of the Agreement specifies in detail the Obligations and Performance requirements of AMCE, including:

- \* manage and operate the complex in accordance with the objectives; \* market and publicise the complex, both within and outside Australia; \* maximise the usage to the highest level reasonably attainable; \* encourage the widest possible diversity of usage; \* encourage and receive advance bookings;
- \* engage employees and independent contractors with reputations, records, experience

and expertise to effectively meet all objectives;

- \* repair, mend, replace, paint, renew, clean and keep in good repair all aspects of the

complex;

- \* enter into and keep in force such maintenance and repair contracts as DHA or

AMCE may reasonably deem necessary;

- \* ensure that no alterations or additions are made to any part of the complex without

DHA's consent;

## Public Accounts Committee

- \* ensure that any approval or additions are carried ~~by~~ by a qualified consultant, architect or engineer;
- \* do all things necessary to rectify] any work to comply strictly with the approved consent;
- \* pay all charges for water, oil, electricity, telephone and other services and utilities;
- \* ensure that all necessary insurances are placed and kept current, that all variations are advised promptly and that all insurances remain valid and in force;
- \* ensure that all plant and operating equipment is maintained in good order;
- \* take all precautions to keep the complex free of rodents, vermin, insects, pests, birds and animals;
- \* maintain to its best endeavours the restaurant; \* operate and manage the carpark; and \* pay all operating expenses.

### COMMENT

The Chairman and General Manager of the Darling Harbour Authority have seats on the AMCE Board.

### HARBOUR SIDE CARPARK

#### Operator

Harbourside Carpark is a Government funded facility and has been operated by Wilson Parking since opening.

#### Status

Operational. Trading commenced 16 January 1989.

#### Form of Agreement

Management Agreement whereby Wilson Parking is to ensure the carpark is conducted in an efficient, proper and business-like manner and will endeavour to produce the best return obtainable from the carpark.

#### Term

Renegotiation of contract under consideration; existing arrangements to continue until either party gives one month's notice in writing.

## Report on The Darling Harbour Authority

### **Rental/Payments**

Wilson Parking are paid a monthly management fee of 5% of net profit of the carpark.

### **Comment**

Usage of the carpark has been affected by a number of issues - construction activity, initial lack of signage, incomplete roadworks.

### INCOME DERIVED BY THE AUTHORITY

7.15 Table 7.5 sets out the income derived by the Darling Harbour Authority from leases and other agreements, excluding 99 year leases, based on Estimates only prepared for the Authority's Board on 9th August, 1989.

**Public Accounts Committee**

**TABLE 7.5**

**INCOME DERIVED FROM LEASES AND OTHER AGREEMENTS**

<b>Site</b>	<b>Agree- ment Type</b>	<b>Term Comm- enced</b>	<b>Term (Years)</b>	<b>DHA Net Income Y/E 1989 \$M</b>
<b>Major Income Sources</b>				
National Maritime Museum	Lease	N/A	99	Nil
Sydney Seaport	Lease	15/07/88	10	Nil
Festival Market	Lease	05/03/88	99	.430
Northern Hotel	Lease	24/08/87	99	Nil
Southern Hotel	Lease	24/08/87	99	Nil
Entertainment Carpark	Lease	24/02/88	40	.455
Pump House Tavern	Lease	01/02/88	10	.272
Haymarket Site/Studio City	Lease	26/04/88	99	Nil
Darling Walk	Lease	17/03/88	41	Nil
Eastern Promenade	Lease	15/06/89	99	Nil
Corn Exchange	Lease	01/06/88	99	Nil
Aquarium	Lease	01/07/88	49	.087
Kiosk	Lease	16/01/88	3x3	.148
Gardenside	Lease	10/01/89	99	Nil
Chinese Gardens/Tea Hse/Shop	Licence	01/02/89	2	.014
Charter Boats Wharf	Licence	01/06/88	3	.077
Convention Centre	Mgmt	24/04/87	6	2.510
Link Building	Mgmt	24/04/87	6	2.510
Exhibition Centre	Mgmt	24/04/87	6	2.510
Harbourside Carpark	Mgmt	16/01/89	*	1.511
Carousel	Contract	01/01/88	*	.070
<b>Other Income Sources</b>				
Mobile Vending	Licence	01/04/89	2	.024
Monorail	Agreement	24/01/86	**	Nil
Compound	Lease	18/08/89	.25	Nil
<b>TOTAL</b>				<b>\$5.926</b>

Source: Estimates only, prepared for the Darling Harbour Authority Board, August 1989

1. value of 99 year lease is allocated as extraordinary income and is not proportionally brought to account each year.

\* under negotiation

\*\* ongoing

## Report on The Darling Harbour Authority

### ISSUES OF PROPERTY MANAGEMENT

- 7.16 The Committee received information suggesting that there were several problems with the general management of the Authority' leases, licences and agreements. The process of fast tracking and general enthusiasm for the project among Authority management encouraged a certain haste and, as it was described to the Committee, "naivety" in entering into the leasing arrangements. Issues relating to 99 year leases were discussed earlier in the chapter.
- 7.17 Other issues impinging on property management identified by the Committee included:

### AUTHORITY PERSONNEL

1. The negotiating party for the Authority in entering agreements were not specialists in property/leasing. The Authority's construction-led personnel structure at the time of settlement of many of the major leases did not include a property division or leasing/property manager. Negotiations worth millions of dollars were conducted by the various General Managers in most cases (with legal advice), while the other parties to the agreement received high level *specialist* advice.
2. The personnel required for the long term management of the leases was not considered, or provided for, until the re-structuring of the Authority staff which occurred in 1989. The Committee noted that a property management section now exists in the Authority, although the most senior position on the team has not been filled.

### BASIS OF INCOME TO AUTHORITY

3. The Authority assumed high financial risks in negotiating leases on the basis of payment to the Authority on expected numbers of patrons, for example. Being caught in the enthusiasm of the project, it may be that the managers of the Authority were a little "naive" regarding the basis of some of the contracts; certainly some of the decisions have meant that the Authority has, in fact, lost potential revenue.

## Public Accounts Committee

### VALIDATION OF INCOME TO THE AUTHORITY

4. The Authority did not seek to gain powers of right of access to the lessee's audit to validate the income and turnover claimed by the lessee in the '*percentage rental*' agreements. This has meant that considerable disputation has occurred.

### COMMON CONDITIONS

5. The leases varied considerably in terms of the degree to which they set out the respective responsibilities of each of the parties. This particularly applies to key areas such as maintenance and promotion.
6. The Authority missed the opportunity to impose a "promotional levy" on all lessees to be used to promote and advertise Darling Harbour. The Committee notes, in contrast, that the Sydney Cove Redevelopment Authority has levied its tenants 5% of the annual rental since April last year for such purposes. This is an accepted and widely used practice in commercial tenancies.

### AUTHORITY RESOURCES

7. The Authority does not have a computerised property management system. The variety in the bases of the lease agreements has resulted in administrative expenses and points to the need for a flexible reporting package.

## 8. MARKETING AND PUBLIC RELATIONS

### INTRODUCTION

8.1 Darling Harbour was conceived as a major recreation, entertainment and leisure area for the people of Sydney and as one of the city's premier tourist attractions.

8.2 The redevelopment of Darling Harbour ranked in scale with the building of the Sydney Harbour Bridge. It was a high profile Government, and thus by definition *'political'* initiative. The project was *'fast-tracked'*, with government works initially due for completion by 1988. Significant parcels of land adjacent to the Central Business District were acquired. The Authority had to coordinate a mix of public and private enterprise developments, and liaise with other State and local government instrumentalities and with the business community. The project, by its very nature:

- a) necessitated extensive communication with the many individuals and groups affected by, or in contact with, the project;
- b) would attract considerable media and public attention; and
- c) would be subject to dose scrutiny by all interested parties.

8.3 These circumstances required well-organised, effective public relations. Public relations is all about communication; about, as the Public Relations Institute of Australia defines it, *'deliberate, planned and sustained effort to establish and maintain mutual understanding ....'* <sup>1</sup> The Macquarie Dictionary defines public relations as *"the practice of promoting goodwill ... of working to present a favourable image."* <sup>1</sup>

8.4 Marketing was also *critical* to the success of the Darling Harbour redevelopment. Marketing may be defined in simple terms as:

1 C. Tymson and B. Sherman, *The Australian Public Relations Manual*, Sydney: Millenium 1987, page 3

## Report on The Darling Harbour Authority

*'... determining if a product or service is right, and if it is, what needs to be done to get people to buy it or use it.*

*And then doing it!" 2*

8.5 The Committee notes that marketing is much more than selling and advertising; it also involves development of the right product, research, and planning.

8.6 The Committee sought to investigate the operations of the Darling Harbour Authority in the areas of marketing and public relations. The first part of this chapter reports on marketing activities, with particular reference to:

1. the attention given to marketing;
2. marketing planning;
3. management structure;
4. the marketing budget; and
5. future marketing.

8.7 Part 2 looks at public relations. Recommendations made in respect of marketing and public relations are based on the assumptions that the Darling Harbour Authority will continue in its present statutory form. Alternative structures are canvassed in Chapter 11.

## PART 1 - MARKETING

### APPRECIATING THE SIGNIFICANCE OF MARKETING

8.8 The Committee found that many people associated with the project failed to appreciate the significance of marketing to the success of Darling Harbour.

8.9 In part, this was because Darling Harbour has been essentially a construction-led concept. Construction was seen as the major activity and priority of the Authority. Senior staff of the Authority had formal qualifications and experience in the areas of engineering, construction and financial administration. Few, if

2 C. Jones "Marketing into the 21st Century" *Business Bulletin*, May 1989, page 32



## Public Accounts Committee

any, had a background in marketing. Their actions and remarks often displayed a **lack** of understanding of marketing principles or of where marketing fits into the overall management and long-term development of a complex like Darling Harbour.

8.10 The Committee noted that the Authority's print materials emphasised the architectural significance and construction management aspects of the project, rather than the *market orientation* of the development.

8.11 The Committee also found that there was a widespread belief that Darling Harbour, in a sense, did not "*need*" marketing. Many of the people most closely involved with the project appear to have believed that Darling Harbour would *market itself*." As the former General Manager, Mr R. Pentecost, stated:

*'I guess I felt at the time that there was so much talk about Darling Harbour in 1987 I really didn't have to market it and tell anybody it was there. All I had to do was to take the gates away and put the Tall Ships in.*

*"3*

8.12 Darling Harbour was to be the centrepiece of the Bicentennial Celebrations - many people took the view that this would *launch* the "*new Darling Harbour*" and attract hundreds of thousands of Sydneysiders and tourists to the area during 1988. This local, short-term and rather passive view significantly limited the marketing effort.

8.13 The Government certainly seems to have believed that the Bicentennial Programme would be the vehicle for marketing.

8.14 Some members of the Board also appeared not to appreciate the *long-term* nature of marketing management, the importance of defining and developing the long-term market. They erroneously equated marketing with simply *selling* a finished product.

3 Minutes of Evidence, 30 May 1989, page 594

## Report on The Darling Harbour Authority

8.15 According to evidence presented to the Committee 4 the second Board first met in November 1988. The then Chairman was asked why the Board was not presented with a document for its first formal discussion concerning marketing until some five months later (on 17 May 1989), and some *fifteen months after the opening*. Mr Baxter replied:

*'? think it was a case of determining priorities, and when we had an uncompleted project which was really not capable of selling well our priority was to get a product which could then be marketed. Until we had that product and we knew reasonably the completion dates for that product we didn't have something that was capable of being marketed in my view.'*<sup>5</sup>"

8.16 In 1986/87, the Board member with the most experience in marketing, Mr G. F. Coote, AM, unfortunately resigned, due to overseas business commitments.

### **Recommendation 32**

**It is recommended that the Darling Harbour Authority recognise marketing as a major on-going responsibility in the management of Darling Harbour.**

### **Recommendation 33**

**It is recommended that concerted attention be given to marketing, including identification of consumer or user needs, planning and promotion right from the outset of all future such projects.**

4 Minutes of Evidence, 31 May 1989, page 670 5 Minutes of Evidence, 31 May 1989, page 671

Public Accounts Committee

MARKETING PLANNING

8.17 The Committee considers a marketing plan should precede and often determines the successful implementation of a marketing strategy.

8.18 The Committee noted that in a 1987 study by Grant and Sutcliffe of 100 of Australia's top 500 organisations, 76 per cent prepared both marketing and corporate plans. Not one single organisation which did not have a written marketing plan was deemed to have been clearly successful in its marketing endeavours. 6

8.19 Given the obvious importance of preparing a marketing plan in the commercial environment, the Committee was appalled to note that despite a total investment of approximately \$1.6 billion (Government and private) in the construction of Darling Harbour and an expenditure of up to \$500,000 per annum for advertising and promotion, at the time of writing, no marketing plan has been prepared and presented to the Darling Harbour Authority Board.

8.21 In May 1989, more than 15 months after the opening a 7-page document entitled 'Darling Harbour Marketing' was considered by the Darling Harbour Authority Board. Mr Baxter, then Chairman of the Darling Harbour Authority, was asked by the Committee whether "... the Board regards this documentation as a major marketing paper." He replied:

*'No, it doesn't. It's an input that we have had from a member of the staff who has been engaged in the marketing. Can I also say that we would expect the role of the new Board which is to take over from 1st July is to have as its prime objective the marketing side of it.'*

6 K. Grant and D. Sutcliffe "Marketing Planning In Australia - What's Really Happening?", *Marketing World*, 8,3 1988, pages 11-14

7 Minutes of Evidence, 31 May 1989, page 673

## Report on The Darling Harbour Authority

- 8.20 The Committee believes Mr Baxter was right to regard the document in this light, given that it was fundamentally an outline of the new Darling Harbour marketing group and contained a detailed budget to the end of June 1989 and some broad observations relevant for the year 1989/90.
- 8.21 The situation at Darling Harbour may be contrasted with a number of overseas projects which the Committee studied. For example, the South Street Seaport development in New York City prepared a long-range marketing plan in 1978 *prior* to commencing major construction. That plan covered the time of major construction (1981-1985) as well as the period thereafter. In Boston, the Waterfront Faneuil Hall provided for a marketing plan to be presented to commercial tenants for consideration prior to their signing their initial leases during the latter part of the construction phases of that development.

### Recommendation 34

It is recommended that the Darling Harbour Authority urgently develop a detailed marketing plan for the short, medium and long term.

### Recommendation 35

It is recommended that a comprehensive marketing plan be developed from the outset of all future such projects and be subject to continuous review and refinement.

## MARKETING PERSONNEL

- 8.22 The Committee considers that insufficient priority was given to marketing and related activities in the staffing profile of the Darling Harbour Authority. The Committee is critical not only of the small number of staff in marketing and related areas but also of the failure to provide for the appointment of senior,

## Public Accounts Committee

experienced personnel. This did not assist in supplementing the Board's relative lack of expertise in the marketing area.

8.23 At its peak, the Darling Harbour Authority had 43 staff, and an approved staff establishment of 55. Total staff numbers involved in aspects of marketing, however, varied from only one to a maximum of three, including very junior personnel.

8.24 In 1984/85 the "*marketing focus*" was limited to the employment of one person with a background in journalism to answer media questions. In 1986 a marketing officer, who undertook the development of letterhead, brochure and plans was appointed, but resigned within months of having been appointed. In 1987 this officer was replaced and the position was supplemented with the engagement in September of an Events Manager. Both officers resigned in November/December 1987. In December 1987 an officer was appointed who, in 1986, had provided limited consultancy advice, together with a very junior Events Assistant to co-ordinate the marketing and associated publicity for the opening of Darling Harbour, its activities throughout the Bicentenary Year and the planned 38 Royal visitors.

8.25 In addition, a Media Services Manager was appointed in 1987. However, when the Manager resigned in August 1988 no replacement was appointed.

8.26 In the latter part of 1988 through to April 1989 the marketing staff associated with the Darling Harbour Authority consisted of one Marketing Manager, one junior Events Assistant and one full-time Personal Assistant to the Manager.

8.27 All the above personnel, while very dedicated and loyal to the Authority, nevertheless did not come to their positions with extensive experience in specialised marketing areas.

8.28 The staffing issue was of particular concern to the Committee, because both overseas and other Australian experiences indicate that a massive project such as that at Darling Harbour requires a dedicated marketing, sales, public relations and promotions team. Such projects have had talented teams in place almost from the beginning, and certainly during the major construction stage, with

## **Report on The Darling Harbour Authority**

growth in personnel and experiential professional background in the lead-up period prior to and following the opening of the complex.

- 8.29 Whilst the Committee was pleased to note the establishment in April 1989 of the 'Darling Harbour Marketing Board, the Committee considers that there are still problems in this area.

### **DARLING HARBOUR MARKETING BOARD**

- 8.30 The Marketing Board consists essentially of six people, three from the Merlin organisation and three provided by the Darling Harbour Authority. While appreciating the various experiential backgrounds of the six core people, the Committee believes that this Board lacks the "depth" required to market a project as significant and as complex to promote as Darling Harbour.
- 8.31 The Committee notes that the Darling Harbour Marketing Board is chaired by the General Manager of the Darling Harbour Authority, who - while having a very sound general management background - has no formal qualifications or significant experience in marketing.
- 8.32 Reporting to this Board is a staff component including one Marketing Director, one Marketing and Tourism Manager, one Public Relations Manager, one Entertainment and Events Manager and four '*Personal Assistants*'.
- 8.33 The Committee questions whether the long overdue improvements in staffing have gone far enough. It is still questionable whether the numbers, areas of expertise and experiential levels of the personnel associated with marketing Darling Harbour are adequate.

### **COMPARISONS WITH OTHER ORGANISATIONS**

### Public Accounts Committee

- 8.34 The Hotel Nikko - scheduled to open in Sydney in March 1990 - has already appointed a Director of Sales and Marketing, has an outside Public Relations representative and anticipates a marketing and promotional full-time staff of nine in the immediate period before opening and to continue thereafter.
- 8.35 Sydney's Power House Museum has continuously employed one Marketing Manager and four full-time public relations staff, and has retained outside advertising and sponsorship consultants.
- 8.36 The Sydney Opera House has an Advertising Manager, a Marketing Executive, a Media Officer, a Co-Ordinator, three Publicity Managers and two Assistants. It is interesting to note that the Public Relations Manager at the Opera House has been in his position since before the building opened.
- 8.37 The Committee notes that by 1984/85 the NSW Bicentenary Council employed 17 at its Marketing Centre, a Marketing Subcommittee of eight, from both private and public sectors, four Public Relations Officers, four Community Relations Officers, one Marketing Officer, two Corporate Sponsorship Officers and consultant firms in marketing and public relations. To this was added a Communications Subcommittee of seven.
- 8.38 The World Expo 1988 in Brisbane had an organisation divided into seven divisions including of Marketing, Communications and Public Relations and Entertainment, and employed a staff of 80 to accomplish these tasks.
- 8.39 The Baltimore Harbourside development, much smaller in size than Darling Harbour, has a marketing department of four staff handling advertising sponsorship and promotions, which is supplemented by the Baltimore City Council's promotional arm consisting of five Events Managers, two Public Relations Officers, two Commercial Artists and eight assistant/support staff.
- 8.40 Among the ingredients common to successful public venue marketing efforts which the Committee inspected in Australia and in North America, are:

## Report on The Darling Harbour Authority

1. an adequate number of marketing personnel on staff with the appropriate level and mix of experience;
2. limited use of specialist consultants, and only on a project basis; and
3. the appointment of a highly experienced, entrepreneurial, energetic, and talented person to lead the marketing team.

8.41 This was most apparent with the Baltimore waterfront redevelopment and in Brisbane Expo 88.

### Recommendation 36

It is recommended that the Darling Harbour Authority engage the services of an appropriately equipped Marketing Director with experience in private enterprise to facilitate the successful marketing of Darling Harbour and that person be the Chief Executive of any marketing organisation established by the Darling Harbour Authority.

### Recommendation 37

It is recommended that the Darling Harbour Authority give serious consideration to sending the newly appointed Marketing Director on a study tour of similar venues overseas.



## **Public Accounts Committee**

### **Recommendation 38**

It is recommended that the Darling Harbour Authority, in conjunction with the private sector participants in the Darling Harbour precinct, engage appropriately professionally qualified and experienced marketing personnel for a revamped marketing organisation.

### **Recommendation 39**

**It is recommended that for future such projects the government authority concerned appoint, right from the outset, senior, professionally qualified and experienced marketing personnel.**

## **MARKET RESEARCH**

- 8.42 Market research involves investigating the needs and attitudes of potential customers or service users, comparing a product or service with others on the market, studying how to reach the appropriate market segment, and evaluating the response to a product or service. Such research is vital to the success of any organisation.
- 8.43 The Committee was, therefore, very disappointed when advised that the Darling Harbour Authority has undertaken little market research since its establishment in 1984.

## Report on The Darling Harbour Authority

8.44 The Committee was advised that Merlin International has studied the patronage profile of the Festival Marketplace, and that the Authority has researched the patronage levels and likelihood of return visits of Sydney-siders. The Darling Harbour Marketing Board is undertaking telephone surveys relating to ~~its~~ *current 'Hot Summer Festival'* promotion, a three-month promotion running over four calendar months and including the Festival of Sydney period during January 1990.

8.45 It is obvious, however, that much more extensive research is required to enable an effective marketing plan to be developed and optimise the effectiveness of promotional activities.

### Recommendation 40

**It is recommended that the Darling Harbour Authority commission regular and comprehensive professionally managed market research to assist in the formulation of future marketing plans and budgets.**

### Recommendation 41

It is recommended that for future such projects the authority responsible commission regular and comprehensive professionally managed market research to assist in the formulation of marketing plans and budgets.

## WIDER PROBLEMS

8.46 One of the consequences of inadequate market research and ~~planning~~ has been a lack of direction for the Authority. Mr K. Baxter, former Chairman of the Authority, told the Committee that:

Public Accounts Committee

*"One of the things that we've got wrong in the past is we haven't really identified what's the client base. That applies not only to Darling Harbour, it applies for a lot of things. What we really have to do is turn around and say: 'What's the client base, what is the core business we're in, can we give it a structure and a process which supports those two?."*<sup>8</sup>

8.47 Mr Baxter further suggested that:

*"One of the real problems with the Darling Harbour Authority Board and most other statutory authorities is that there is no equivalent to a mission statement, to statement of corporate intent, of a set of clear objectives of where the Board goes. The end result is that it is very difficult to identify what is the core business and what you should really be focusing on."*<sup>9</sup>

8.48 The Committee does not accept that such a situation is an inevitable consequence of operating as a statutory authority. Moreover, if the Chairman or any other member of the Board felt that what was needed was to develop a clear mission statement or corporate plan, then it was surely within their power to direct that such work be undertaken. Market research would certainly have assisted in identifying the "client base,"

8.49 The Committee is aware how important it is that overall corporate planning and marketing planning be closely integrated. Three of the major problems in drawing up a marketing plan are:

1. preoccupation with short term thinking;
2. lack of strategic thinking; and
3. objectives not understood!<sup>10</sup>

8 Minutes of Evidence, 31 May 1989, page 689

<sup>9</sup> Ibid, page 649

<sup>10</sup> See K. Grant and D. Sutcliffe "Marketing Planning in Australia - Common Problems" *Marketing World*, 8, 4, 1988, pages 4-7

## Report on The Darling Harbour Authority

### Recommendation 42

It is recommended that development by the Darling Harbour Authority of a marketing plan be closely related to the Authority's corporate planning.

### Recommendation 43

It is recommended that the development of corporate planning by statutory bodies be closely related, where applicable, to market planning.

## THE MARKETING BUDGET

8.50 It was difficult, in the absence of the marketing plan, for the Committee to assess the adequacy and effectiveness of the Darling Harbour Authority's present and proposed future expenditure on marketing.

8.51 Evidence presented to the Committee indicates that some \$100,000 has been collected from Darling Harbour tenants to assist in marketing the Darling Harbour complex but the level of expenditure remains unclear to the Committee. When asked by the Committee about this money, the present General Manager, Mr Jones replied:

*'I would have to check that, but to the best of my knowledge the money is actually on my books.'*<sup>11</sup>

8.52 The Committee was advised that under the Darling Harbour Marketing Board a marketing budget three times that of the previous annual expenditure level is anticipated.

11 Minutes of Evidence, 31 May 1989, page 677

## Public Accounts Committee

*'A preliminary budget has been prepared for the next financial year, to enable Darling Harbour marketing to operate. It is estimated that a total of \$1.5M will be required to provide for administration costs, entertainment and events, tourism activities, public and media relations and other general activities. This budget does not include in kind contributions from the Darling Harbour Authority and Merlin International as regards payments of staff and the provision of office accommodation.'*<sup>12</sup>

8.53 The Committee has not received documentation indicating that an agreement with regard to the sources of this funding has been finalised. The Committee was informed that it was intended that \$500,000 would be provided by both Merlin International and the Darling Harbour Authority, \$100,000 would be provided by AMCE and \$50,000 from TNT Harbour-Link. No indication was provided to the Committee of how the \$350,000 shortfall was to be funded.

8.54 Nor has the Committee received details concerning how specific items, included in the abovementioned \$1.5M, would be allocated. The Committee had some specific concerns about the budget prepared for May/June 1989 by the Darling Harbour Marketing Officer.<sup>13</sup> The Committee noted the establishment costs of the Darling Harbour Marketing Board of \$14,500, \$12,500 for press kits/PR material, and television commercial production costs of \$28,000 (with an air time cost of \$67,000, that is, a production cost of some 30% of electronic media budget). The Committee considers these costs were somewhat high given the relatively short period of time involved. The Committee noted that the total costing for the (apparently) two-month promotion was \$275,000.

8.55 The one item of expenditure indicated to the Committee as committed for 1989/90 was an amount of \$400,000 to be allocated to the *Hot Summer Festival*."

12 Briefing Paper, "Darling Harbour Marketing", Agenda Item 3(g), Meeting No. 82, page 5.

13 Marketing document 27th May, 1989.

## Report on The Darling Harbour Authority

### Recommendation 44

That the Darling Harbour Authority finalise an **appropriate** marketing budget with realistic **costings on an annual basis, with appropriate forward planning.**

### **LIAISON WITH MAJOR DARLING HARBOUR TENANTS ON MARKETING/PROMOTION**

- 8.56 The Committee became aware during its Inquiry of some degree of mistrust between the commercial tenants at Darling Harbour and the Darling Harbour Authority. This situation was further exacerbated in 1988 and early 1989 by Darling Harbour Authority General Managers wishing to maintain control over the project and its continuing operations.
- 8.57 The Committee notes that on a number of occasions the Merlin organisation attempted, without much success, to liaise with the Darling Harbour Authority in an effort to upgrade the overall marketing activity.
- 8.58 As late as May 1989 no mechanism had been developed to provide an opportunity for the individual operators to contribute financially to the Darling Harbour marketing concept. There had been a series of fortnightly meetings of the various tenants and parties in Darling Harbour chaired by the Darling Harbour Authority Marketing Officer, and 10 organisations had indicated that they were prepared to contribute \$10,000 each to a co-ordinated marketing programme.

### Recommendation 45

It is recommended that the Darling Harbour Authority **finalise an appropriate mechanism for liaison and co-ordination** of the major Darling Harbour tenants to assist in **supporting** both individual **and group** marketing efforts.

## Public Accounts Committee

### PART 2 - PUBLIC RELATIONS

#### LOST OPPORTUNITIES

- 8.70 The Committee found that, as with marketing, many of the people most closely associated with the Darling Harbour project failed to appreciate the significance of public relations.
- 8.71 Public relations specialists were needed from the outset to manage contact with the media, promote all the positive aspects of the project, and help establish good community relations. Instead, the project failed to attract experienced, highly skilled public relations personnel. The Committee notes that only one professional journalist was ever engaged by the Darling Harbour Authority and his tenure was for less than one year.
- 8.72 The opportunity to build and maintain a favourable image and widespread support for the project at the time when the government of the day announced its decision to re-develop Darling Harbour, and create a magnificent facility for the people of Sydney and New South Wales, was soon lost.
- 8.74 The Committee was advised that the Government found it difficult, in light of the controversy which quickly followed the announcement of the redevelopment plans, to attract such people. These people should, however, have already been in place.
- 8.75 As noted earlier, subsequently the Darling Harbour Authority did not appoint sufficient staff in marketing and public relations and the positions in those areas were generally not at the level required to attract senior, experienced professionals.
- 8.76 It was not practicable, because of the very tight schedule set for the Darling Harbour Authority to complete the government funded projects, to allow for as much community discussion of the proposed development as is now-a-days

## Report on The Darling Harbour Authority

thought desirable. That being the case, it was even more important that attention be given to explaining the project and establishing and maintaining good community relations.

### COMMUNITY RELATIONS

- 8.77 Evidence presented to the Committee indicated that the Darling Harbour Authority did not always communicate effectively with its near neighbours and with the community generally. The Authority tended to be abrasive rather than than conciliatory.
- 8.78 In his 1988 Annual Report to Parliament, the Ombudsman reported on investigations arising from a complaint made by 'Ms T' that the Darling Harbour Authority had failed to inform or consult with residents about the development of a site opposite ten residences, including her own, in Murray Street, Pyrmont.
- 8.79 The Ombudsman found that the Authority had taken steps to display and invite public comment on its draft development plan and strategy. The Ombudsman took the view that the Authority *had a very high duty to continue to inform and consult with the public generally, but particularly with those ... specifically affected by major changes to the strategy*:

*'... this duty was particularly onerous precisely because the Authority was given exemption from all legislation which provides for mandatory consultative procedures designed to protect the public interest.'*<sup>14</sup>

- 8.80 The Ombudsman found, however, that the Darling Harbour Authority had:

- "\* failed to make it clear to the public from the outset that the project was on the fast track and, in so doing, in effect had misled the public;*
- \* by continuing to use promotional material which showed the carpark level with the road and with tennis courts on top, continued to mislead the public;*

14 The Ombudsman of New South Wales, Annual Report for the Year Ended 30th June 1988, page 51.



### Public Accounts Committee

- \* *failed to inform and consult with residents about major changes to the carpark/hotel development;*
- \* *failed to properly consider the environmental effect of the northern carpark;'*

*and that such conduct was unreasonable, unjust and oppressive in terms of the Ombudsman Act.<sup>15</sup>*

8.81 On the specific issue of consultation in fast track projects, the Committee notes that the Authority insisted that the public had been made aware that the project was "on the fast track" and that the original model was "indicative one" and subject to change. However, the Ombudsman stated:

*'... this Office was unable to find any evidence that the basis on which the development of the Darling Harbour area was to occur had been in any way explained to the public.<sup>16</sup>*

### Recommendation<sup>46</sup>

**It is recommended that as a matter of policy, any government authority meaningfully consult with residents and property owners over initial development plans and any subsequent changes to the nature or timing of work.**

### A CRITICAL ENVIRONMENT

8.82 The Darling Harbour project took place in a highly critical and politicised environment. Representatives from the then Opposition in State Parliament, the Sydney Convention Centre, some of the architectural profession, the anti-monorail campaign group and the City of Sydney Council, amongst others, were all successful in generating critical media coverage. Media comment tended to highlight the negative features of "Cast-tracking." Cost and poor industrial

15 Ibid., page 52

16 Ibid., page 50.

## Report on The Darling Harbour Authority

relations received wide coverage, overshadowing what many people would see as the positive side of rapidly developing such an outstanding new facility and tourist attraction.

- 8.83 It was put to the Committee, on the one hand, that "*more than public relations management*" would have been needed to try to deal with, and "*turn around*", the negative publicity surrounding the project. On the other hand, much more could and should have been done to anticipate and correct false impressions, to respond appropriately to criticism, and through advertising and any other means available, to project the positive features and benefits of the re-development.

### COMPARISONS

- 8.84 In discussions with Sir Llewellyn Edwards, AC, Chairman of EXPO in Queensland, the importance which his Board placed on public relations, and especially the work of the EXPO Public Relations Unit was apparent. There was no doubt that the EXPO Project was well presented to the community. Media coverage focused on the benefits of the project to Queensland and emphasised that the people of Brisbane should be 'proud' of *their achievements*:
- 8.85 It is essential that the Chairman of the Board and the Chief Executive Officer of a major community project, in their respective roles, have a keen sense of public relations. They should have strong leadership qualities and be seen by the public to be leading the project. This was a feature not only of EXPO 88 management in Brisbane but also of projects such as the Snowy Mountains Scheme.
- 8.86 The Snowy Scheme captured the public's imagination. Sir William Hudson, of The Snowy Mountains Authority, was not only an eminent engineer and an excellent administrator and leader, but he also had a very keen sense of public relations. He was able to convince the Australian people of the worthiness of this huge project. An important strategy of Sir William was to encourage the public to visit the site; viewing points were created so visitors could see what was happening and there were frequent public tours and media inspections.

Public Accounts Committee

Recommendation 47

It is recommended that any authority that is set up to achieve a similar, major **development project** on behalf of the State should at the outset establish a very strong public relations unit, able to convey clearly to the public the objectives of the project and to excite support for its operation.

INFORMATION CENTRES

- 8.87 The Committee notes that provision for a Visitors' Center was included in the original budget. The Order of Magnitude Estimate allowed \$980,000 (\$1985) for a visitor's information centre including "model room, theatrette and officer's Pressure on the Authority's budget led to the decision to not proceed with building.
- 8.88 Visitors centres are an important feature of most tourist-oriented precincts, providing information not only on current and future events but on the history of the project, and often featuring posters and other souvenirs and *memorabilia*" for sale.
- 8.89 Manly Council, for example, provides a geographically central and well-staffed information centre on the promenade at Manly Beach. The Interpretive Centre at Yulara in the Northern Territory caters each year for the thousands of visitors to Uluru (Ayers Rock). The Blue Mountains Tourism Authority provides two centres - one at Echo Point, the other at Glenbrook, which together service 700,000 visitors per year and provide commercial sales outlets. Those centres are self-funding. The gross revenue of approximately \$800,000 in 1989 generated a net profit in excess of \$100,000 for the Blue Mountains Tourism Authority.

## Report on The Darling Harbour Authority

### Recommendation 48

It is recommended that the Darling Harbour Authority urgently investigate the possibility of establishing a purpose built Visitors Information Centre within the Darling Harbour precinct.

## 9. FIRST STATE '88 EXHIBITION

### INTRODUCTION

- 9.1 *'First State 88'* was to be a major part of the State's Bicentennial celebrations.
- 9.2 Commissioned and underwritten by the government of the day, it was planned in 1984 to be the first event to be held in the new Exhibition Centre at Darling Harbour in the Bicentennial year.
- 9.3 The State Exhibition Advisory Committee was appointed by the Minister for Public Works and Ports under Section 58 of the Darling Harbour Authority Act, to advise the Authority on the staging of that exhibition and associated events to take place at Darling Harbour during 1988. Its members were Dr L. Sharp, Dr R. Werner A.M., Ms R. Danziger and Mr J. Kirk A.O. Mr P. Brownscombe was appointed to the Committee in December 1986. The Chairman and General Manager of the Authority were ex-officio members of the Committee.
- 9.4 A small administrative unit, the Bicentennial Exhibition Unit (BEU), was created in 1985, separate from the Authority. This was because the Government had required the Authority to give priority to completing the public works at Darling Harbour by 1988. The Authority was initially asked to deal with a small number of minor administrative matters which were intended to be passed over to the BEU.
- 9.5 The BEU, however, never became an effective operational unit. The appointment of its head was delayed and the position was only ever occupied on a part-time basis. Only one other administrative post was filled but that person eventually transferred to another position.
- 9.6 The Exhibition Advisory Committee subsequently recommended to the Minister that the creative tasks involved in preparing such an exhibition would best be handled by the private sector. Campbell Associates were engaged as Project Directors for *'First State 88'* in August 1986 and assigned the tasks of designing, fabricating, erecting and commissioning the show.

## Report on The Darling Harbour Authority

9.7 Following the departure of the Head of the Exhibition Unit, administrative responsibility for the Exhibition was transferred to the General Manager of the Darling Harbour Authority. An engineer and a stenographer were made available to the General Manager to assist with the Exhibition. The Authority acted, in effect, as the Government's Agent in respect of the Exhibition.

### MAJOR PROBLEMS

9.8 Government funding for the Exhibition was based on an approved construction budget of \$20M and anticipated operational expenses of some \$18M. Expected revenue, calculated in part on projected attendance from January to July 1988 of 3.5 million visitors, was expected to be some \$37M.

9.9 These forecasts were based on completion of the Darling Harbour Exhibition Centre Halls 1 and 2 by September, 1987 to allow clear access to construct the Exhibition, and on projections, at the concept stage only, of the likely number of visitors.

9.10 Construction of Halls 1 and 2 was delayed, however, and it became apparent in mid-1987 that a share access agreement would be necessary to enable completion of the building and commencement of construction of fixed elements of the Exhibition.

9.11 According to a submission to the Committee prepared by the Darling Harbour Authority:

*In October, 1987 without warning advice was received from lawyers acting on behalf of the Campbell Group claiming that because of its inability to obtain exclusive access to Halls 1 and 2 the contract was frustrated. Campbells threatened to stop work and walk away from the Exhibition... emotions were high at this time with both construction and exhibition personnel wishing to complete their work as soon as possible.<sup>1</sup>*

<sup>1</sup> Darling Harbour Authority Submission, 31st May 1989, page 12

Public Accounts Committee

- 9.12 A mechanism was set up to examine Campbells claims of financial hardship, with the additional costs of working in a shared workplace such that it could not keep within its lump sum contract.
- 9.13 Construction delays continued, not only adding to the construction costs but more significantly, reducing the operating period of the Exhibition and the revenue potential.
- 9.14 The Exhibition was not opened until 10th March, 1988. The delayed opening, the comparatively high admission prices (for example, \$10 per adult, \$27 family ticket), and the fact that several exhibits were uncompleted, immediately attracted unfavourable media comment.
- 9.15 Initial attendance was dramatically lower than anticipated. In the first two months, approximately, only 60,000 people attended the Exhibition; it had been anticipated that 'First State 88' would attract 3.5 million people over seven months.
- 9.16 In its submission to the Committee, the Darling Harbour Authority attributed the very poor attendance to:
- a) missing the major January celebrations;
  - b) poor weather in March/April 1988;
  - c) competition from the Royal Easter Show; and
  - d) free admission to the adjacent Power House Museum.
- 9.17 In late April 1988, the Premier, The Hon. N.F. Greiner, M.P., was quoted as saying that the project had become such a financial disaster it would be impossible to turn the debt around:

*Taxpayers have already poured \$22 million into this project, and I can see no reason why they should pay twice.*

*'7 would rather wear the losses incurred so far and allow thousands of people to see the exhibition free.*

*2 The Daily Telegraph, 29th April, 1988*

## Report on The Darling Harbour Authority

- 9.18 The new Liberal Government had announced that admission to the Exhibition would be free as from 27th April, and that schoolchildren who had already paid to see the display would be given a refund, as would people who had booked and paid in advance for tickets.
- 9.19 Attendance rose sharply but still not to the projected level even when no admission charge applied.

### FINAL COST

- 9.20 Table 9.1 below indicates that the costs involved in staging the "First State '88" Exhibition, to 30th June 1989, totalled approximately \$39.2M.

**TABLE 9.1**  
**Cost of Staging the First State '88 Exhibition**

\$

Construction & Net Operating Costs to 30 June 1989	39,160,844
<i>The Exhibition was funded by:</i>	
Government Funding for Operating Costs	11,989,000
Sponsorship	1,000,000
Operating Income	1,528,622
Proceeds of Disposal of Exhibition Materials	937,943
Borrowings (Capital Value)	20,000,000
Interest Bearing Advance	3,100,000
Authority Funds	605,279
<b>TOTAL</b>	<b>39,160,844</b>

Source: Darling Harbour Authority Financial Statements for Year Ended 30 June 1989



## Public Accounts Committee

- 9.21 It was initially envisaged that revenue from ticket sales, sponsorship, retailing operations and proceeds from the sale of dismantled exhibition items would be sufficient to recoup the cost of mounting the Exhibition. The Auditor-General reports that ticket sales alone were expected to yield some \$20M, or 59% of the total cost as at 30th June 1988.
- 9.22 The free admission, coupled with attendance far below projected figures, resulted in revenue falling well short of budget estimates. Construction costs alone at 30th June, 1988, were \$23M, over \$3M more than the original budget.. 3

### CLAIMS AND COUNTER CLAIMS

- 9.23 It is important to recognise that considerable controversy still surrounds the 'First State 88' Exhibition. Claims and counter-claims have been made about where the "blame" lies for the planning and construction difficulties and delays, the poor public response to the Exhibition and, above all, for the severe financial loss.
- 9.24 At the political level, media reports in April-May 1988 indicate that the then recently elected Liberal Government was very critical of the Labor Government's handling of the Exhibition. The Premier, The Hon. N. F. Greiner, M.P. was quoted in the press as saying: '*... there's no doubt this is one of (former Public Works Minister) Laurie Brereton's worst and biggest follies.*'<sup>4</sup>
- 9.25 *The Daily Telegraph* reported that Mr Brereton, however:

*'... accused the Greiner Government of failing to promote the First State exhibition.*

*He said he could not be blamed for the poor response because he had ceased to be in charge of Darling Harbour last November - and the exhibition had begun in March.*

*'There has been no encouragement or promotion by this Government of Darling Harbour at all', he said* <sup>5</sup>

Auditor-General's Report 1988, Volume 2, page 33

<sup>4</sup> *The Dairy Telegraph*, 29th April, 1989

<sup>5</sup> Ibid

## Report on The Darling Harbour Authority

9.26 In terms of project management, the Campbells Group has argued that delays in construction of the Exhibition Halls 1 and 2, which were the responsibility of the Darling Harbour Authority, had a major impact on the completion date and cost of their work. The view held within the Authority:

*'... was that this may be partly true, but that the Campbell Group sometimes hid behind the delays to avoid criticism of its ability to perform, had the Halls been available.'*<sup>6</sup>

9.27 The relationship between the Darling Harbour Authority and Campbells was a troubled one. The Authority commented:

*"The new Board of the Authority has expressed some concern about the relationships which may have existed between the various Campbells companies -particular note was with the transactions with suppliers which may not have been at "arms length", with the result that while the contracting company not have operated profitably, subsidiary or associated companies did so. The Board has asked for an investigation to be made."*<sup>7</sup>

9.28 The Authority advised that a settlement has finally been reached with Campbells for \$111,815 for claims amounting to over \$1.75M. s

## CONCLUSIONS

9.29 The decision to hold a major exhibition at Darling Harbour involved considerable risk. '~First State 88" was a very sizeable investment, critically dependent on the completion of Exhibition Halls 1 and 2 by September 1987, with an effective life (as planned originally) of only six months, and limited disposal value.

6 Darling Harbour Authority Submission, 31st May 1989, page 12

7 Ibid

8 Ibid, page 13

## Public Accounts Committee

- 9.30 Initial visitor projections, and therefore the revenue estimates, were based on only sketchy data. With so many events of the Bicentennial still to be planned at that time, it would have been difficult to foresee that the Exhibition would be just one among a large number of competing activities and attractions in 1988, many of which had no admission charge.
- 9.31 Questions must be raised about the adequacy of the marketing planning and research associated with the Exhibition. The Committee was also advised that for an event in which so much had been invested, insufficient funds were allocated for advertising and promotion.
- 9.32 There were also difficulties with the structures set up for administration and project management.
- 9.33 The Bicentennial Exhibition Unit (BEU), as noted earlier, never became an effective operational unit. The transfer of *'administrative responsibility'* for *'First State 88'* from the BEU to the General Manager of the Darling Harbour Authority was inconsistent with the earlier decision, which had recognised that a separate unit was needed in light of all the other pressures on the Darling Harbour Authority. The Committee is critical of the way in which the Exhibition was in some senses *'foisted upon'* the Authority.
- 9.34 The Authority never really geared up to *'administer'* the Exhibition. Only two staff were allocated to assist the General Manager of the Authority with the Exhibition. The Authority informed the Committee that virtually the only involvement by *'mainstream staff'* was in the processing of progress payments to the Campbell Group as certified by the responsible Engineer and approved by the Authority's General Manager.
- 9.35 There was also an ambiguous relationship between Campbells (the Project Directors) and the Authority. The decision to appoint a private firm to design, fabricate, erect and commission the show led to a situation, as the Authority pointed out in its submission to the Committee, where:

## Report on The Darling Harbour Authority

'∴ while most of the concepts for the Exhibition were to originate from Campbells, the financial consequences of the Exhibition 's success or failure rested with the State.'<sup>9</sup>

### Recommendation<sup>49</sup>

It is **recommended** for future such **possible events** that the government only **enter into** a contract for design, **fabrication and staging, where the remunerations** closely tied to the success of the **overall event**

9.36 One very unfortunate outcome of the failure of the Exhibition was that it fuelled criticism of the whole Darling Harbour project. The delayed opening and poor attendances received widespread coverage in the press. Headlines in *The Daily Telegraph* of 29th April, 1989, for example, read:

**First State  
Exhibition  
A \$22M Flop**

### New Blow for Darling Harbour

9.37 *The Sydney Morning Herald* of 29th April, 1989, reported:

#### **Greiner turns flop into a freebie**

*Darling Harbour is losing its chances of capitalising on Bicentennial dollars after revelations yesterday that its first major exhibition is a financial disaster.*

9.38 The Committee considers that all parties involved in setting up *First State 1988* must, to a greater or lesser extent, accept responsibility for the failure of the Exhibition. That failure cost the NSW taxpayer in total over \$35 million.

<sup>9</sup> Ibid, page 12

Public Accounts Committee

Recommendation 50

It is recommended for future public events of this type, that the government engage professionally qualified and experienced marketing personnel to prepare comprehensive marketing and promotion plans.

## **10. FINANCIAL POSITION OF THE AUTHORITY**

### INTRODUCTION

- 10.1 In this chapter, the Committee looks at the financial position of the Darling Harbour Authority. A brief overview is presented of assets and liabilities, income and expenditure, contingent liabilities and capital commitments. A number of key issues are then raised concerning the Authority's ability to meet its operating costs and service its debts.
- 10.2 The Committee is of the view that government policy on debt financing and financial restructuring of the Authority must take account of the special nature of the Darling Harbour redevelopment, in particular the provision of parks and public spaces and amenities. Realistic goals must be established for those managing Darling Harbour. The financial position of the Authority also needs to be seen in the context of possible alternative structures for the future public management of Darling Harbour, as discussed in the final chapter of this report.

### THE BALANCE SHEET - THE CURRENT POSITION

- 10.3 Table 10.1 puts the current position in context in presenting a summary of Balance Sheets as at 30th June each year during the period 1985-89.
- 10.4 The Committee noted that periodic comparisons of the Authority's Balance Sheets presented a particular difficulty due to the changing accounting basis, the treatment of adjustments and transfers to and from reserves and provisions between the years. The Committee has confined its interest to the financial position of the Authority, its liquidity and net assets position and the result of its operations.
- 10.5 The treatment of prior capitalised expenses and the treatment of capital revenues has varied and is likely to vary in the future.

TABLE 10.1

## DARLING HARBOUR AUTHORITY

## BALANCE SHEETS 1985 - 1989

	1988/89	1987/88	1986/87	1985/86	1984/85
	\$M	\$M	\$M	\$M	\$M
<u>ASSETS</u>					
Non Current Assets	858	872	503	273	175
Current Assets	62	33	92	35	18
	<u>920</u>	<u>905</u>	<u>595</u>	<u>308</u>	<u>193</u>
<u>LIABILITIES</u>					
Long term liabilities	401	401	363	133	32
Current liabilities	144	211	40	21	15
Equity & Retained earnings	375	293	192	154	146
	<u>920</u>	<u>905</u>	<u>595</u>	<u>308</u>	<u>193</u>

Source: Compiled from the financial statements  
of the Darling Harbour Authority

## Report on The Darling Harbour Authority

### ASSETS

- 10.6 Total current assets include an amount owing of approximately \$23.7M in respect of the First State '88 Exhibition and \$23.4M related to construction of the National Maritime Museum.
- 10.7 The amounts owing in respect of the First State '88 Exhibition and the Maritime Museum are discussed later in the chapter.
- 10.8 Non-current assets include an amount of over \$854M for Land and Buildings, including:
- \* those previously owned by other Government Authorities and Departments, vested in the Authority under Section 12 of the Darling Harbour Authority Act, 1984 (approx. \$112M); and
  - \* that acquired by the Authority under Sections 12 and 13 of the Authority's Act (at cost) (approx. \$39M).
- 10.9 The largest component, approximately \$590M, is for Capitalised Construction and Development Costs. Depreciation on construction is calculated over a 60-year period from the date the respective assets are ready for full use. All furniture, fittings, plant and equipment and motor vehicles are being depreciated from date of acquisition at a rate of between 5 and 25 percent per annum depending on the type of asset and its anticipated life.

### LIABILITIES

- 10.10 Total liabilities of the Authority are \$544.9M.



Public Accounts Committee

- 10.11 In terms of loans raised and outstanding, the total face value of loans outstanding is \$512.8M comprised of Treasury Corporation Borrowings (\$503.5M) and Treasury Consolidated Fund Interest Bearing Advances (\$9.3M). The face value of loans repayable within 12 months from 30th June, 1989 is approximately \$111M (Treasury Corporation plus Treasury Advances), with approximately \$401M of loans repayable beyond 12 months.
- 10.12 The total Face Value of loans outstanding at 30th June, 1989 was \$512.8M, divided as follows:
- |     |   |          |
|-----|---|----------|
| i)  | Treasury Corporation Borrowings                         | \$503.5M |
| ii) | Treasury Consolidated Fund<br>Interest Bearing Advances | \$9.3M   |
- 10.13 Treasury Corporation Borrowings (i.e. loans excluding Consolidated Fund Interest Bearing Advances) allocated to the Darling Harbour Authority as at 30th June 1989 have Principal sums maturing as follows:
- |   |               |
|---|---------------|
| Not later than 1 year                         | \$102,160,625 |
| Later than 1 year but not later than 2 years  | \$166,130,438 |
| Later than 2 years but not later than 5 years | \$137,485,946 |
| Later than 5 years                            | \$ 97,719,816 |
- 10.14 During 1987/88, the Authority received \$74.6M by way of Treasury Advances, at 13 per cent interest per annum, comprising \$71.5M for Development Works and \$3.1M for First State '88 Exhibition Construction.
- 10.15 In accordance with the conditions of this advance, funds realized from asset/development rights sales in excess of the Authority's capital works requirements, were applied towards reduction of the debt. A \$75M payment was made as a reduction of this advance and payment of accumulated interest.

## Report on The Darling Harbour Authority

### CONTINGENT LIABILITIES AND CAPITAL COMMITMENTS

- 10.16 As at 30th June, 1989, effective contingent liabilities and capital commitments existed in respect of the following:
- a) Capital Expenditure Commitments - actual commitments not provided for amount to \$8.4M. However, the Managing Contractor has assessed that it will be necessary to spend up to \$51M more than that provided to 30th June, 1989 to complete the project;
  - b) Claims in respect of Capital Contracts - claims amounting to \$24.2M have been lodged or intimated by a number of contractors;
  - c) Obligations under the management agreement for the Convention and Exhibition Centre, according to which the Authority is obliged to make good any outstanding costs, expenses, debts and losses incurred by the manager in operating the centre and also may be required at the end of the management period and/or take over any lease or other arrangement in respect of any equipment used in the centre;
  - d) Claims in respect of Acquisition of Land - amounting to \$56M; and
  - e) Claims by others - amounting to \$12M.

### INCOME AND EXPENDITURE

- 10.17 A brief Summary of Operations at 30th June each year during the period 1985-89 is presented in Table 10.2.
- 10.18 Income of approximately \$17M was received from Property Management for the year ended 30th June, 1989. The Authority's largest single line item of expenditure (of \$18.5M) was Security, Cleaning, Maintenance and Other Operational Expenditure. The deficit *before* Interest and Loan Management was approximately \$13.7M. The net operating deficit for the year was \$95M.

TABLE 10.2

## DARLING HARBOUR AUTHORITY

## SUMMARY OF OPERATIONS 1985 - 1989

	1988/89 \$M	1987/88 \$M	1986/87 \$M	1985/86 \$M	1984/85 \$M
<u>INCOME</u>					
Property Management	17	4	1	0.5	
Interest, Subsidies & other income	6	6	13	6.5	2
	23	10	14	7	2
<u>EXPENDITURE</u>					
Operating Expenses	36	12	4	3	2
Interest & Loan Expenses	82	66	37	13	2
	<u>118</u>	78	<b>41</b>	<b>16</b>	<b>4</b>
NET OPERATING SURPLUS/ (DEFICIT)	<u>(95)</u>	<u>(68)</u>	<u>(27)</u>	<u>(9)</u>	<u>(2)</u>

Note: Transfers to and from reserves etc are not shown in this summary of operations.

Source: Compiled from the financial statements of the Darling Harbour Authority

## Report on The Darling Harbour Authority

### MAJOR ISSUES ARISING

- 10.19 Several issues have arisen from the Committee's analysis of the overall financial position of the Authority.

### THE AUTHORITY AS A GOING CONCERN

- 10.20 The Committee considers that the cash flow of the Darling Harbour Authority will continue to be insufficient to meet both its operating costs and service its debt.
- 10.21 In drawing this conclusion, the Committee is mindful of the difficulty of assessing operating costs against annual income. Darling Harbour is still in its first year of operations, which makes it hard to project the revenue likely to be generated from the various components of the re-development. The income from the revenue-sharing arrangements, such as with Merlin International at the Festival Markets, will of course depend on the success of the different private ventures.
- 10.22 Further, it is also difficult to project the Authority's expenditure pattern. For example, maintenance costs, both in the short and the longer term cannot be clearly established. The unique nature of the structures and the lack of history for such maintenance has to be recognised.
- 10.23 Since 1985/86, allocations from the Consolidated Fund have been provided to cover the Authority's debt servicing requirements. Charges incurred against these allocations have been offset by interest earned by the Authority on the investment of short term capital funds. The net cost of servicing the Authority's borrowings of \$84,342,270 (i.e. meeting loan interest, administration and flotation charges) to 30th June, 1989 has been met from the Consolidated Fund. At the present time, the Authority's debt servicing is principally met through Loan Conversion Programmes and Debt Servicing Subsidy Arrangements.

## Public Accounts Committee

- 10.24 The Committee was advised by the General Manager that the specific issue of debt servicing was being addressed by the new Board of the Authority in its development of a Corporate Plan. The Committee understands, however, that this work has still not been completed.
- 10.25 The financial position of the Authority will depend ultimately on decisions taken by government, arising in part from the government response to this Report. These decisions relate to such matters as:
- \* debt financing;
  - \* overall policy on asset disposal, balanced against estimated recurrent income;
  - \* financial restructuring (such as dividing the precinct into profit and community facility centres); and
  - \* future management structure.

### THE NATURE OF THE REDEVELOPMENT AND ITS FINANCIAL IMPLICATIONS

- 10.26 Darling Harbour contains a variety of both public and private sector developments. Some of these generate income for the Darling Harbour Authority, generally through leasing or by an arrangement where the Authority receives a percentage of turnover (see Chapter 7). Other attractions or features of the redevelopment, however, were not designed to generate income.
- 10.27 In evidence presented to the Committee, Mr Laan, the first General Manager of the Authority, explained that the Authority did look *'at getting a return'* from certain features of the development but there had to be a lot of open space, recreation areas and public works:

## Report on The Darling Harbour Authority

*"The infrastructure does not make money. The public toilets you have to build do not make money. The paths and the waterfront do not make money. They are very high cost items. The restoration of Pyrmont Bridge cost heaps of money. It does not get you any return whatever!"<sup>1</sup>*

10.28 Mr Laan told the Committee that the first Chairman of the Authority, Mr Block, knew from his *"experience as Chairman of the Rocks area*that:

*'...there was no way Darling Harbour could ever cover its borrowings so far as financing was concerned. That was very obvious. "* 2

10.29 When Mr Laan was asked by the Committee whether he had concurred with ~~th~~ assessment, he stated: "We knew*that from day one*"because there is:

*"Too much green space in Darling Harbour. Too much of it has no return coming in. There are very few commercial elements on Darling Harbour. If you look at the original plan ... that was approved by Neville Wren, it had more commercial elements than than it has now. Even then it did not stack up. "*3

### TOWARD A MANAGEABLE ARRANGEMENT

10.30 In view of the history and special nature of the project, and the present and likely future financial position of the Authority, the Committee considers that it is important to identify and separate:

- \* those areas of the redevelopment where there is a commercial return over a long period of time;
- \* the parklands and general public facilities; and

1 Minutes of Evidence, 21 March 1989, page 281.

2 Ibid., page 256

3 Ibid., page 258

Public Accounts Committee

- \* the projects such as the Convention Centre, and to a lesser degree the Exhibition Centre, designed principally to add to Sydney's tourism infrastructure.

10.31 A number of components of Darling Harbour currently generate income for the Authority. These are:

1. Exhibition Centre - managed for the Authority by AMCE.
2. Convention Centre - managed for the Authority by AMCE.

The Committee understands that as at July 1989 no income as such had been received in respect of the Convention Centre, the Exhibition Centre or the Link Building. Moneys had been received in the form of "forward booking deposits" which are, in effect, held in trust on account of AMCE. Management fees and subsidies to AMCE are drawn from this account. In the financial statements for the year ended June 1989, a loss recorded by the Authority from the Sydney Convention and Exhibition Centre in the previous year of \$229,500 was brought to account as an abnormal item.

3. Festival Marketplace - owned and operated by Merlin. The Authority receives a percentage of total revenue.
4. Chinese Gardens - owned and operated by the Authority. Admission fee anticipated to cover staff and maintenance.
5. Chinese Gardens Tea House and Shop - private operators. Authority receives a percentage of turnover.
6. Northern and Southern Carparks.
7. Pumphouse Tavern - lease and percentage of turnover.
8. Charter Boat operation - flat fee for wharf space.
9. Aquarium - rent plus a percentage of turnover.

Report on The Darling Harbour Authority

10. Palm Pavillion - percentage of turnover.
11. Carousel - percentage of turnover.
12. Sydney Seaport -percentage of turnover.
13. Amusement Park - periodic attraction only. Percentage of turnover.
14. People Mover - one month trial. Percentage of turnover.

10.32 The Monorail was also expected to generate revenue for the Authority, with a sliding formula established under the agreement with TNT related to revenue sharing when patronage rose above certain levels. That level has yet to be reached. As at 30th June, 1989 no income had been received by the Authority.

10.33 In addition, the Authority receives income from other leases which it has negotiated on a number of its sites (see Chapter 7).

10.34 The Convention Centre, and to a lesser extent the Exhibition Centre, provide an interesting case of government deciding to build facilities to add to the State's tourism infrastructure.

10.35 Mr Carmichael, a former Chairman of the Authority, told the Committee that the Exhibition and Convention centres were seen as major new amenities for Sydney. The Authority had "*evidence ... that the Exhibition Centre in time given five years would provide 'a reasonable return on investment'*" Mr Carmichael said that the Convention Centre, however, "*never would*":

*"The estimate that was given at the time and fed to the government and so on was that if you got two percent return on the Convention Centre that's about all you're liable to get. .."*<sup>4</sup>

*'Internationally that's the case. No convention centres make money.*

4 Minutes of Evidence, 21 June 1989, page 730

5 Ibid., page 731



## Public Accounts Committee

- 10.36 This statement is consistent with the Committee's observations overseas.
- 10.37 The government at that time decided to proceed with the building of the Convention Centre in order to develop the tourism infrastructure, knowing that the direct rate of return would be minimal. In retail terminology, the Centre was, in effect, seen as a "loss leader."
- 10.38 In order to enhance its status in the very competitive convention market, government encouraged design and construction along with one engineer described as '*quite monumental lines*' which could not be justified in terms of straight commercial rate of return. The key point was the wider tourism and indirect economic benefits of having such a facility.
- 10.39 The Committee notes that in the case of the Australian Formula One Grand Prix, the South Australian Government took the initiative and won the right to hold the race in Adelaide and met the very considerable establishment costs. A independent survey conducted by PriceWaterhouse Pty. Ltd. into the impact of the Grand Prix indicated a net economic benefit to South Australia of \$26.6M in 1988.
- 10.40 It was suggested to the Committee that hoteliers and others in the tourism industry to whom the benefits accrue, should contribute to at least the operating costs if not the capital costs of the Convention Centre. This is the case in the city of Baltimore, for example, where a "bed tax" is payable. The Committee believes, however, that the difficulties of administering such a scheme make it impracticable. Alternatively, the Convention Centre may be considered *public facility* which the Authority can not reasonably be expected to operate as a going concern, and therefore the State, through the Treasury, should meet the capital and perhaps even the operating costs.

## Report on The Darling Harbour Authority

### FINANCIAL RESTRUCTURING A NEED TO EVALUATE THE ALTERNATIVES

10.41 The Committee believes it is vital that government consider restructuring the public commitment to Darling Harbour. The Committee considers that this process must:

1. be based on a recognition of the mix of commercial and non-commercial (or community facility) elements of the project; and
2. provide for a manageable arrangement for the Darling Harbour Authority to satisfy.

10.42 A former Chairman of the Authority, Mr Carmichael, submitted to the Committee that *'you've got to segment'* the development and deal with each element separately, otherwise *'you will crucify any future management.'*

10.43 Mr Carmichael suggested to the Committee that Darling Harbour is, as was always envisaged, a *"mixed development"*:

*'... there was a great deal of talk at the time about critical mass, and that is you have to have enough things there to sustain people wanting to come back and back and back.'*

10.44 Mr Carmichael described some of the elements as *"commercial ... to get some income"*, some were quasi-commercial and others educational. Entertainment, food, and *"interesting places"* to visit were seen as important. Darling Harbour is also, he suggested, *"an attractive place to go in terms of parks"* so:

*'You have a public facility which has to be maintained, you don't get any revenue from it and you have to deal with that as broadly as you might deal with the Botanical Gardens. ,6*

<sup>6</sup> Ibid., page 730

## Public Accounts Committee

- 10.45 The Committee considers that the crucial issue is that of debt financing. Mr Carmichael told the Committee that he recalled that there were projections made indicating that "by about 1991 other than debt servicing" the Darling Harbour Authority could meet the cost of staffing and cleaning and maintenance from leases and its other sources of income.

### Recommendation 51

It is recommended that the following options for financial restructuring be considered.

1. Treasury to take over the Authority's current debt, with the Authority expected to meet operating expenses from revenue, with any amount surplus to development needs payable to treasury.
2. Treasury to take over the Authority's debt related to all government works which generate no income for the Authority (such as the promenade and the parks).
3. The debt be re-calculated on the basis that no interest should be charged on borrowings used to construct those general public areas that might be termed "open space" essentially for public enjoyment.

### THE COST OF RESTORING PYRMONT BRIDGE

- 10.46 The direct costs incurred by the Authority in restoring Pyrmont Bridge total \$20.1M. Additional indirect costs are estimated by the Authority to be in the vicinity of 20 per cent of direct costs.
- 10.47 The Committee understands that the commitment to keep and maintain the Pyrmont Bridge was made *prior to* the Government deciding to re-develop Darling Harbour. This commitment was based on cost estimates by the Department of Main Roads and submissions on the heritage value of the bridge. Accordingly, the Committee considers that the cost of retaining and restoring the bridge should not be a charge against the Darling Harbour Authority.

## Report on The Darling Harbour Authority

### Recommendation52

**It is recommended that the total cost of restoring the Pyrmont Bridge be met by the Government, and that the total borrowings and commitments of the Authority be adjusted accordingly.**

#### THE COST OF THE FERRY WHARF

10.48 In a submission to the Committee, the Darling Harbour Authority advised that:

*'As to the aquarium ferry wharf approval was originally given by the Capital Works Committee on the basis that it would be funded by the UTA. However, the DHA temporarily funded the project until an additional allocation was made from Treasury.'*

10.49 The Committee understands that discussions took place between the Authority and the UTA about who should finally bear the cost of building the wharf. The amount originally sought from the UTA was \$1.1M. The Committee further understands that when the UTA declined to make any contribution, the design of the wharf was amended to provide a more basic structure. The total cost is expected to be approximately \$750,000, to be met by the Authority.

10.50 The Committee considers that the cost of building the wharf, and of any further developments, such as an all-weather covering or shelter, should be shared by the STA.

### Recommendation53

**It is recommended that negotiations be re-opened between the Darling Harbour Authority and the State Transit Authority regarding what proportion of the cost of building the aquarium ferry wharf should be borne by each party.**

## Public Accounts Committee

### NATIONAL MARITIME MUSEUM

- 10.51 The Committee is particularly concerned about the Authority's involvement in the National Maritime Museum project.
- 10.52 The Committee noted that an amount of \$23.4M for "National Maritime Museum" is included under Debtor and Prepayments in the financial statements for the year ended 30th June.
- 10.53 The Committee understands that the Darling Harbour Authority's view is that the expenditure incurred on the National Maritime Museum is the direct responsibility of the State Government. The Authority argues that it was not involved in the negotiations between the then State Government and the Commonwealth Government which, it would appear, limits the Commonwealth's liability to \$30M. The Authority considers that the costs incurred over and above that figure represent a loss suffered by the State, that the loss simply has been carried by the Authority, and thus the Authority is, in effect, owed \$24M.
- 10.54 The Committee is aware that the appropriate method of presenting the situation relating to the Maritime Museum in the financial statements was discussed between the Authority and the Auditor-General. The Committee notes that the treatment in the accounts for 1989 differs from previous years. Whilst the treatment is appropriate, and the required adjustments have been made from previous years in terms of debtors, creditors and extra items, the Committee considers that the Authority's position on this issue and its impact on accounting policy should have been more clearly set out in the explanatory notes to the accounts. The Authority provided a clear statement in respect of First State '88 but no similar explanation was provided in Note 5 regarding the Maritime Museum.
- 10.55 The Authority is constructing the Museum on behalf of the Commonwealth Government. Under the existing agreement between the Commonwealth and the State, it would appear that the extent of the Commonwealth's liability is presently limited to \$30M.

## Report on The Darling Harbour Authority

10.56 This was certainly the Auditor-General's understanding in 1988. In his 1988 Report he commented:

*'... that the basis of the agreement, limiting the Commonwealth's liability to \$30M without meeting the costs of escalations or changes in design to suit the Commonwealth's requirements, is a most unsatisfactory arrangement for the State.'*<sup>7</sup>

10.57 However, in response to a question in the House on 28th November, 1989, the Minister for Local Government and Minister for Planning said that it was his view that the memorandum of understanding signed in March 1986 between the Commonwealth Government and the previous New South Wales Government '*... provides a statement of understanding and intent*' which reflected the '*view at that time that the museum could be constructed for a total of \$30M and that the Commonwealth Government would meet this total cost.*' The Minister added:

*'Though the total building cost exceeds this amount, I am the opinion that the intention remains; that is, that the Commonwealth Government is responsible for the total cost of construction.'*

10.58 The Minister advised the House that '*The cost of construction of the museum now stands at some \$70M*'. This compares very unfavourably with the situation in May 1989, when the Committee was advised by the Authority that:

\* the estimated cost of completion was \$52.5M (including contingency), of which \$30M had been paid by the Commonwealth.

\* a further \$2M had been claimed from the Commonwealth for variations which it directed be carried out;

\* the Authority has covered, through borrowings, the significantly increased costs of building the Museum?

7 Auditor General's Report for 1988, Volume 2, page 31

8 DHA:517/89

## Public Accounts Committee

10.59 The Minister explained to the House:

*"The construction of the National Maritime Museum has been the subject of time and cost over-runs, these being largely attributable to the initial absence of architectural plans, ongoing changes in detail design, significant industrial and building materials. The cost of construction of the museum now stands at some \$70 million. This is*

*an over-run of \$40 million from the cost initially envisaged. It is my understanding that this is not an unprecedented cost escalation in building sites of such magnitude. The Darling Harbour Authority has examined its construction activities and now regards the building as being in a suitable condition to be handed over to the Commonwealth. I understand that during the weekend of 17th November the Darling Harbour Authority withdrew its construction force from the site and regards its job as finished"*

10.60 In the Senate on 29th November, 1989, Senator Richardson, Minister for the Arts, Sport, Tourism and Territories stated that in his view: *...the memorandum of understanding makes it quite clear - and I reread the language this morning - that the Commonwealth is up for \$30M."*

10.61 At the time of writing, the matter remains unresolved.

### **THE COST OF THE FIRST STATE '88 EXHIBITION**

10.62 As discussed in Chapter 9, the Authority was required by the government of the day to arrange for the construction and staging of the First State '88 Exhibition as part of the State's Bicentennial celebrations. The Authority considers that the obligation to meet the construction and net operating costs, therefore rests ultimately with the Government.

## Report on The Darling Harbour Authority

10.63 The amount shown as First State '88 debt in the Authority's accounts as at 30th June, 1989 is derived as follows:

	\$	\$
Construction and Net Operating Costs to 30 June 1989		39,160,844
Less: Government Funding for		
Operating Costs	11,989,000	
Sponsorship	1,000,000	
Operating Income	1,528,622	
Proceeds of Disposal of Exhibition Materials	<u>937,943</u>	<u>15,455,565</u>
		23,705,279

10.64 This amount is represented by:

		\$
Borrowings (Capital Value)		20,000,000
Interest Bearing Advance		3,100,000
Authority Funds		<u>605,279</u>
		23,705,279

10.65 The balance, which the Authority argues should be funded by the Treasury represents those expenditures which, as at 30th June, 1989, the Authority has been required to cover by incurring additional loan liabilities and the use of its own funds.

10.66 The Committee notes that the Auditor-General's review of Bicentennial Expenditure refers to expenditure on the Exhibition to 30th June, 1989 of \$37.3M, divided as follows:<sup>9</sup>

<sup>9</sup> Auditor General's Report for 1989, Volume 2, page 89



Public Accounts Committee

Loan Borrowings from the NSW Treasury Corporation	\$20.0M
Interest Bearing Advance from the NSW Treasury	\$ 3.1M
A Consolidated Fund Allocation	\$12.0M
Darling Harbour Authority Funds	\$ 2.2M

- 10.67 The Committee considers that the Authority simply acted as the Government's agent for First State '88, and that the total cost should be met by the Government.

**Recommendation<sup>54</sup>**

**It is recommended that that the Treasury meet the full cost of the First State '88 Exhibition temporarily covered by the Darling Harbour Authority, viz. \$23,705,279 as at 30th June, 1989.**

## **11. THE FUTURE MANAGEMENT OF DARLING HARBOUR**

### INTRODUCTION

11.1 In this Chapter, the Committee addresses a number of issues related to the future management of Darling Harbour:

- \* improving the marketability of Darling Harbour;
- \* development and promotion opportunities;
- \* Darling Harbour lifecycle;
- \* completion of existing projects;
- \* control of major public services;
- \* maintenance;
- \* the proposal to build a casino at Darling Harbour; and
  - \* alternative structures for future public management.

### IMPROVING THE MARKETABILITY OF DARLING HARBOUR

11.2 The multi-faceted development at Darling Harbour is a magnificent addition to the heart of the City of Sydney, and should be a major attraction not only for the people of Sydney but for the millions of visitors to New South Wales.

11.3 The Committee was advised that there are, however, a number of issues having a negative effect on the "*marketability*" of Darling Harbour. Perhaps the most important of these is the limited access to major public transport modes; in particular between the Circular Quay/The Rocks tourist precinct and Darling Harbour. Other problems include:

1. Relative isolation. Unlike overseas developments such as Battery Park City, New York, there is, to date, no cluster of offices, residential development and other leisure areas adjacent to the Darling Harbour precinct;

Public Accounts Committee

2. Incomplete development. The Maritime Museum, the Convention Centre, Darling Walk and the eastern harbourside site remain partially or totally incomplete;
  3. **Uncertain development** timetable. A construction environment in which there was and continues to be significant uncertainty as to completion dates of major Darling Harbour facilities;
  4. Lack of night-life. The majority of business in Darling Harbour closes at 10.00 p.m.;
  5. Pedestrian access. Access from the car park to the Convention Centre may be regarded as difficult, and the various parts of Darling Harbour are spread out, making it difficult for the elderly or infirm to move easily from one area to another; and
  6. **The essentially** "passive" nature of the area. Action and entertainment have to be "*created*" for special occasions. This is particularly evident in comparison with overseas harbour redevelopment precincts such as the Baltimore Waterfront.
- 11.4 The Darling Harbour Authority and the Marketing Board must address these and any other development issues affecting the marketability of Darling Harbour, and liaise with other organisations, where appropriate.
- 11.5 The Committee was informed during the progress of the Inquiry that Darling Harbour should now be considered as a "*product*". Consequently, while separate segments of the Darling Harbour precinct warrant specialised marketing, it has been argued that the entire entity deserves overall marketing attention. Opportunities also exist for expansion, diversification and reorientation to people's changing needs.

## Report on The Darling Harbour Authority

### DEVELOPMENT AND PROMOTION OPPORTUNITIES

- 11.6 The Committee was impressed with the number and variety of attractions offered by harbourside developments elsewhere. These attractions apparently add to visitor convenience, variety, colour and movement in locations which might - like Darling Harbour - otherwise be regarded as relatively "sterile."
- 11.7 The Battery Park City development, New York, for example, is establishing a ferry terminal. Boston, with its famous blue and red festival buses, has colourful tourist transportation. A number of developments provide marina facilities and Baltimore combines these with small recreational paddle-boats. Numerous waterfront developments in the United States offer highly successful push or hand cart merchandising. Vancouver Harbour provides a series of small floating ferry terminals with illuminated signage. Numerous street theatre performers are provided with a venue to perform, Hollywood extravaganzas and major jazz festivals are all part of the entertainment programmes.
- 11.8 Faneuil Hall Marketplace in Boston is distinguished by its high energy festival atmosphere created by constant outdoor entertainment. The beginning of each new season is marked by well-known annual events including Summer's Kick-Off with the Street Performers Festival, the Fall Harvest Festival, the famous Holiday Lighting and Bells of Boston performances and the Winter Ice Carving competition.
- 11.9 Given the relative vastness of the Darling Harbour precinct, the lengthy public forecourt and walkway areas and the size of the Darling Harbour/Cockle Bay waterway itself, Darling Harbour provides an excellent opportunity to develop a host of attractions.
- 11.10 It was put to the Committee that Darling Harbour is a "show biz product" and requires entrepreneurial promotion satisfying the need to present "an essential urge to visit." <sup>1</sup>

<sup>1</sup> Wayne Garland, Partner, The Silver Partnership Advertising Agency

## **Public Accounts Committee**

### **Recommendation 55**

**It is recommended that the Darling Harbour Authority adopt an entrepreneurial approach to the provision of entertainment and further facilities at Darling Harbour.**

### **Recommendation 56**

**It is recommended that the Darling Harbour Marketing Board closely examine the variety of activities offered at other harbourside redevelopment precincts in Australia and throughout the world, with major focus on the provision of marina and other boating facilities and the provision of tourist oriented transportation between Darling Harbour and other Sydney tourist precincts.**

## **DARLING HARBOUR LIFE CYCLE**

- 11.11 An examination of San Francisco's Fisherman's Wharf and the South Street Seaport in New York indicates that harbourside developments with a strong retail component, such as Darling Harbour, face difficulties in maintaining their popularity between their 11th and 15th years; on occasions, as with Pier One in Sydney, this product life cycle may be considerably less.
- 11.12 The Committee was advised that there are two methods by which such declining popularity can be postponed. On occasions, a facility can be ~~re~~launched as a means of extending its market life. Secondly, the market life can be extended by adding a major attraction every two to three years. Coney Island is an example of a successful relaunch, and the development at Baltimore Harbour is an example of successfully adding attractions.

**Recommendation 57**

**It is recommended that in any forthcoming marketing plans the Darling Harbour Authority consider the opportunity to relaunch the Darling Harbour facility.**

**Recommendation 58**

**It is recommended that the Darling Harbour Authority anticipate an on-going challenge of providing for a major new attraction in the Harbour area every two to three years, supported by major opening promotions.**

PROJECTS ON THE BOARD

- 11.13 The public core of the Darling Harbour redevelopment is substantially complete, with the exception of the National Maritime Museum.
- 11.14 Several private sector projects are underway, including construction on the Corn Exchange Hotel site, Darling Walk, Gardenside and the Southern Hotel (Murray Street, Pyrmont). Preliminary works have commenced on the Studio City (Paddy's market) site and the Northern Hotel (Murray Street, Pyrmont). It is the Committee's view that further compatible development is required in and around the Darling Harbour area.
- 11.15 A blueprint for future development needs to be compiled, based on an analysis of
- \* space available for redevelopment and possible usage;
  - \* management needs (such as adequate permanent office space, a larger

## Public Accounts Committee

Police station, a larger more conveniently sited maintenance facility); and

\* future commercial options.

### Recommendation 59

**It is recommended that a blueprint for the further development of the Darling Harbour site and surrounding areas be developed and made available for public comment.**

## CONTROL OF MAJOR PUBLIC SERVICES

### RAIL LINE

- 11.16 The Committee understands that the dispute between the Darling Harbour Authority and the State Rail Authority regarding the ownership of the railway line within the Development Area and the air space above the line has still to be resolved.
- 11.17 Land resumed from State Rail without compensation by the Authority included a goods line running from Central to Rozelle, linking up to Dulwich Hill. State Rail wishes to regain ownership of that area. The Darling Harbour Authority has rejected this move, arguing that it wants to keep control of the air space above the line for any future development and also to control its own services which pass below the railway line. State Rail contend that ownership of unlimited strata is required so that it can be assured of the integrity (safety) of any building work.
- 11.18 It might be that the real issue is the likely revenue from any retail or commercial development over the line, such as that Chatswood or Hurstville.

## Report on The Darling Harbour Authority

### Recommendation60

**It is recommended that the dispute over ownership of the railway line within the Development Area and the air space above the line be resolved as soon as possible.**

### Recommendation61

**It is recommended that for future such projects that all questions of ownership and responsibility between government departments and authorities be subject to negotiation and settlement from the outset.**

#### RELATIONS WITH THE SYDNEY COUNTY COUNCIL

11.19 The Darling Harbour Authority had extensive dealings with the Sydney County Council (scc). In a submission to the Committee, the SCC highlighted eight matters *"associated with the Darling Harbour area development which Council regards as being unsatisfactory"*:

1. Vesting of Council's City Central Substation site and lands adjacent to that site in the Darling Harbour Authority.
2. Substantial delay in finalising the Deed of Agreement between the Authority and the Council.
3. Poor communication on the part of the Authority and its managing contractor.
4. The administration of accounts by the Authority and its managing contractor.



Public Accounts Committee

5. Council's cable and ductline installations within the area of land vested in the Darling Harbour Authority are extensive and yet Council's right of tenure over those installations, by way of easement, licence or the like, has not been established.
6. Numerous changes to the original layout of site developments have resulted in a less than ideal route configuration of the 33kV (future 132kV) ductline constructed on Council's behalf.
7. Inadequate control of contractors resulted in frequent incidents of damage to Council constructions within the development site.
8. Tight scheduling of the Darling Harbour development works required a heavy concentration of Council resources for works to be carried out by Council and affected progress on other Council projects.

11.20 The Committee found that a number of these problems reflect communication difficulties between the Authority and the SCC, a point which the Authority acknowledged in a submission to the Committee.

11.21 The Committee notes that since its Inquiry began, the Authority has taken a number of positive steps to improve relations with the SCC. The Committee was advised in October 1989, however, that there remain only two matters still outstanding:

- \* the right of tenure over the Council's cable and ductline installations within the area of land vested in the Authority; and
- \* monies owed by the SCC to the Authority (the SCC was not satisfied with the detail provided about these accounts).

## Report on The Darling Harbour Authority

### Recommendation 62

**It is recommended that matters still outstanding between the Darling Harbour Authority and the Sydney County Council be immediately resolved.**

#### MAINTENANCE

11.22 Darling Harbour will have high maintenance costs. In his evidence to the Committee, Mr Laan, the first General Manager of the Authority, suggested that given the design of the main buildings, *'just cleaning windows alone is going to set up one hell of a bill'* He added:

*"There will be a significant element, I believe, of rework to keep it up to the standard that everyone expects Darling Harbour to be. I think you will be going back over areas, relaying tiles, relaying paving and generally tidying up over the next five to six years."*<sup>2</sup>

11.23 The Committee was most concerned to find that a Building Maintenance Schedule is only now being developed. Fast tracking the Darling Harbour project has had a largely deleterious effect on the planning and management of maintenance.

11.24 Evidence was presented to the Committee that during the latter stages of construction, some *"shortcuts"* were taken, principally to save time, which will have a major impact on maintenance costs. For example, not all essential timber preservation work on the Pyrmont Bridge was carried out, and painting and steel preparation was cut.<sup>3</sup> The Committee was also advised that cathodic protection of underground pipes was only partly done.

**2 Minutes of Evidence, 21 March 1989, page 307**

<sup>3</sup> Consultant's Interview with Hughes, Truman, Ludlow Pty Ltd

## **Public Accounts Committee**

- 11.25 There are also problems of incomplete information, which has caused, for example, wiring work to be delayed because the location of electric ducts was not clearly marked on the relevant plans as the work progressed. The Building Maintenance Schedule must include comprehensive Workers Executed Plans showing any modifications or additions to the original building plans.
- 11.26 The parks and gardens maintained by the Authority's Gardens staff, are a special feature of Darling Harbour, as is the high standard of cleanliness on site. Cleaning of the public areas is contracted out to Tempo Services Pty Ltd which, as a measure of the size of the task, employ a staff of over 50.
- 11.27 During a site inspection by the Committee, it was suggested by the General Manager of the Authority, Mr Jones, that cleaning, maintenance and security costs could be as high as \$15M per annum.

### **Recommendation 63**

**It is recommended that in considering the future management of Darling Harbour, due recognition be given to the expected high volume and cost of maintenance.**

### **A CASINO**

- 11.28 The question of whether a legal casino should be built in New South Wales has been closely linked to the Darling Harbour redevelopment.
- 11.29 In mid-1985, the then Premier, The Hon. N. Wran, Q.C., M.P., announced that legislation would be introduced to establish a casino at Darling Harbour. In April 1986, the then Labor Government introduced such a Bill. In December 1986, a Bill was brought in amending the Darling Harbour Casino Act 1986, to supplement the provisions relating to the review and control of those managing the casino and supplying goods and services to the casino.

## Report on The Darling Harbour Authority

11.30 The then Opposition opposed both the Darling Harbour Casino Act and its amending Act, and following election to office in March, 1988, the Coalition Government introduced the Darling Harbour Casino (Repeal) Bill, which was passed in June 1988.

11.31 The Committee notes that there continued to be speculation concerning construction of a casino at Darling Harbour. In his evidence before the Committee, Mr Baxter, Chairman of the Interim Board of the Darling Harbour Authority recalled:

*'? think there was a continual higgling about the casino site, but again, I mean, the Government had made it very clear when it came into power, that a casino was not an option. I may disagree with that personally, Mr Jones [General Manager of the Authority] may disagree with that personally, but that's the Government decision and you live with it. "4*

11.32 The Premier, The Hon. N. F. Greiner, M.P. has announced recently that there will be no change during the Government's first term of office to its policy opposing the legalization of casinos in New South Wales.

11.33 The Committee does not propose to comment directly on the basis of the Government's current policy or more broadly on the controversial question of whether a casino should or should not be established. It should be noted, however, that the "*casino question*" was, and continues to be, a major issue in the future of Darling Harbour.

11.34 The Committee notes that in terms of the financial ramifications of a casino for Darling Harbour, the four key questions are:

- \* what impact would a casino have in generating additional business and new facilities and attractions at Darling Harbour?
- \* what revenue could be expected from the lease for a casino site?

Public Accounts Committee

- \* what percentage, if any, of the gambling revenue would the Darling Harbour Authority receive?
  - \* if the Authority were to receive all or part of that revenue, what would be the likely amount per annum?
- 11.35 Proponents of a casino have argued that such a facility was a vital element of the transformation of Darling Harbour into a major tourist attraction, a 24-hour-a-day 'place for people', a natural complement to the exhibition and convention centres and the hotels to be built in the surrounding area.
- 11.36 Further, when the huge cost of the project became clearer, it was argued that the revenue from the casino, in whole or at least in part, could be used to retire or service the public debt amassed during construction.
- 11.37 When asked by the Committee whether a casino built during the next parliamentary term at Darling Harbour would make the Darling Harbour Authority commercially viable and no longer in need of consolidated revenue assistance, Mr Baxter, Chairman of the Interim Board of the Authority, stated: *"the estimates which have been done and the consultants' reports indicate that the answer to that question would be, yes."*<sup>5</sup>
- 11.38 It has been argued to the contrary, however, that a casino was never a key element of the design for Darling Harbour; that *paying off* the Authority's debt would be just one of many calls on casino revenue received by the government; that the economic, and, in particular, that the tourism benefits of a casino in Sydney are nowhere near as great as frequently claimed.
- 11.39 In his evidence before the Committee, Mr Carmichael, former Chairman of the Authority recalled that there were projections made indicating that by about 1991 the Authority could meet the cost of staffing and maintenance, not debt servicing, from leases and its other sources of income. When asked by the Committee whether income from the casino was taken into consideration, Mr Carmichael replied:

<sup>5</sup> Ibid, page 694

## Report on The Darling Harbour Authority

*No, the casino income was a furphy. The Darling Harbour Authority was never getting an income from the casino. The whole structure of that - the income from the casino was a tax on casinos that was going to Treasury .....*

*Q. Hospitals?*

*A. Anywhere else the government - I mean, that \$140 million I think was spent five times during an election campaign, the money was never going - the structure of what was set up for the casino was that the Darling Harbour Authority was getting \$4 million a year for the site escalated by inflation, that's all the Darling Harbour Authority was ever going to get out of the casino and that's the role they should get." °*

- 11.40 Assuming, for the purpose of discussion, that a casino was built, it is very difficult on the basis of the figures made public thus far to estimate the State taxation revenue and the net gain, after deducting expenses such as the operation of a casino supervisory authority and additional police services.
- 11.41 The Committee found considerable variation between the estimates on which the original tenders were based, information used in parliamentary debates and figures reported in the media. Further, it would appear that proponents of a casino have tended to use fairly optimistic assessments of the likely revenue.
- 11.42 Five bids were received by the previous government to build and operate a Darling Harbour casino. All five bids excluded poker machines with the promoters claiming to be aiming for a different clientele to that catered for by the existing New South Wales clubs. The most conservative bid guaranteed a total income to the New South Wales Government of \$134 million by 1990 and some \$300 million was on average guaranteed to the Government by 1995.
- 11.43 The Committee notes that in a recent article in *The Bulletin* entitled "*Sydney will get its casino*", the former NSW Minister for Public Works The Hon. L.J. Brereton, M.P., talked in terms of a 300 to 400 table casino with a gross revenue of \$400M per annum. <sup>7</sup> This suggests a very sizeable operation, much

6 Minutes of Evidence, 21 June 1989, page 732

<sup>7</sup> *The Bulletin*, 3 October 1989

## Public Accounts Committee

larger than many well established casinos overseas. For example, Golden Nugget Downtown Las Vegas Casino has 60 tables and the Atlantic City Showboat 110 tables (both also operate over 1000 slot machines each).

- 11.44 The Premier and Treasurer, The Hon. N.F. Greiner, M.P. however, told the Parliament on 3rd May, 1989, however, that *'... the very best Treasury estimate for revenue from the casino was \$100M.'* The Premier added that this did not take account of how much a casino would detract from other gambling venues, including gambling in licensed clubs throughout the State. He argued that:

*"Casino revenue would be a direct cannibalization of existing legal gambling revenues, and the net casino revenue of this State is not within a bull's roar of \$100M. No one knows precisely what it might be but very likely it would be in the order of \$50M."*

- 11.45 Overseas experience indicates that there can be a very important inter-relationship between the number of hotelrooms offered within the precinct of the casino building or in the immediate vicinity and gross gambling income. The 1988 Annual Report of the United States Golden Nugget Casino company which includes 2 separate casinos indicates a net casino revenue (takings less pay-outs) of \$US112.96M. The Circus Circus 1989 Annual Report covering a total of 5 casinos in the United States indicates a total gambling revenue of \$US320M. Significantly, these casino operators offer accommodation facilities of ~~the~~own totalling more than 2,000 rooms and 6,247 rooms respectively with occupancy rates in excess of 90%.

- 11.46 The Committee notes that this may be contrasted with the more limited availability of accommodation facilities in Sydney, especially in and around Darling Harbour. s

- 11.47 A further significant issue brought to the attention of the Committee is the inclusion or exclusion of poker machines and similar slot machines. An examination of a number of reports presented by casino companies to Nevada State Gambling Commission authorities indicates that in that State slot machine receipts can contribute up to 60% of a casino's gross gambling takings.

- 8 Sydney's four major hotels have accommodation of approximately 550 rooms each, two have 200 rooms and the hotels proposed for Darling Harbour will have approximately 1,000 suites

## Report on The Darling Harbour Authority

11.48 Planning for a casino at Darling Harbour raises a number of logistical problems including the location for the casino, following the sale of the original casino site, and the appropriate size of the casino, in light of the local population base and the number of visitors to Sydney. The question of the scale of operation is, of course, critical in any revenue projections, and will also affect the development costs and the establishment time.

11.49 Frequent and very often lively debates in Parliament, discussions in the media, findings from inquiries held into casino operations and public opinion indicate that how one views the establishment of a casino at Darling Harbour depends on the position one adopts on a host of complex issues. These include:

1. **the importance of a casino to the concept of Darling Harbour**

- \* the history of the concept of a casino at Darling Harbour, and the extent to which a casino really was seen as an integral feature of the project;
- \* the extent to which a casino is now considered essential to the success of Darling Harbour;

2. **the social desirability of a casino**

- \* the perceived social, welfare, and familial consequences of increased provision for gambling;

3. **casinos and crime**

- \* the possibility of infiltration by "organised crime", the impact on the general crime rate and the cost of additional demands placed on the NSW Police Service and related agencies;

4. **effect on illegal casino operations**

- \* the extent to which a government controlled casino would reduce the illegal casino operations in the State.

5. **finding a suitable operator**

- \* the possibility of finding an operator with the required degree of experience and expertise and financial solidity who is, and



## Public Accounts Committee

is seen to be, above reproach. The probity of operations has been a key issue in past consideration of a casino;

- 6. government control**
  - \* the extent to which mechanisms can be established to ensure adequate government supervision and control, including the policing of standards of operation;
  
- 7. impact on licensed clubs**
  - \* the impact of a major legalised gambling operation on the revenue of dubs and pubs;
  
- 8. impact on tourism**
  - \* the extent to which a casino in Sydney would act as a drawcard for intrastate, national or overseas tourists;
  
- 9. direct and indirect economic benefits**
  - \* impact on tourism income; jobs created; service industries supporting the casino; and
  
- 10. net revenue to the State**
  - \* the likely net revenue to the State after policing and auditing costs and the expected "*cannibalisation*" of legal gambling revenue already coming to the State;
  
  - \* what proportion, if any, of the revenue generated should be used to finance the existing debt of the Darling Harbour Authority;

### THE DARLING HARBOUR AUTHORITY: SHOULD IT CONTINUE?

- 11.50 In 1984, the then Government decided the quickest way to get the Darling Harbour redevelopment underway was to set up a separate, single-purpose statutory authority.

## Report on The Darling Harbour Authority

- 11.51 The Committee's Report to this point has been based on the assumption that the Darling Harbour Authority would continue to operate as a separate statutory authority.
- 11.52 During the course of its Inquiry, the Committee has, however, given consideration to whether the public management of Darling Harbour should continue in its present form.
- 11.53 With most of the major public works at Darling Harbour completed, the precinct is clearly entering a "new phase." Increasing emphasis will be placed on:
- \* property management, including leasing and maintenance; and
  - \* marketing.
- 11.54 It may be argued, therefore, that no compelling case exists for the continued operation of a separate statutory authority, moreover of one that was essentially a construction authority.
- 11.55 Several major alternatives are apparent.

### Option 1: Divide the functions of the Authority between Local Government and State Government Agencies

- \* place the Development Area under the control of the Council of the City of Sydney, which would assume responsibility for property management and liaise with the State government regarding any future government funded works;
- \* transfer responsibility for marketing and public relations to the New South Wales Tourism Commission.

Public Accounts Committee

**Option 2: Local Government and a Darling Harbour Marketing Board**

- \* as per Option 1, except that marketing and public relations would become the responsibility of a reorganised Darling Harbour Marketing Board comprising private sector and government representatives.

**Option 3: Divide the functions of the Authority between four other State Government Agencies**

- \* the Department of Administrative Services would take over responsibility for property and site management, including leasing and maintenance.
- \* the Department of Public Works would be responsible for management of any future government funded works;
- \* the New South Wales Tourism Commission would take over marketing and public relations;

**Option 4: Transfer responsibility for Darling Harbour to the New South Wales Tourism Commission**

- \* the Tourism Commission would assume responsibility for the total management of Darling Harbour.

**Option 5: Amalgamate the Darling Harbour Authority and the Sydney Cove Redevelopment Authority**

- \* the Darling Harbour Authority Act would be repealed. Legislation pertaining to the Sydney Cove Redevelopment Authority would either be amended or more likely repealed and replaced with new legislation defining the objectives, constitution and powers of the new amalgamated body (to be named)

## Report on The Darling Harbour Authority

### Comment on the Options

11.56 The Committee considers that the State Government must retain responsibility for the management of Darling Harbour on behalf of the people of New South Wales. The Committee therefore does not support either Option 1 or Option 2.

11.57 Option 3 would create very significant problems of coordination and create difficulties in defining the locus of ultimate responsibility for Darling Harbour. This proposal, and to an even larger extent Option 4, would require a fundamental shift in the orientation of the Tourism Commission.

11.58 Constituted a corporation under the Tourism Commission Act 1984, the primary objectives of the Commission are to:

1. *Increase the number, length of stay and expenditure by tourists to New South Wales;*
2. *Increase tourism product, accommodation and necessary infrastructure to support and encourage increased tourism to the State.* <sup>9</sup>

11.59 If the Commission took over the marketing of one specific precinct, such as Darling Harbour, this could be seen to be in conflict with its role to promote tourism generally in New South Wales.

11.60 Option 4, which envisages the Commission assuming responsibility not only for marketing but also for general management of Darling Harbour would take the Commission even further beyond its current brief. The Commission is very much a marketer, a market strategist and a facilitator of tourism growth.<sup>10</sup>

Option 5 is supported by the Committee as discussed below.

9 1988 Annual Report of the NSW Tourism Commission, page 5

10 The Committee understands that in line with this emphasis, the Commission is moving to divest itself from management of the Janolan Caves.

Public Accounts Committee

AMALGAMATION OF THE DARLING HARBOUR AUTHORITY AND THE SYDNEY COVE REDEVELOPMENT AUTHORITY

- 11.61 The Sydney Cove Redevelopment Authority (SCRA) commenced operation on 12th January 1970. The Authority had vested in it most of the State-owned property in The Rocks and it was given a charter to restore, renovate and redevelop the area.
- 11.62 The SCRA employs 36 staff, including several on a part-time basis. It has a well developed staff structure reflecting responsibilities for finance, community relations (including marketing and education), planning and development and property management. The major objectives of the SCRA, which would appear to be equally relevant to the future management of Darling Harbour, include:
- \* effective financial management;
  - \* operating as an efficient property manager and maximising financial returns;
  - \* permitting only environmentally sensitive development;
  - \* upgrading the urban environment; and
  - \* adding to the interest and vitality of the area.
- 11.63 The Committee considers that the Darling Harbour Authority and the Sydney Cove Redevelopment Authority should be brought together under a single board, which would hopefully include representation from the Council of the City of Sydney and the tourism industry.
- 11.64 In order to work effectively, the amalgamation must be viewed not as a "takeover" by either body but as the creation of a new, larger, more effective and efficient authority.
- 11.65 Integration of staff should result in economies of scale, and also strengthen the overall staffing profile. A combined organisation will see a number of positions

## Report on The Darling Harbour Authority

included within the Senior Executive Service (SES). The Committee understands from the Office of Public Management that only one position within the Darling Harbour Authority is SES level.<sup>11</sup> The SCRA Annual Report 1989 indicates that the Assistant Director's position is to be included within the SES. The extra responsibilities within the amalgamated authority should be reflected in a substantial re-grading and make it easier to attract and retain senior people, experienced in marketing and property management.

- 11.66 The new amalgamated authority would be well placed to contribute to the development of the Harbour Foreshore and its marketing and promotion for the enjoyment of the people of New South Wales and visitors from interstate and overseas.
- 11.67 The recent announcements concerning the redevelopment of Walsh Bay add further weight to the argument for integrated development and marketing of the Harbour Foreshore precinct, extending from Circular Quay to Dawes Point and thereafter southward to Darling Harbour.
- 11.68 While The Rocks area and now Darling Harbour are considerably well advanced, the recent redevelopment plans for Walsh Bay provide a potentially very exciting precinct between the two established areas.
- 11.69 The Committee notes that the proposal advanced for the Walsh Bay area includes a variety of apartments, a marina, a hotel, two car parks, commercial offices and retail areas.
- 11.70 The three precincts promoted as a joint waterfront tourist attraction, providing a considerable variety of focus, would definitely satisfy any definition of the critical mass necessary to market it as a tourist and activities destination.
- 11.71 Promoting a tri-faced development extending from Circular Quay to Dawes Point to Darling Harbour would provide an opportunity larger than that successfully marketed at Baltimore Harbour. The use of Hickson Road to assist in vehicular and pedestrian traffic as one of the significant links between the

11 File Note. Telephone Conversation, Secretariat: Office of Public Management, 5 October 1989

## Public Accounts Committee

developments is a possibility, now that it is no longer as heavily used for freight vehicles moving goods to and from adjacent wharves.

- 11.72 In more general terms, it imperative that a coordinated and cooperative marketing approach be taken to tourism marketing in Sydney and New South Wales. The Committee is aware of concern in the tourism industry about the fragmentation of tourism marketing and promotion in Sydney and the lack of coordination of special attractions and events.
- 11.73 New South Wales continues to be the most popular destination for domestic and international visitors in Australia, and Sydney is the most popular tourist destination, receiving 71% of all international visitors to Australia. Tourism contributed an estimated \$9.7 billion to the New South Wales economy in 1987/88.
- 11.74 There is, however, no guarantee that this situation will continue, particularly in the face of aggressive marketing from other destinations within Australia for an increase in both domestic and international market share. Government and private enterprise must work closely together to respond to this level of competition and changing market forces.
- 11.75 It is envisaged that the new amalgamated authority would work closely with the tourism industry, and in particular with the Tourism Commission and the Sydney Convention and Visitors Bureau (SCVB). Close cooperation exists already between the Tourism Commission and the SCVB. Currently the Government, through the Tourism Commission, allocates up to \$1.3M to the Bureau for its marketing activities.

## Report on The Darling Harbour Authority

### Recommendation 64

It is recommended that the Darling Harbour Authority and the Sydney Cove Redevelopment Authority be amalgamated and further that:

1. a new Board be appointed;
2. the new Board include the General Manager of the New South Wales Tourism Commission and a representative from the Council of the City of Sydney;
3. a Marketing Board be established, comprising public and private enterprise;
4. the Marketing Board be chaired by the Marketing Director of the new authority;
5. the authority liaise with the developers of Walsh Bay to explore the possibility of a joint marketing organisation to promote the total Darling Harbour-Walsh Bay-Rocks waterfront development;
6. that the marketing and promotional activities of the new authority be closely integrated with the promotion of Sydney and New South Wales.

### THE FINANCIAL POSITION OF A NEW AMALGAMATED AUTHORITY

11.76 If the amalgamation proposal was adopted, the Government would need to address the question of debt financing.

11.77 The SCRA has worked hard to improve its financial position and in 1988/89 more than halved its outstanding debt to just over \$42M. The Auditor-General described these efforts as "*commendable*."<sup>12</sup>

11.78 It would not be appropriate to ask the new organisation to take on the debt from 12 Auditor-General's Report for 1989, vol. 2, page 393



## Public Accounts Committee

the Darling Harbour project.

### Recommendation 65

**It is recommended that the Government set realistic financial goals for the authority formed by the amalgamation of the Darling Harbour Authority and the Sydney Cove Redevelopment Authority.**

#### CORPORATISATION

- 11.79 Consideration should be given to setting up the new amalgamated authority as a State-owned corporation under the State Owned Corporations Act 1989.
- 11.80 The principal objective of each State-owned corporation (soc) is to be a successful business. Where the government wishes a SOC to carry out certain activities which the board of the SOC considers *"is not in the commercial interest of the corporation"*, a written directive must be issued and the corporation is entitled to be reimbursed for such activities. In this case, free admission to the public areas, cleaning, security and maintenance of those areas might, for example, be considered *"non-commercial activities"* under the terms of Clause 11 of the SOC Act.
- 11.81 The Government's Corporatisation Unit would need to assess the financial viability of a SOC set up to manage this area. Such a corporation would need to start with a *"clean slate"*, and could not be expected to take over the existing debt. The Committee notes that the recent establishment of the Grain Handling Authority as the first SOC saw the Authority's debt taken on to the Treasury books.

## Report on The Darling Harbour Authority

### Recommendation 66

It is recommended that the amalgamation of the Darling Harbour Authority and the Sydney Cove Redevelopment Authority be referred for comment to the State Government's Corporatisation Unit.

### MINISTERIAL RESPONSIBILITY

11.82 The Committee considers, as noted above, that the marketing and promotional activities of the new amalgamated authority must be closely integrated with the marketing of Sydney and New South Wales. There must be better coordination of special events and attractions in the city. The new authority must have a close working relationship with the Tourism Commission and the SCVB.

### Recommendation 67

It is recommended that the new authority formed from the amalgamation of the Darling Harbour Authority and the Sydney Cove Redevelopment Authority come under the portfolio of the Minister for Tourism.

Public Accounts Committee

## **APPENDIX 1**

CALL FOR SUBMISSIONS

[R:\PARLIM~1\480013.TIF]

## APPENDIX 2

### SUBMISSIONS AND CORRESPONDENCE RECEIVED

Date Received	Name (as on Letterhead or Below Signature)
04.08.88	Bruce Hill, <i>Director, Girvan Corm Ltd</i>
18.08.88	Rae de Teliga
10.10.88	The Hon E P Pickering, MLC
25.10.88	The Hon M R Yabsley, MP <i>Minister for Corrective Services</i>
25.10.88	The Hon J Fahey, MP <i>Minister for Industrial Relations and</i>
31.10.88	The Hon N Pickard, MP <i>Minister for Minerals and Energy</i>
15.11.88	The Hon J P Hannaford, MLC
16.11.88	R D Christie <i>Director of Public Works</i>
18.11.88	Mr Justice T Ludeke <i>Judge of the Federal Industrial</i>
18.11.88	G Brack, <i>Executive Director</i>
18.11.88	Bryan Holliday <i>Director of Production Services</i> Ian Stuart, <i>Director of Conference Communications</i>
21.11.88	Malcolm Kerr, MP
23.11.88	The Hon J Schipp, MP
26.11.88	R A Kell, <i>Chairman, NSW Chapter, Association of Consulting Engineers, Australia</i>

Report on The Darling Harbour Authority

Date Received	Name (as on Letterhead or Below Signature)
29.11.88	The Hon G West, MP,
30.11.88	D K Gray, <i>General Manager, Sydney County Council</i>
01.12.88	J R Elder, <i>Dputy Executive Director,</i>
04.12.88	The Hon T Moore, MP
08.12.88	The Hon G Peacocke, MP
14.12.88	The Hon B G Baird, MP <i>Minister for Transport</i>
16.12.88	L J Connor, <i>Manager, Construction,</i> <i>NSW Public Works Department</i>
21.02.89	Australian Federation of Construction Contractors
13.03.89	Ian Yates, <i>Yates Security Services Pty Ltd</i>
31.03.89	R G Goldston, <i>Executive Officer</i> <i>World Expo '88</i>
30.05.89	John Holmes, <i>Director of Internal Audit</i> <i>Deloitte Haskins and Sells</i>
30.05.89	A J Spink, <i>Project Manager,</i> <i>Leighton Contractors Pty Ltd</i>

In addition to the above, two "confidential" submissions were received.

\* does not include numerous formal submissions, correspondence and information supplied by the Darling Harbour Authority

Public Accounts Committee

**APPENDIX 3**

WITNESSES AT PUBLIC HEARINGS

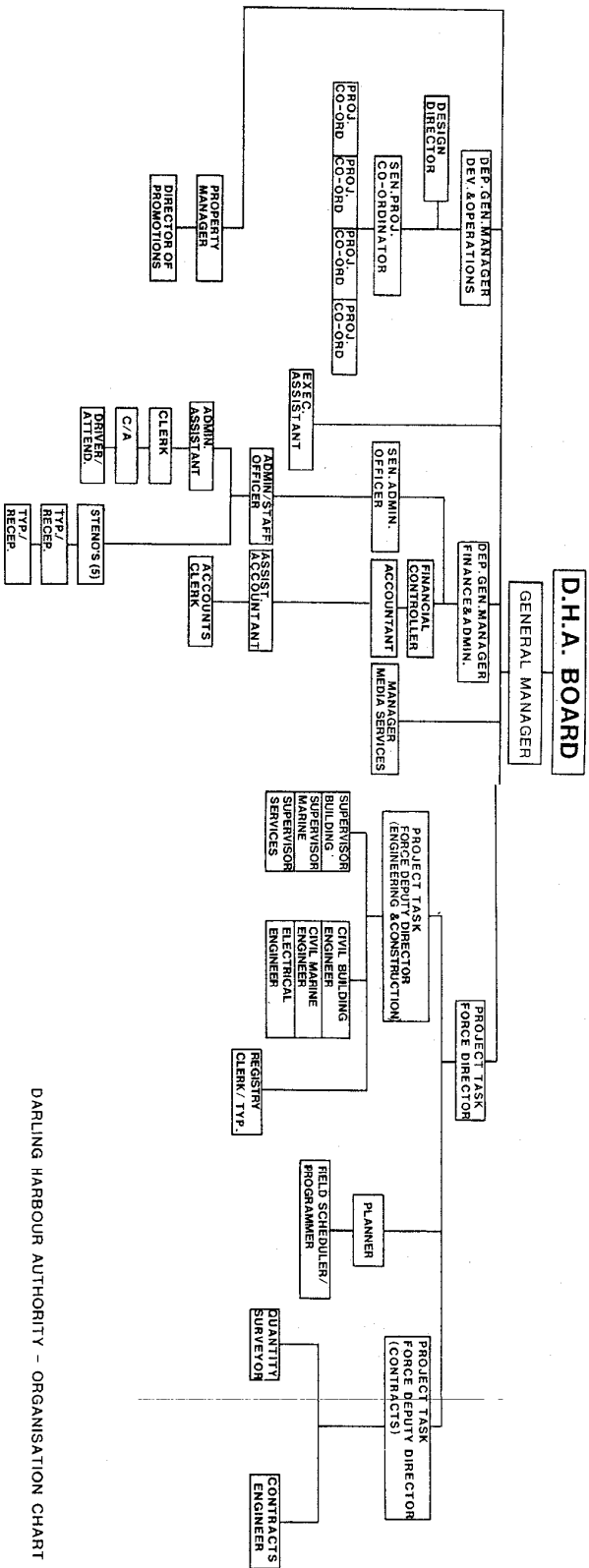
DATE OF HEARING	NAME OF WITNESS
11.11.88	Mr A Carmichael Ms J McCallum Mr G Abignano Mr L Ferguson Mr J David Mr T Kennedy Darling Harbour Authority Board
25. 1.89	Mr I Yates Company Director
Valuer-General	Mr I Beatty
	Mr P Cunningham Deputy Valuer-General
8. 3.89	Mr G H Oakes, Director of Industrial Relations Mr P Camden-Birmingham, Senior Industrial Officer Employers Federation
	Mr D Madson, Managing Director Stowe Electric Pty Limited
	Mr N G Argent, Divisional Director Matthew Hall Pty Limited
Professor R C King	University of Wollongong
9. 3.89	Mr J Cunningham, Association Director Mr C G Sexton, Director Mr W J Joris, Deputy Director Australian Federation of Construction Contractors
	Mr H S Wells (Former Private Arbitrator under the Darling Harbour Site Agreement)

## Report on The Darling Harbour Authority

DATE	NAME OF WITNESS
21. 3.89	Mr H Laan, Building Industry Consultant (former General Manager of the Darling Harbour Authority)
	Mr REgan, Project Manager Girvan Limited
29.3.89	Mr D Saxelby, Civil Engineer Mr R N Jones, Managing Director Boulderstone Hornibrook Pty Ltd
	Professor N Quarry, Head of School of Architecture, University of Technology, Sydney
28. 4.89	Mr A Spink, Civil Engineer Leighton Contractors
30. 5.89	Mr B Pentecost, Company Director (former General Manager of The Darling Harbour Authority)
	Mr M Easson, Secretary Mr J A Sams, Assistant Secretary NSW Labor Council
31. 5.89	Mr J Starkey, Director Property Management Unit Administrative Services (former General Manager of The Darling Harbour Authority)
	Mr T Jones, General Manager Mr K Baxter, Chairman of the Interim Board Darling Harbour Authority
21. 6.89	Mr A Carmichael, Company Director (former Chairman of The Darling Harbour Authority)
	Mr J Starkey, (former General Manager of the Darling Harbour Authority)

APPENDIX 4

ORGANIZATION CHART 1985

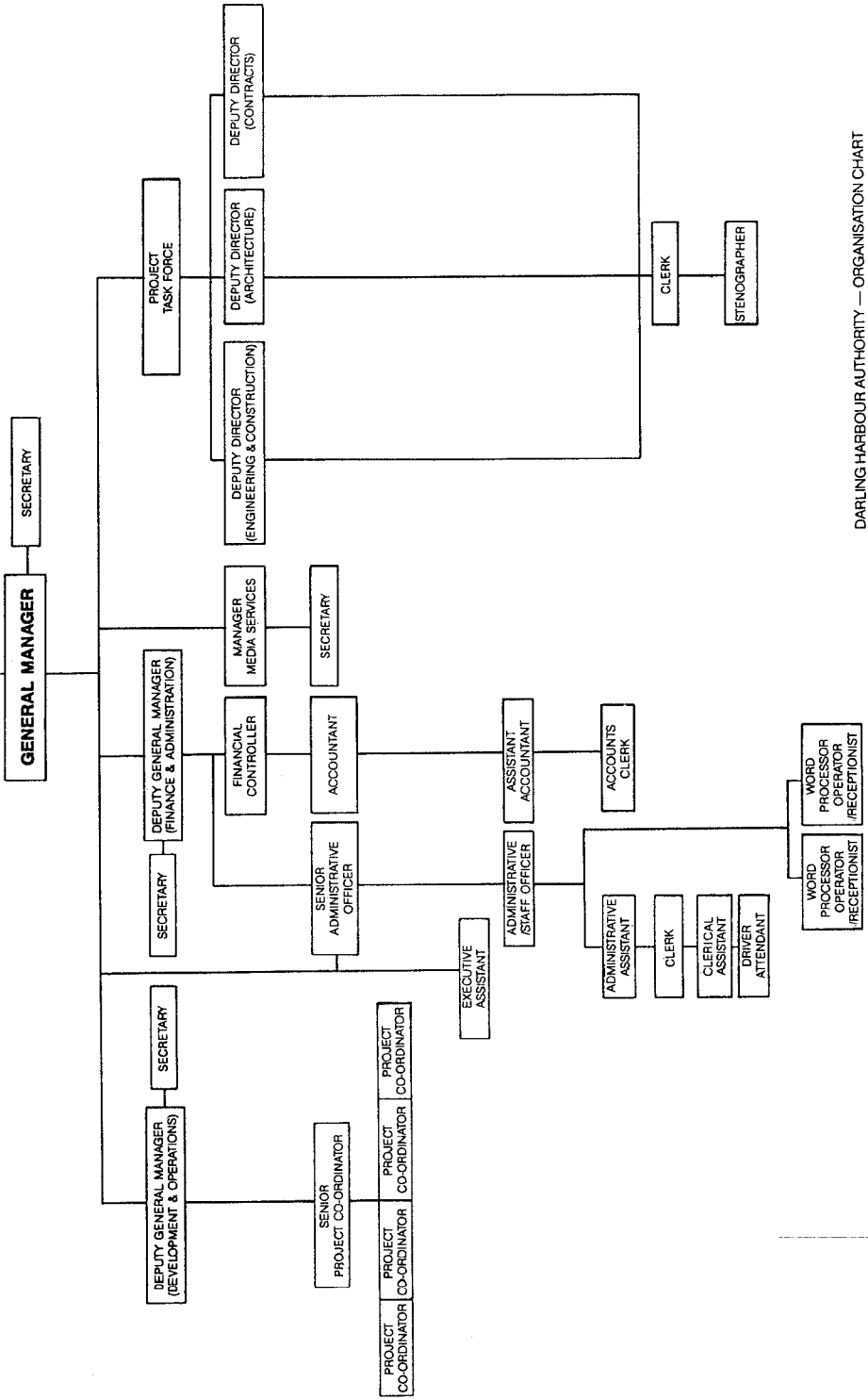


DARLING HARBOUR AUTHORITY - ORGANISATION CHART



Organisation Chart 1986

D.H.A. BOARD

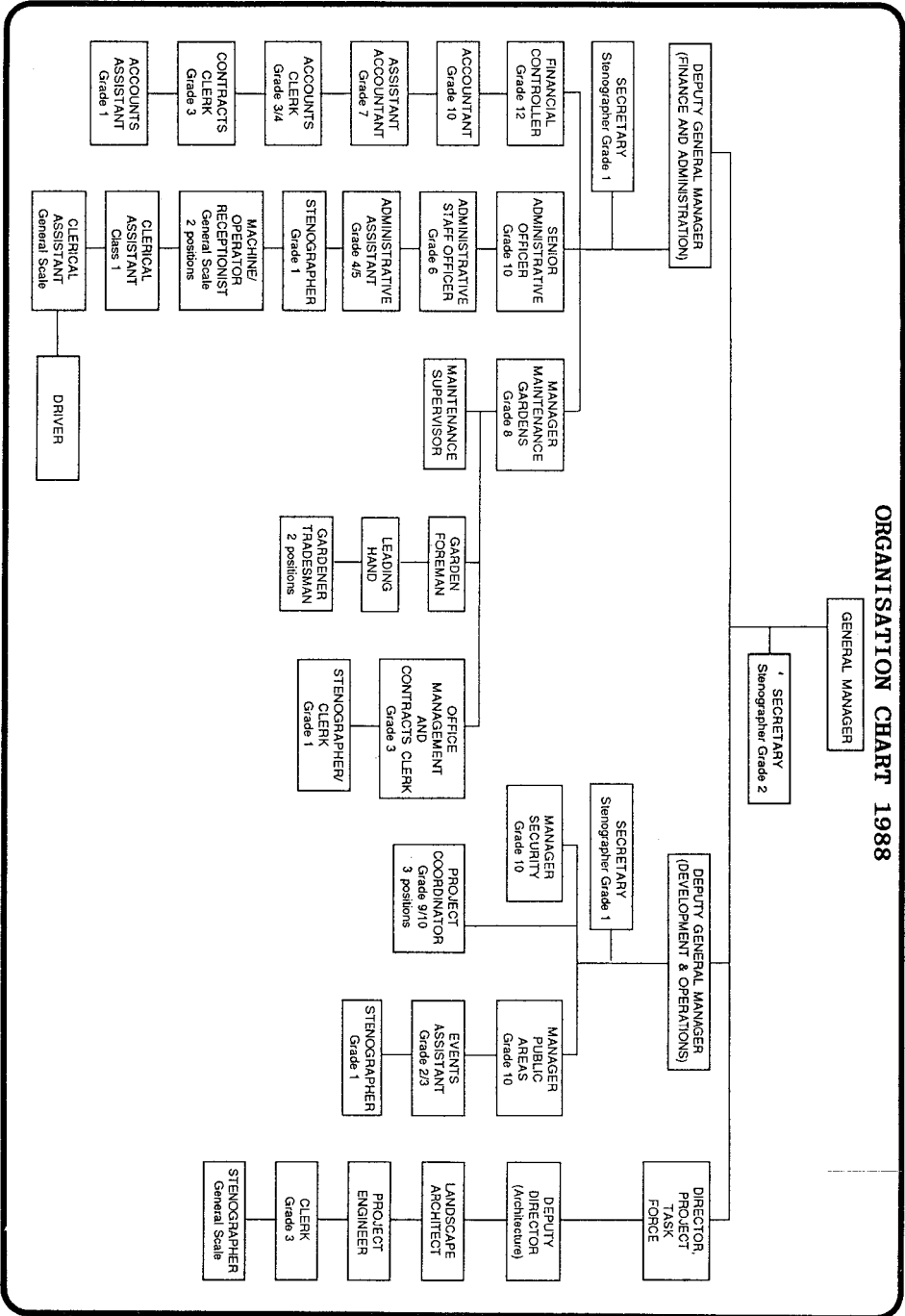


DARLING HARBOUR AUTHORITY — ORGANISATION CHART





# ORGANISATION CHART 1988





**APPENDIX 10**

444,578	31,474	438,000	82,786	--	--
44,172	(3,619)	50,600	0,812	--	--
<hr/>					

**Public Accounts Committee**

**APPENDIX 11**

**IRREGULAR COST PRODUCING PRACTICES**

**FACT OR FICTION?**

Throughout the Inquiry, arising out of formal hearings and numerous informal meetings, the Committee was made aware of a variety of what might be described as irregular work practices which could have impacted on costs at Darling Harbour.

The Committee was informed that the sheer size of the Darling Harbour project created a special environment for industrial conflict and contributed to the generation of irregular work practices:

Witness: *'Large projects always attract that (trouble-making) sort of element. If you have a small factory out in the suburbs it's unlikely to suffer that sort of problem. It doesn't attract that attention from the union movement and also that type of worker. You don't have delegates whom part of a large safety committee and who then try to warrant their being.'*(Hearing, 9 March 1989)

Witness: *'I think probably to put this in perspective there are five elements that operated on this particular project which almost make it unique but not quite. It's a large project that's in the CBD or close to the CBD. It was a very high profile project. It did have time limits on it and it was multi-discipline. Now, with those five elements all together it is inevitable that that would be seen by more radical elements as a good target.'*(Hearing, 9 March 1989)

Committee: *"So the bigger the job then the higher the profile, the greater the greed and the greater the industrial anarchy that will prevail?"*

Witness: *'It is just a fact of life, you know, the climate is therefor the way that we operate industrial relations in Australia is just there if people choose to do so, yes, and it invariably happens on major jobs.'*(Hearing, 28 April 1989)

This environment encouraging cost increases was confirmed by other witnesses. For example:

Witnesses: *"The taxpayer of New South Wales ended up paying a lot more money at Darling Harbour. If it hadn't been for the intent, the wilfulness and the ability of troublemakers to cause disruption at Darling Harbour, using as prime vehicle safety issues ...."*(Hearing, 9 March 1989)

Given that such a large project involving thousands of workers is very likely to generate rumour and unsubstantiated statements, the Committee adopted a cautious approach when considering the issue of irregular practices at Darling Harbour.

This approach was supported by representations made to the Committee.

## Report on The Darling Harbour Authority

Witness: *"There are lots of rhetoric related to when it is raining and when it is not raining ... there is a lot of rhetoric associated with the industry and it really doesn't quite happen that way. When I left the Authority one of the dogmen actually gave me a piece of paper this big for testing wet weather. So it is part of the rhetoric and a bit of the folklore, if you will, of the building industry."* (Hearing 30 May 1989)

In alluding to unsubstantiated bonus payments and "ghost payments", the Master Builders Association of New South Wales noted in a letter to the Committee:

*"The above information is virtually entirely hearsay and has been provided... to assist ... in obtaining a broad picture of what I believe occurred on the project. I must again stress, however, that such information is hearsay and some of the conclusions drawn are the result of speculation."*

The Committee stresses that it has received no evidence, of either a formal or informal nature, indicating any impropriety on the part of the Darling Harbour Authority or its senior officers.

Considerable pressure was placed on contractors and subcontractors at Darling Harbour. Referring to the issues of "paying off", "double paying" and "over award payments", during the hearings the Committee was told:

*"Those were things we did not have to do in outside industry. It was purely by blackmail and sheer pressure from the need to get the work done and get the hell off the job"* (Hearing, 21 March 1989)

Given this pressure, ever-increasing as January 1988 drew nearer, the Committee was presented with evidence that at least contractors and subcontractors participated in allowing the proliferation of these irregular practices. Referring to the Maritime Museum site and the issue of industrial relations, and getting workmen back to work after safety issues arose, one witness testified:

*"Some of the things that went on there were just terrible. For example, Chadwick's people were set up on piece work; getting a day's work (pay) for just two hours work sometimes, and then sitting in the shed, without Chadwick's management making any effort whatever to come and try and get them out, in anticipation of being paid for being on strike ... Chadwick's management on that job were almost non-existent ... as a builder that was the only assumption we could make, that Chadwick's men could do what they liked."* (Hearing, 21 March 1989)

Another witness referred to the "ethos" associated with Darling Harbour when appearing before the Committee:

*"... I spoke to many individual workers who would be among those who would go off the site at a moment's notice and they would say to me that when they were at work they really liked the work they were doing and they loved to work and they wished this wasn't going on and they were sorry for us but ira call was made they were out."*

*"This is why I referred earlier to "ethos": The ethos is such a powerful force that individual feelings on the part of I don't know how many workers are put aside immediately in favour of some recognition of a greater good or a greater force, certainly a force that's greater than the contractor can exercise over his own work force."* (Hearing, 8 March 1989)



## Public Accounts Committee

While the existence of these irregular practices or "rorts" caused concern to many witnesses before the Committee, the Committee found it particularly difficult to find participants, both beneficiaries and direct sufferers, associated with these rorts, who were prepared to give formal evidence. While many indicated a preference to present informal information to the Committee, those very same contractors and employees indicated a great reluctance to go on the formal record, fearing a lifetime blackballing which would ruin their business or, in the case of employees, their gaining employment on an Australian construction site again.

Consequently, the Committee lists below a number of practices as an indication of the variety of possible and/or actual irregular cost inducing practices known, or claimed to be known, to be associated with Darling Harbour. The Committee notes that the costs associated with some of the items listed below were not borne by the Darling Harbour Authority.

### PAVER LAYERS TOLD NOT TO WORK AFTER 3 PM

Referring to a 3.00 p.m. demand by unrelated union delegate that subcontractor paver layers "disappear" from their job within 10 minutes, one witness told the Committee:

*"... they had their concrete ready, it had been mixed with their mortar and they were now laying the pavers. This person was unconcerned and indicated to them if they ever expected to work again on the Darling Harbour site they would get off ... there was no particular reason why they couldn't complete the task when it was really critically necessary for it to be completed for other work to take place, that the more regular construction workers were involved in on a day or two later." (Hearing, 8 March 1989)*

### EXTREME FREQUENCY OF DELAYS

The Committee was told:

*'It was the fact that we had so many delays and some of them only of an hour's and an hour-and-a-half duration. Quite often our foreman or supervisor on site wouldn't know the men had stopped work until he saw them in the shed and he's had to ask them why, and they didn't really know except the shop steward from some other union had said, 'It's everyone down': It was very hard to communicate and find actually what was going on.' (Hearing, 8 March 1989)*

### BOMB SCARES

Bomb scares at times plagued the site. Referring to one occasion, the Committee was told:

*'At 9.30 we were told that there would be a bomb scare, and sure enough, at 11.00 that morning a telephone call came through and there was a bomb scare and the site was cleared. We were all cleared, the workers were cleared, the staff was cleared, we, the people planning the congress, were cleared My recollection is that it was closed on that day for about 4 or 5 hours....' (Hearing, 8 March 1989)*

On the Maritime Museum site there was approximately 1 bomb scare per week over a two month period. These had such a serious impact in interrupting work, that a \$1000.00

## Report on The Darling Harbour Authority

reward was posted by the Darling Harbour Authority for information concerning the perpetrators.

### "SAFETY" ISSUES:

There was a tendency to acknowledge a safety factor in one area but to extend the resultant stoppage throughout the site.

Witness: *'Instead of highlighting a problem, confining an area of dispute on safety to an area and work could continue in other areas, the site, in my opinion, stopped every time there was a minor safety issue. It brought the whole site to a stop until the whole site was safe before you could start work again.'*

Committee: *"Was it taken to extremes?"*

Witness: *"Yes." (Hearing, 8 March 1989)*

### SAFETY FENCING

A sand pile was created for back-fill over a trench for piping. Work stopped until a fence was erected all around the sand pile to stop men sliding over the pile, a practice apparently never undertaken elsewhere. Once constructed the men hopped over the sand pile anyway.

### PEDESTRIAN BRIDGE

Following industrial pressure a pedestrian bridge was constructed over the expressway adjacent to the Darling Harbour site for use by the site workers. Following its construction, most workers continued to cross the road and ignore the pedestrian bridge.

Selective application of safety regulations associated with footwear occurred on the Darling Harbour site.

Witness: *...for days on end people would be moving around the site with sensible, but not letter-of-the-law garb and this would occasion no difficulty at all. 'But on another day, the slightest imperfection in the gear would result in a refusal to allow a person into a particular area, and would on occasions result in a threat to take the workers off the job.'* (Hearing, 8 March 1989)

### ELECTRICAL SAFETY

Electrical Trades Union Representatives demonstrated inconsistency about Safety.

The Committee was told, informally, by a Senior Industrial Relations Officer who had been associated with Darling Harbour project that while a trade union organiser would cut a three-pin plug off the end of an electrical cord from a hired piece of equipment continually appearing on building sites because it had not been specially checked for safety,

## Public Accounts Committee

the trade union organiser would walk past power boxes on temporary poles which did not have lids and consequently were exposed to the elements.

### "CARPENTERS REST"

A contrived safety issue was created by a carpenter or carpenters driving 4-inch nails through a board at the Promenade project and throwing the board onto a walking area. Consequently, on that issue of safety all workers in that area went off for two days.

### CRANES

One contractor was pressured under the guise of safety to add another crane - in 6 months it did no work at all.

Two (2) tower crane crews were paid for weekend work even though the work necessitated only one crew being present on site.

### WET WEATHER

#### 1. Water on Site

The Committee was informed that there was a continuing refusal of employees to walk through or around puddles of water (even though surface was "hard stand", blue metal or concrete) to gain access to the work site from crib sheds, necessitating remedial work (sweeping) whilst majority of work force remained in sheds.

Committee: *"It is normal that after, in one case, half an hour's rain, it appears to take 6 hours to (clean up the site re rain?)"*

Witness: *'No, it is not normal It is peculiar to this project... it's a very blurred change over between the two (inclement weather and safety) but certainly it's most abnormal for a site to lose 5 hours to clean up after the effects of rain.'*(Hearing, 8 March 1989)

#### 2. One Out, All Out

The Committee was told:

*'I guess the general practice was that the people working up on the higher levels (on roof work), and they are working with formwork so it should not be hard to see drops of raining falling on the plywood sheets. Once they started to move, the whole site would move and then I guess returning to work was the biggest area of frustration, rather than when they knocked off for the inclement weather.'*

*"Certainly it was our intention to keep the men working in the respective areas of the building that they could adequately work in. But all they had to do was leave their work area under cover to go to the toilet, for example, and they would not be allowed to return to the workplace because it might have been sprinkling."*  
(Hearing, 29 March 1989)

## Report on The Darling Harbour Authority

### 3. Workers' Shed Isolation

Workers were inhibited from moving from their sheds to undercover work when it was raining.

Witness: *'... it's raining at the commencement of the job, people to their crib sheds but they won't go..... to work under cover and therefore you lose an enormous amount of productive work by reason of that refusal" (Hearing, 8 March 1989)*

### 4. Water on Paths

Committee: *'...people who are associated with the construction down at Darling Harbour indicated that there was a great concern that if there was a shower, then labourers, presumably, would sweep the paths or the area absolutely free of water, is that folk lore?"*

Witness: *"No, that is true. Wet access was always a problem and that was challenged." (Hearing, 30 May 1989)*

### 5. Excess water

When rain fell, bail boards were put down to provide a "bridge" over wet ground - but they were then declared unsafe.

### 6. Total site inspection after rain

Time was lost due to employee representatives of the Safety Committee insisting that a total site inspection be carried out after rain, regardless of whether it was a 5 points or 5 inches, before productive work recommenced.

### 7. Falling in puddles

Witness: *'At puddle apparently appeared outside a first aid hut, and this occasioned considerable and desperate activity to protect the safety of all concerned by effectively closing the site, because it was possible that somebody could fall over in a puddle. I went looking for puddles outside the first aid hut and other huts and I did find a few on wet days. I was never able, although deliberately trying on a couple of occasions, to fall over in one.'*  
(Hearing, 8 March 1989)

## WORK PAYMENT ANOMOLIES

### A "Flexible" Approach to Overtime was Adopted:

Witness' *When we offered them the overtime, incidentally, I think it was about mid April they said (the unions/workers) that they would love to take the overtime but they wouldn't take it unless it was back-dated to December."*  
(Hearing, 31 May 1989)

## **Public Accounts Committee**

### **Apprenticeship Training**

Subcontractors paid a contribution to apprenticeship training - yet did not necessarily have apprentices themselves.

### **Management (Beer) Charge**

A "Management Charge" was levied against subcontractors by the Darling Harbour Authority to cover reimbursement of 75% of the cost of cartons of beer provided to men each week.

### **Bonus Hours**

Saturday work 6.00 a.m. to 1.00 p.m., which involved the forfeiture of 20-minute crib break at 9.00 a.m. and taking one 30-minute crib break at 10.00 a.m., was paid as though employees were on site for 8 hours.

Employees called in for overtime work on Saturdays were paid a full 8 hours at penalty rates (i.e. first two hours at time-and-a-half and the remainder at double time) even if, for example, it rained after two hours or a crane broke down and no further work could be carried out

There was an extension of the award providing for 32 hours per 4-week period of inclement weather payment when such allowance had been exhausted.

The shift payment loading of 50% specified in NBTC Award, "flowed on" to all trades involved in working shifts notwithstanding the lesser award provision in other awards; and

For a period of the project overtime was offered to all members of a particular crew at weekends, irrespective of the actual amount of work to be performed; i.e. "one in all in."

### **SAFE LIGHTING COSTS**

At the Maritime Museum, after the trade unions lost on a strike pay issue, senior union organisers went through the building demanding improved lighting. These demands resulted in temporary lighting being installed, of a standard regarded as good as the permanent lighting will be, with all cables strapped up to ceiling.

### **SUNDRY ISSUES**

#### **BBQ Days**

Contractors' provided barbeques for the workers from time to time at lunchtime. Work stopped and at the conclusion of the barbeque, the workers' went home.

#### **Lost Tools**

Due to a number of pressures including the need to fast track construction and the thousands of workers on the site, hardware retailers were able to hawk hand tools and small electric tools around the site like street vendors. Orders were shouted out and one retailer reported large weekly sales for many months and said that such demand could not be achieved without substantial theft.

## **Report on The Darling Harbour Authority**

### **Cash payments for shop fit-outs at the Festival Markets**

Witness: *'The shopkeepers ..... were ripped off, firstly by the costs; and, second, by the work not having been done properly and having to be taken out and done again and again and again. Also, large cash-in hand amounts were going across to these people. That was the only way those shops were fitted out in the end,' those people had to end up paying cash in hand. the majority of people in the shopping centre were affected. (Hearing, 21 March*

### **Convention Centre Noise**

During the staging of Conferences pipes were deliberately bashed to "run" sound throughout the centre. The noise generated forced management to move tradesmen generally at a loss of half a day on each occasion to avoid disrupting the conference in progress.

### **Chinatown Aromas**

A meal allowance was included in the payment to workers on site, recognising that those workers had to endure the attractive cooking smells emanating from the adjacent Chinatown.

### **IMPACT ELSEWHERE**

The Committee concludes that even if only a relatively small number of these practices actually occurred the long-term impact on costs to the building industry elsewhere could be profound.

Committee: *'Has there been any practice or have there been any practices, even attitudes, that you may have noticed develop at Darling Harbour that have subsequently or even concurrently spread to your other activities within the CBD?'*

Witness: *"Yes, since Darling Harbour has finished and we have relocated our employees to other projects around the CBD it is very difficult to contain them back to the way the awards and the buildingites should be run, some of the practices of Darling Harbour take a long while for them to realise that they are now working on a private enterprise job and they just can't do those sort of things."(Hearing, 8 March 1989)*

## APPENDIX 12

### DARLING HARBOUR DEVELOPMENT PROJECT

#### SITE AGREEMENT

##### ARRANGEMENT

<u>CLAUSE</u>	<u>TITLE</u>
1.0	DEFINITIONS
2.0	APPLICATION AND SCOPE OF AGREEMENT
3.0	RATES OF PAY
4.0	HOURS
5.0	REST PERIOD AND CRIB TIME
6.0	OVERTIME AND SPECIAL WORK
7.0	MEAL ALLOWANCE
8.0	WEEKEND WORK
9.0	PUBLIC HOLIDAYS AND HOLIDAY WORK
10.0	INCLEMENT WEATHER
11.0	SICK LEAVE
12.0	ANNUAL LEAVE
13.0	ANNUAL LEAVE LOADING
14.0	TERMINATION OF EMPLOYMENT
15.0	JOB STEWARDS
16.0	DEMARCATION DISPUTES
17.0	UNIONS NOT PARTIES TO THIS AGREEMENT
18.0	WORKERS' COMPENSATION
19.0	NO REDUCTION CLAUSE
20.0	SETTLEMENT OF DISPUTES PROCEDURE
21.0	PRIVATE ARBITRATION
22.0	UNION MEMBERSHIP
23.0	KIOSK FACILITIES
24.0	AMENITIES AND ASSOCIATED FACILITIES
25.0	FIRST-AID CENTRE
26.0	UNION OFFICIALS RIGHT OF ENTRY
27.0	AGREEMENT NOT TO BE USED AS PRECEDENT
28.0	MEMORANDUM OF UNDERSTANDING
29.0	CLOTHING & SAFETY FOOTWEAR
30.0	MULTI STOREY ALLOWANCE
31.0	PRIVATE INDUSTRY AGREEMENTS
32.0	APPRENTICES
33.0	SUPERANNUATION
34.0	PYRAMID SUB CONTRACTING, ALL-IN-PAYMENTS CASH-IN-HAND PAYMENTS
35.0	BUILDING & CONSTRUCTION INDUSTRY LONG SERVICE LEAVE PAYMENTS
36.0	DURATION OF AGREEMENT
37.0	LEAVE RESERVED

Public Accounts Committee

APPENDIX 13

THE PROJECT, LEGISLATION & THE AUTHORITY

**A BRIEF CALENDAR OF EVENTS**

May 1984 Darling	Premier announces development plans and intention to establish  Harbour Authority
June 1984	New Darling Harbour Authority Act
September 1984	Darling Harbour Authority commences operation
October 1984	Darling Harbour Authority Board first meeting
November 1984 Chairman	Mr A. Carmichael takes over from Mr D. Block as Board
December 1984 Strategy	Public exhibition of Draft Development Plan and Development
March 1985	Draft Development Plan re-exhibited incorporating changes
May 1985	Darling Harbour Authority (Amendment) Act
December 1985	Darling Harbour Authority (Further Amendment) Act
May 1986	Darling Harbour Casino Act
December 1986	Darling Harbour Authority (Amendment) Act
April 1987	Darling Harbour Casino (Amendment) Act
May 1987	Darling Harbour Authority (Amendment) Act
January 1988	Opening of public areas
May 1988	Darling Harbour Casino (Repeal) Act
May 1988	Official opening by Her Majesty the Queen
November 1988	Darling Harbour Authority (Amendment) Act
November 1988	Interim Board appointed
July 1989	New Board appointed



## **Public Accounts Committee**

### **APPENDIX 14**

#### **PROGRESS CALENDAR**

##### **MAJOR CONSTRUCTION PERIOD, 1985 - MAY 1988**

###### **GOVERNMENT PROJECTS**

###### **EXHIBITION CENTRE**

August 1985	First construction contract (basement) awarded
November 1985	First concrete pour
April 1986	Building contract awarded
September 1986	All ground slabs complete
October 1987	Exhibition Halls handed over to First State 88
November 1987	Concrete works complete
January 1988	First public events held in building
February 1988	All five halls handed over to Authority

###### **CONVENTION CENTRE**

December 1985	Building contract awarded
February 1986	Construction underway
December 1986	Tiered seating units for Plenary Hall
April 1987	Internal services and fit-out commenced
May 1988	Trial erection of seats in Plenary Hall complete
May 1988	Venue for State Banquet for Her Majesty the Queen

###### **CHINESE GARDENS**

September 1985	Agreement with Guandong finalised
March 1986	Construction launched
June 1986	Detail design drawings complete
August 1986	Construction commenced

### **Report on The Darling Harbour Authority**

December 1986	Site services commenced
January 1988	Opened to public
April 1988	Roof tiling of building No. 2 pavilion complete

#### **COCKLE BAY PROMENADE AND PYRMONT BRIDGE**

October 1985	Design complete
December 1985	First piles driven
March 1986	First deck slab poured
June 1986	Bridge tenders called
September 1986	Bridge restoration contract awarded
May 1987	Wharf construction contracts awarded
October 1987	Bridge restoration of timber trusses, handrails and footpaths complete
January 1988	Promenade and Bridge opened to the public

#### **ROADWORKS, BRIDGES AND CARPARKS**

February 1986	Western Boulevard construction contract awarded
December 1986	Liverpool Street overpass structures complete
May 1987	Pier Street North bridge practical completion
January 1988	Stage I of Northern Carpark complete and opened to public
	Contract for Mareno Road, Pier, Harbour and Day Streets complete
	Hay Street, Allen Street and Market Street Pedestrian over-passes and UTA ferry wharf complete
April 1988	Stage II of Northern Carpark complete

#### **DARLING HARBOUR PARK/TUMBALONG PARK**

February 1986	First tree supply contracts awarded
January 1988	Park and kiosk opened to public

Public Accounts Committee

**SITE SERVICES**

March 1985	Demolition Phase II complete
June 1986	Demolition Phase III complete
April 1987	High voltage ductlines complete
November 1987	Allen Street storm-water tunnel complete
January 1988	All commissioning by SCC complete
April 1988	All major works and substation connection to SCC network complete

**NATIONAL MARITIME MUSEUM**

January 1985	Site offered to Commonwealth Government
June 1985	Commonwealth announces intention to proceed
March 1986	Construction agreement signed with Commonwealth
June 1986	Sketch plans submitted for approval
December 1986	Steel fabrications commenced
May 1987	Structural steel erection commenced
February 1988	Installation of roof tiles commenced
May 1988	Ground Floor slab in Hall 2 poured

