



LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

12th Assembly

Port of Darwin Select Committee

Public Hearing Transcript

1.00 pm, Tuesday, 31 March 2015

Litchfield Room, Parliament House

Members: Mr Nathan Barrett, MLA, Member for Blain
Mrs Lia Finocchiaro, MLA, Member for Drysdale
Mr Michael Gunner, MLA, Member for Fannie Bay
Mr Gerry Wood, MLA, Member for Nelson

Witnesses: Patrick Stevedoring
Mr Tom Angliss, Director of Property (Asciano)
Mr Warwick Sommer, General Manager, Commercial and Business Development
Port of Darwin Steering Committee
Mr Gary Barnes, Chair of the Port of Darwin Steering Committee and Coordinator General, Office of Major Projects, Infrastructure and Investment
Mr Terry O'Connor, Chief Executive Officer, Darwin Port Corporation
Ms Jodie Ryan, Under Treasurer, Department of Treasury and Finance
Mr Craig Allen, Commissioner for Public Employment
Ms Clare Gardiner-Barnes, Chief Executive Officer, Department of Transport
Mr Alastair Shields, Chief Executive Officer, Department of Land Resource Management
Mr Rod Applegate, Chief Executive Officer, Department of Lands, Planning and the Environment

The committee convened at 1 pm.

PATRICK STEVEDORING

Mr CHAIR: Good afternoon. On behalf of the committee, I would like to welcome everybody to this public hearing into the proposed lease model for the port of Darwin. I welcome to the table to give evidence to the committee from Patrick Stevedoring, Tom Angliss, Director of Property, and Warwick Sommer, General Manager, Commercial and Business Development.

Thank you for appearing before the committee. We appreciate you taking the time to speak to the committee and look forward to hearing from you today. This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee apply. This is public hearing and is being webcast through the Assembly's website.

A transcript will be made available for use of the committee and may be placed on the committee's website. If at any time during the hearing you are concerned that what you will say should not be made public you may ask the committee to go into a closed session and take your evidence in private. I will ask each witness to state their name for the record and the capacity in which they appear. I will then ask you to make a brief opening statement before proceeding to the committee's questions. Could you please each state your name and the capacity in which you are appearing today.

Mr ANGLISS: Thomas Angliss. I am the Director of Property for Asciano Group.

Mr SOMMER: Warwick Sommer, General Manager of Commercial and Business Development for one of Asciano's three divisions titled Bulk and Automotive Port Services.

Mr CHAIR: Mr Angliss, would you like to make an opening statement?

Mr ANGLISS: No, thank you.

Mr CHAIR: Okay, we will proceed to questions. The first question we have for you today is regarding the objects of the proposed leasing of the Port of Darwin, include accessing private sector capital for the growth and development of the port. What development does Patrick consider is required to facilitate a growth in trade?

Mr SOMMER: I will answer that as best I can. There is most likely no single development that could be earmarked for trade expansion or attraction of trade to the port. In assessing what could be done in the future certain cargo types or commodity groupings would most logically be considered in isolation. For example, bulk commodities in the handling and import or export of those types of commodities is a very different logistics task to container trade. I do not believe it is possible just to identify one single piece of infrastructure investment, more so multiple areas potentially.

Mr CHAIR: Looking at the way that the port is structured now and with what is there, what do you see as things that could come up and what kind of infrastructure would be needed to improve the port?

Mr SOMMER: For bulk commodities one area that would logically be expanded would be the capability to link the rail service into the port precinct with the bulk commodity loader itself - whether that be the existing machinery or some future upgrade and expansion. As it stands at the moment to connect rail inbound bulk commodities to a vessel there is a stockpiling operation followed by trucking into a dump station. So investment that would, in a more efficient way, connect a stockpile with a conveyed solution, or something to that effect, is a logical expansion to improve that type of facility.

Mr CHAIR: What inland infrastructure development do you think would be required to support expanded port facilities? You have talked about the rail and connecting the dump station where they dump the rail carriages by a conveyor. Are there any other things inland that you would see as important linkages to improve what is coming across the port?

Mr SOMMER: Again, there is maybe no simple answer to that specific question. It would depend on the type of supply chain solution that made sense for cargo coming into or out of Port of Darwin. For example, on the east coast with some bulk commodity solutions instead of having a rail bottom dump for the bulk commodity, we provide solutions where bulk commodities are loaded into half-height containers, then brought alongside the vessel and rotated into the ship's hold, thereby bypassing the need for a ship loader. That is a very different supply chain to the one I was describing about rail stockpile conveyed to ship.

There is a challenge in front of the Northern Territory government to look at not only how it can support new trade, but also efficiency of supply chain and what elements of the development of the supply chain it could support. I am sorry. That is not a very specific answer, but it is quite a big question you have asked. I do not think there is one specific that jumps out.

Mr CHAIR: What are the key issues to consider in the lease arrangements to promote investment and development? We are charged with looking at the regulatory framework to

underpin a possible lease, then what the basis of that lease could be. It is important for us to get across the key issues that can come up when we are doing that to make sure the work we are doing and the work done if a lease goes ahead - the lease is right for this port at this time. What key issues do you think we need to consider.

Mr ANGLISS: Ultimately, in relation to the – you are talking about a lease for the privatisation of the port as distinct from the leases in place with the current stakeholders or port operators, am I correct?

Mr CHAIR: Correct.

Mr ANGLISS: Ultimately certainty of operations and certainty of alternative port operations that might be developed in competition to the port that is put in place will be one of the main questions that a bidder will ask in relation to the value that is created when leasing the privatised port. The other ones will be certainty of revenue streams and how they are dealt with, whether it is from the stakeholders in the port at present or new port developments and supply channel opportunities that come down the track.

Obviously the lease of the port starts and finishes at the port gate. Typically in ports around the country there is an infrastructure responsibility for roads and rail, those types of infrastructure outside the port gate that can have an impact on the value that can be created with the port or the efficiency of the port. Certainty provided by government in relation to how the roads will be developed or maintained, and similarly rail is an important concept for value when it comes to the privatisation or lease of the port going forward.

Mr SOMMER: I might add a little to that. From our experience in operating in multiple ports around Australia, Tom touched on a certainty point. I think the NT government needs to consider two groups of key stakeholders. The first is the group of existing port users and making sure that they have a sense of comfort as to what this proposal may deliver - so no massive disruption in tenure nor any immediate concerns about large rate increases or the like.

The other part of the equation, and the very important group of stakeholders yet to come, are those looking to develop opportunities. I think the model needs to be sufficiently flexible to attract new trade and give them an opportunity -acknowledge that in the early phase of developing a new trade through a port it is often quite difficult to maintain cash flow. Something that could recognise start up versus sustained operations and allow these entrants the opportunity to develop and then end up with a nice sustaining business is in the best interests of everybody who is a stakeholder in the broader port development.

Mr CHAIR: You touched on some things we will address - looking at the certainty around operations and the certainty around big price rises. We have recently seen that happened in a few places. The Asciano CEO, John Mullen, has raised concerns regarding port privatisations, in particular regulatory controls imposed on port operators as part of the sale process and the likelihood of resulting price increases. What would you consider to be appropriate regulatory pricing and an access regime for this port?

Mr ANGLISS: I think the comments that John Mullen has made relate more to the lack of regulation in the markets in the (inaudible) regions that have possibly led to price increases in the ports, either leading into the privatisation of the assets or post privatisation of those assets. John has indicated, in the absence of alternative commercial levers that provide some level of certainty for all stakeholders in relation to price - and we are talking about cargo rates as well as our lease rates, which is the issue you are specifically responding to - the issue is a lack of regulation has led to substantial increases in prices leading into the privatisation of port assets.

Whilst appropriate for the Port of Darwin going forward, it needs to be a balanced view. There needs to be both the ability for the Northern Territory government to capture value in advance of the port privatisation and also avoid the position where monopoly pricing takes place by the private port operator after the privatisation of the port. In most cases, when there is infrastructure-style investment the yield that historically has been applied to those assets by private port operators has been relatively low in the context of commercial investment yields.

It is important to note they are probably on container tray volumes rather than the Port of Darwin where there is a high fluctuation in bulk commodities and the rise and fall in those markets, rather than driven by the population consumption of containerised goods in the east and southern container ports.

The answer is a balanced approach to regulation where you capture value upfront so the government has some certainty in relation to achieving an upfront price that makes it a reasonable commercial outcome for the government to privatise the port. Also, going down the track during the operation of that lease, the stakeholders are protected as much as the port privatised operator.

Mr CHAIR: Thank you. The ACCC recently raised the possibility of ports being regulated under the national access regime, noting that this would make it more difficult for port owners to discriminate against competitors and would give users of port infrastructure the right to appeal to regulators if they have pricing disputes. Would you agree with this assessment?

Mr ANGLISS: I am not a competition law or ACCC expert, but I have a sneaking suspicion the ACCC does not have jurisdiction to apply those at a state-based operation. I do not have sufficient knowledge of that to give you an answer.

Mr SOMMER: I will add though, at a philosophical level, if the ACCC's role in that context was to address an imbalance in the power - shall we say? - between the players and it was not particularly heavy-handed, onerous or counter to the broader development of a port and trade volume, then the principle probably makes sense. But the devil would be in the detail.

Mr CHAIR: We have seen when we visited other ports that sometimes disputes arise between port owners and third party users. Often there have been issues of how those disputes are resolved. What kind of model - in your experience working across many ports in Australia - provide an adequate regime where disputes can be dealt with in a privatised port?

Mr SOMMER: I could maybe talk about it from an operational perspective. Most disputes fall into one of two categories; they are either price or non-price-related disputes. Non-price related may cover a whole range of things that arise from a commercial relationship. Most lease arrangements - for example, if you have tenure under a lease or a licence to access and use a port area - generally have provisions that deal with broader dispute issues which are largely in hand.

Price is probably a more prickly one because it is generally such a subjective issue at a point in time. We operate under multiple regimes in both price and non-price. I would say all of them have their pros and cons. Again, there is no silver bullet, there is no one that works particularly well in every case.

Mr CHAIR: In regard to anticompetitive behaviour that may happen in ports from time to time, the MUA notes that Flinders Port's expansion into stevedoring effectively makes it both a landlord and a competitor to Patrick and Qube in Adelaide, and has resulted in capital investment focused on areas in which it operates at the expense of those areas of the port that it rents to companies which are now its competitors. How do you see this situation in Flinders where they are delving into stevedoring operations?

Mr SOMMER: I do not know that we would necessarily be in a position to comment too much about the model Flinders port adopts other than acknowledging it has become somewhat of a vertically integrated service provider in South Australia. I would not like to say a great deal more given our commercial arrangements with them in that state.

Mr CHAIR: Given that you have spoken about vertical integration, and that obviously presents a possible risk to users, and you have already talked about existing users being

made to feel comfortable about what arrangements are being put in place, would you recommend some kind of regulation being in place to addresses that integration?

Mr SOMMER: Again I will answer this. In an ideal world you would not need to have any regulation, it would be a commercial arrangement that worked for the relevant parties. Having said that, where it may not work to everyone's satisfaction - there are instances where a degree of vertical integration or a degree of broader competition may give rise to concerns by players in the relevant market. There are operations around the country that are governed by ACCC undertakings. For example, Australian Amalgamated Terminals operates under a specific undertaking that governs what it does to ensure a level playing field effectively. There is operation the committee may well consider in how that works.

Similarly, Asciano has an interest in the Port of Geelong. As I said, undertakings would operate in respect of that port too. There are a number of existing models that could be investigated to see how certain concerns - and it is important to go back to the framing of the relevant undertakings because the underlying concerns, circumstances or issues may well have changed over time. Look at the framework, look at the background and then consider whether it is applicable to the issues the committee is balancing at the moment.

Mr CHAIR: Also, I was wondering about concerns that may have been raised. I imagine you have spoken to your counterparts in Darwin at the Patrick Stevedoring office. Have they raised any concerns about this proposal given the particular circumstances surrounding this port? Have things come to light that you would like us to look at as needing attention in the regulatory framework we are looking to put together here? Has anything specific come up to say, 'For your port this needs to be covered off to make sure the interests of your firm have enough regulation in place so you feel comfortable going forward'.

Mr SOMMER: That is an interesting question because, as the committee would well know, Asciano has lodged an expression of interest in respect of the port itself. We have a degree of conflict in respect of this response. For our operations in the Port of Darwin itself, thinking about the potential for the port to be privatised the concerns are more around should a third-party take control of the port for a long period of time? What balances and checks are put in place to ensure our access to facilities and ability to provide current and expanded solutions is maintained over time and preference is not given to an aligned party to the port owner? It is the broader vertical integration and access risk, and ultimately the price point as well. They are points the committee raised in earlier questions.

Mr CHAIR: This is a tricky question, but in regard to Asciano putting in an expression of interest or whatever you have done is there much difference between what your operators would say - who are here right now - the issues that need to be addressed and what Asciano's view is of what they would like to see given they are looking to take on the port? In relation to the conflict that exists, would the answer be different in a year from now you got

the port and asked for regulations, or did not get the port and made it too loose? I wonder where that balance is in that you guys have a lot of experience in ports, both operating and running terminals? Where does that balance lie in your mind philosophically for your firm and how can we take advantage of that?

Mr SOMMER: Yes, that is a very interesting point because there is a conflict between those two positions. The process I have seen adopted most recently in port space is if a party is looking to gain access rights to a certain asset, shall we say? Quite often, as part of their expression, they are asked to put forward a set of draft undertakings or a draft framework they would offer up should that party be successful in the process.

By putting that part of the agenda in the centre of the discussion around the framework and how you would deal with both your price and your non-price-related disputes, for example, then the fullness of the draft undertakings or where that component may take them can be explored and compared against other potential bidders. By bringing that to the centre of a discussion early, it would allow the government in the Northern Territory to consider its view versus the view of those who may be offering up something, should they be successful.

Mr CHAIR: That is all the questions I have. Do you have any questions, Gerry?

Mr WOOD: A general question. It might be difficult to answer. You work on both government and private ports and I know you are interested in our port. Do you see a great deal of difference between operating on one port compared to another?

Mr SOMMER: I will tackle the general stevedoring component. That is the part of the business I know the best. I will get Tom to talk about the container terminals because it is a different landscape depending on where you are.

In the general stevedoring space at the moment, Patrick operates, I think, 12 or 13 ports around Australia. They are a mix of privatised or state-owned ports. As a general rule, there is not a massive amount of difference between them. If you think about it, whoever owns the port has a general interest in seeing trade growth, and ultimately facilitating a framework and access regime to allow the people using the port to come in and do good business.

In the general space there is not a huge difference. There are, I suppose at times, issues around scarcity of resources around the port and whether one competitor ends up in an advantage position or not. But that is ultimately just business as it runs.

Mr ANGLISS: From a property releasing perspective, the privatised ports are very well run around the country. They do not have any problems. The motivation that drives those parties to invest in those privatised ports, as Warwick said, motivates behaviours which

develop a port and trade through the port. Ultimately, that is where the revenue streams lie for that port. You have to continue to grow trade in order to win in an investment in a privatised port.

We do not feel there is any disadvantage from an operating model perspective between private and public ownership. Private tends to be a leaner operation as far as the way they run the ports - fewer people and that type of thing - but there is no real difference as a port operator. In most cases, we are running existing leases that run through.

Mr WOOD: We visited Portland and, like Geelong, it does not have any regulatory body looking at it. The complaint we had in Portland from users was basically they have no way of appealing against the price they are being charged. Does that also affect the stevedoring companies? I met Qube in Portland. I do not know whether Patrick operates out of Portland, but you obviously operate out of Geelong. Is that correct?

Mr SOMMER: We do not currently operate in Portland. I will correct you. Geelong does have a regulatory framework in place. There are ACCC undertakings that govern the operation of that port ...

Mr WOOD: Does it have an Essential Service Commission? Does it have a regulatory role over that port?

Mr SOMMER: I do not believe so. It is the ACCC more so than the Essential Services Commission.

Mr WOOD: The concern people had in Portland was there was no regulatory control. The company owned the port outright and could set the prices it wanted to set. I did not know whether that was an issue for stevedoring companies because you did not have a right of appeal, you just had to lump it or like it. I did not know whether that was a disadvantage of privatising ports without regulation.

Mr SOMMER: It potentially is not. If you think about it theoretically, any port that keeps increasing the prices, whether it be state owned or privatised, will ultimately see some of the trade components fall off because it will become too expensive for the users. What we end up seeing most often is a modal shift. The volume may shift for example from break bulk or a bulk commodity to a containerised supply chain. The threat, when you push too hard on price, is competitiveness of the port becomes an issue. At the end of the day the stevedoring aspect, yes, we do not want to see prices go up because ultimately the supply chain bears that somehow. There is a point of duress reached if price keeps going up.

Mr WOOD: Thanks.

Mr GUNNER: You are an existing user of the port. Are you comfortable with the level of consultation you have had around where the port is going?

Mr SOMMER: I can comment because I have been most directly involved from our perspective. Yes, we have been involved since late 2013 in discussions with the NT government about where this could potentially go, a broader development of the port in Darwin and, potentially, a second port near Darwin. I would say, on balance, we are reasonably comfortable with the level of consultation and very much thankful of being asked to be involved from an early stage.

Mr CHAIR: Gentlemen, we thank you for your time and responses today. Thanks for contributing to this hearing.

Mr SOMMER: Thanks

Mr ANGLISS : Thank you for the opportunity.

The Committee suspended

PORT OF DARWIN STEERING COMMITTEE

Mr CHAIR: Good afternoon, it is lovely to have you here. On behalf of the committee, I welcome everyone to this public hearing into the proposed lease model for the Port of Darwin. I welcome to the table to give evidence to the committee from the Port of Darwin Steering Committee Mr Terry O'Connor, Mr Gary Barnes, Mr Alastair Shields, Ms Jodie Ryan and Mr Rod Applegate. Thank you for coming before the committee. We appreciate you taking the time to speak to the committee and look forward to hearing from you today.

This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee apply. This is a public hearing and is being webcast through the Assembly's website. A transcript will be made for use of the committee and may be put on the committee's website. If, at any time during the hearing, you are concerned that what you will say should not be made public you may ask that the committee go into a closed session and take your evidence in private.

I will ask each witness to state their name for the record and the capacity in which they appear. I will then ask you to make a brief opening statement before proceeding to the committee's questions. Could you please each state your name and the capacity in which you are appearing?

Mr BARNES: Gary Barnes, Coordinator General.

Mr O'CONNOR: Terry O'Connor, CEO Darwin Port Corporation.

Ms GARDINER-BARNES: Clare Gardiner-Barnes, Chief Executive, Department of Transport.

Mr SHIELDS: Alastair Shields, Chief Executive, Department of Land Resource Management.

Ms RYAN: Jodie Ryan, Under Treasurer.

Mr APPLGATE: Rod Applegate, CEO, Department of Lands, Planning and the Environment.

Mr CHAIR: Mr Barnes, would you like to make an opening statement?

Mr BARNES: Thank you for the opportunity to appear before the committee. The committee has a copy of the submission our committee has made. I will touch on a few contextual things before we get into fielding any questions your committee might have.

The Northern Territory is about to enter, and is indeed entering, a period of strong economic growth. As the Under Treasurer can tell you, we have predicted strong growth going forward. But there is much potential that is starting to be realised and turned into major projects. Recently project Sea Dragon was announced as a \$1.5bn aquaculture project on Legune Station.

Likewise, we have a strong interest from Asia from the CT Group in producing a range of crops including, for example, dragon fruit. They have been over again just two weekends ago. This is indicative of what is about to happen in the Territory.

As you would have heard many commentators - among them our Chief Minister - clearly provide advice on, we are largely underdeveloped but have enormous potential for development with enormous resources. There is a strong case that the Northern Territory will not become a single project economy, but rather there will be a pipeline of projects that will lead to that strong economic growth continuing into the future.

Indeed, from the mid-2000s, the Territory has been engaging with the Australian government making that case to them because we knew our economy - which is supported in the main by the Australian government with 80% of our appropriation every year coming from the Australian government - and our potential for own source revenue is limited, particularly as many of the major projects are offshore projects where royalties flow through to the Australian government. We needed the Australian government to assist us with major infrastructure provisioning to enable us to take advantage of the potential of the Territory.

Those conversations, as I said, have been happening in a very formal sense since the mid-2000s. We realised we needed additional infrastructure investment in our port so, over that period which is nearly 10 years now, but more particularly since 2009, we have been asking Infrastructure Australia to provide us with funding that would assist us to make the port ready for the growth we know will almost inevitably occur. In fact, I was saying to Mr O'Connor this morning - and I believe you had a tour of the port this morning - we believe the first phase of Project Sea Dragon will see our port as the avenue for getting those prawns overseas. At the moment, while the barges have the reefer points that will be required, I am not sure the port is ready to receive the volume that is likely to occur. Again that goes to the point where that particular company is already looking at the port of Wyndham as a logical preferred choice because of the deficiencies that our port has in being major project-ready. There are other logistical reasons why they might go in that direction as well, but quite simply our port needs an injection of major capital.

At the moment, as Mr O'Connor will tell you, we are at about 43% capacity. If one of those iron ore mines had gone forward, or if we had received other mineral resources from major projects in South Australia, we would have very quickly reached capacity in the port and would have been coming to someone to provide us with the extra resources to take advantage of that port and maximise its potential.

We find ourselves in a situation where government has asked this committee to look for a partner who can bring capital into the market. It is a unique time in the world economy at the moment where the financial environment is such that there are large amounts of capital looking for a home where there will be a steady rate of return. As the economy of the US changes, the home might not be in Australian infrastructure as it is at the moment, but there are key advantages in looking for a partner at the moment in this particular environment.

The other reason we are looking for a home is that successive Australian governments have rejected the approaches we have made to them through Infrastructure Australia. We remain hopeful that this Australian government, through its Developing the North process, will give us an opportunity to provide some infrastructure for economic enabling initiatives, but it is one of the reasons we are looking to get third-party capital into this market.

The third-party capital does not have to come from overseas. We are open to the full range of possibilities that – where people can see the value in investing, but this committee has been asked to look for a partner not an owner of the port, but someone who shares the aspirations of the government in preparing the port for the potential it can reach. We have been trying to structure the legislation and all the other documentation, which is just as important as the legislation, to ensure we get a partner who shares those aspirations.

I might leave it there. There will be ample opportunity to talk to all the members of the committee about the nuts and bolts of where we have got to, why we are doing what we are, and inform the committee.

Mr CHAIR: You spoke about needing funds to be major project-ready. What further development does the Port of Darwin need specifically to be major project-ready?

Mr BARNES: I will ask Terry O'Connor to answer that question.

Mr O'CONNOR: Mr Chairman, the most immediate one is the reclamation of Pond F which we looked at this morning. As I indicated this morning, it is around \$10m for the continuation of that project. When we start to look into the other parts of it, there is the reclamation of Pond K which is fairly advanced. It comes down to the issue of the product we might be catering for. To be ready for live exports with regard to container exports, we would see investments around the container area and additional container lay-down areas. We would also see potentially, if it coincided with a mine, additional quay lines being a part of that requirement as well. To be ready today, we say as a minimum we need the additional hard stand area, additional refrigeration points, reefer connection points at a minimum to go forward.

Mr GUNNER: For each of those different projects there would be different lead times, I imagine. What type of lead times would we be looking at for the quay line versus lay-down areas versus reclamation?

Mr O'CONNOR: The hard stand area you have seen now has been under way for over two years now. It probably has another 18 months to go before it can be completed. For something like hard stand and reclamation of land you are looking at three-and-a-half years

to four years from the time that you commit to the time you have something ready to go. Our philosophy for the last few years has been to stay ahead of the demand curve.

In relation to quay line, that is a multimillion dollar question literally, because you would see a requirement to mobilise things like dredges in to dredge the berth pockets, bringing in specialist equipment etcetera. Your environmental approvals to go through that process probably have a lead time of 12 to 18 months. So you are looking at least another three years to put something there.

When we start dealing with major producers such as phosphate, for example, we need to start looking at the three years. We know that rolling stock for the railway line is an 18-month lead time. Locomotives for the railway are 18 months to two years. Those are the type of time lines we work with. For us to be ready tomorrow, we need something well advanced and well developed.

Mr GUNNER: As you mentioned, an extra quay line could be needed if a mine was to come online and go through.

Mr O'CONNOR: Yes.

Mr GUNNER: You are relying on the notification from the mine to trigger the demand for the quay line. You would not invest in the quay line without that mine first coming on?

Mr O'CONNOR: We would need a degree of undertaking that is needed, and that is the business case we have today. To go back to Gary's position you talked about in relation to being project ready, we think you need spare capacity that needs to be developed. For example, the Sherwin mine did not have that significant lead time. They piggy-backed on the back of existing infrastructure and temporary areas.

We are saying that to be ahead of the curve we not only need to have projects funded but we need to be advanced to a point we can at least be in construction. Because of the lead time, for something that might be delivered in three to four years' time, it needs to start today.

Mr GUNNER: I see two things there. One is having general capacity with quay lines for different projects, as we saw today with different common users coming in and out versus a mine that might be big enough to generate the demand for a quay line. I imagine in that circumstance there would be capacity, as we have seen in other ports, for private investment from that mine into a dedicated port facility, separate to who does or does not own the port, to take that pressure off for that investment.

Mr O'CONNOR: We would see that as one option. Again, our primacy has always been about common user facilities. The common user quay line enables those smaller mines to find something to stand up with. Often those smaller mines do not have the capital required to put that investment on the table.

Mr BARNES: Mr Chair, this goes to the member for Fannie Bays' question as well. The situation is always fluid with these major assets. Mr O'Connor and I, along with Ms Tan who could not be here today, were in detailed negotiations for most of last week with the Australian Defence Force which have a desire to utilise berths at East Arm for refuelling. People might not be aware, but the capacity to refuel at Fort Hill is no longer there and it is progressively being decommissioned. That has been brought forward, and we have been encouraging the ADF not to refuel and build big fuel tanks at Larrakeyah in a residential environment. We have been looking at priority access for ADF vessels coming alongside to undertake refuelling either through the spwfl (self-propelled water fuel lighter) or coming alongside at East Arm.

Twelve months ago that was not happening and was not considered a reality. It may well be we will ask any operator that might come into partner with us to give priority access to those naval vessels. That means we need to look very carefully at the case around the quay line, because at the moment I think you are running at least fuelling pipes to existing berths on your quay line to make that an eventuality. When big naval exercises happen, as they do as part of big military exercises, that means for us and - certainly as a jurisdiction we welcome the investment the ADF brings to the jurisdiction - any operator of the port, whether it is the current Darwin Port Corporation or a private operator given those changed arrangements, seriously needs to look at what that means in making sure the commercial operations of the port are not compromised. As things currently stand right around the country, the ADF does not pay to come alongside.

Mr WOOD: You said Defence do not pay if they come up to the wharf, Infrastructure Australia will not give you any money, you are relying on Legune Station which is this way because you have Wyndham port next door, and as Terry said today, it would be cheaper to bring feed in via Wyndham than it would via Darwin port, dragon fruit is not yet fully established, is a very big project and whether it takes off who knows, our minerals have dropped right off, we only have manganese now so why would anyone in their right mind buy the port at the present time? They might buy it because it is cheap, but from the government's point of view why would you offer it up now because you only get a dirt cheap price for it?

Mr BARNES: I will kick into that and others can weigh into that discussion. Quite simply, we need to be prepared. As I said, we have enormous potential - the interest in the centrality the north of Australia will play in providing services to supporting Asia and its emerging

population. We know the Asians, for example, are very keen on working with the Territory to increase the number of live cattle exported from two million to three million. Those discussions are alive and well. We know there are very serious conversations happening around potential growth of traffic in and out of the Territory from overseas Naval vessels to support the growth of the US Marines who are here. We know there will be additional needs put on us to support offshore oil and gas. We have become a very attractive destination, I guess, for any project that might be commercialised offshore because we have pre-approved greenfield sites at the Ichthys project as well as brownfield sites. But we know there is interest in further support from our port for the oil and gas industry. That is very clear. We know, for example, that ...

Mr WOOD: Could I interrupt for a second?

Mr BARNES: Yes.

Mr WOOD: What is the status of the Marine Supply Base? Terry tried to explain it to us. Some of us thought it was not in this.

Mr BARNES: The Marine Supply Base at the moment is definitely in the package of port offerings. The intention is to novate the lease arrangements for any new port operator. There will be growth in the Marine Supply Base and in the pilotage line of business that Terry currently operates, because we are about to increase the traffic on the harbour exponentially from two years' time when the Ichthys project starts receiving vessels to load up the LNG.

The Marine Supply Base is definitely in. We have put on the table the marine industry park, which is an LDC proposal adjacent to the Marine Supply Base. We have told potential bidders if that is something they might be interested in talking with the government about, that is a conversation that could be held. The Marine Supply Base is definitely in.

Mr WOOD: What I was trying to get at is there are a whole lot of 'ifs' in there, like prawns and dragon fruit. You mentioned the number of cattle, for instance. I went to the Cattlemen's Association conference the other day. You can only produce so many moo-cows in Australia. There is a limit at the moment unless you have a good season. If you have a bad season, less cattle go over the wharf.

Many of the commodities you are talking about are very open to the weather or commodity prices, as we have iron ore at the present time. As we know, at the moment there is only cattle and a bit of manganese going over the wharf.

If you are looking at leasing it - or whatever you want to call it - is this the right time to do it simply because there is not much happening with the wharf?

Mr BARNES: I will get to Terry in a minute, but it is at 43% capacity. If it gets to 60%, then that is the trigger for any operator going to the owner of the port and asking for more money. Simply that becomes the trigger point for ratcheting things up. A year-and-a-bit ago, I imagine Terry was very concerned that trigger was imminent when iron ore was about to come on board.

I go back to your point about cattle. What will drive increases in cattle exports is demand for cattle. The demand is there and the growers of those cattle are responding. One of the challenges for government will be to work with the Australian government to make sure the roads have 365 days-a-year access to make sure we can get the cattle out. We see that there is an opportunity for government to work with the port operator to make these things happen. With companies like Genesee Wyoming, it is a natural advantage in our port because we have a railway line directly into the port.

If you talk to Mr O'Connor, he will probably tell you that the port could be operated even more efficiently than it currently is, but that is by virtue of the fact he probably does not have the level of infrastructure that might be enjoyed by other ports. We do not have the hard stand there, we do not have the reefer points, we do not have the logistics for loading things easily on and off vessels and we do not have a railway loop. All these things have been longstanding issues and ones we have talked about.

Is it attractive at the moment and is there interest? There is a lot of interest and we have done a lot of investor soundings both within Australia and overseas. They see the opportunity to work with a government that is committed to developing one of the most potential areas in Australia as something that the boards of these big companies find particularly attractive. In fact, some companies we have been talking to will forego the opportunity to bid for the Port of Melbourne in favour of something they believe, across the life of any partnership leasing agreement, there is potential for enormous upsides.

These are people who astutely are prepared to invest now, and bring funding and capital ahead of when it logically might be brought forward by a government ...

Mr WOOD: Are these overseas or Australian companies?

Mr BARNES: Both overseas and Australian companies.

Mr WOOD: Would your committee recommend it could be owned wholly by a foreign company?

Mr BARNES: The consultants we have on board who you have already met, Flagstaff Partners, would answer that question by saying you would want to see the value proposition in its entirety. What money is put on the table, what plans for strategic immediate infrastructure provision are put there, what commitment to partnering – the Northern Territory has a long history of doing very effective partnering with private sector companies.

You only have to look at what happened with the rail corridor, with Genesee & Wyoming and the companies that have owned that. The partnership with Northern Territory governments of both persuasions and with the bureaucrats on behalf of the government being actively involved means that if you get the right partner you can really do great things.

Mr WOOD: The rail has competition with roads and shipping. The port is specific. There is no competition for this port. It is the one and only port in the north. I am not saying foreign companies should not invest, but should they have the majority ownership in our port?

Mr BARNES: We would put that before the government of the day. Clearly there will be bids from consortia that are wholly Australian financially backed. There will be some bids where the majority of the backing may come from overseas interests, and there will be some consortia coming forward through this process where the money that supports the bid will be from both Australian and overseas interests. As a committee we would put all those bids on the table and let the government of the day look at those competing bids.

Mr WOOD: The reason I ask is the Chief Minister talks about going to Hong Kong. I think he has been there himself. You might be able to give us an idea where your committee has been overseas, what companies you have been talking to or what places you visited to see whether you can get interest in the port?

Mr BARNES: We definitely will not, as a committee, be revealing any of the companies we have been talking to ...

Mr WOOD: What countries?

Mr BARNES: ... but we have looked at – we have a group we engaged through Flagstaff called Evermore. They have been looking at interest throughout Asia and throughout Scandinavia. Obviously Flagstaff have focused on interests within Australia. A number of companies and consortia from right around the world have expressed interest in becoming

our partners. We have been very clear, as we have done our investor sounding, that this is not about us attracting the highest bid. The criteria we will be looking for is putting the right amount of money on the table, but more importantly, sharing the aspirations of government to do things that otherwise it might not be able to do as immediately or as well.

One of the key considerations is we do not want a group that comes in and sits on an asset and does not value-add. You guys might have been to the Port of Flinders. The value-add the company brought in that regard was technology the government would never have brought to that port processing if it did not have a third party.

We want a partner that is prepared to put money in upfront, but more importantly, shows us what its aspirations are and makes sure they align to ours.

Mr WOOD: On the other side of the equation, have you spoken to the people who will be affected? You have the live cattle exporters, road trains, minerals people and general importers. How much consultation have you had with those groups?

Mr BARNES: Terry, I might hand over to you. The committee asked Terry because of the relationship he has with all of those groups as current port users, and downstream and upstream groups. I will hand over to you. I know you had special conversations with a couple of our very large port users.

Mr O'CONNOR: The port, on behalf of the committee - and we have taken Flagstaff with us as well - has engaged all of our significant users. We have engaged the live cattle exporters. You would have seen they made a submission to this committee as well. We have engaged them from two perspectives. We want them to understand what is happening and what they need in future, and also understand what their fears or conditions might be around what we are saying.

We have engaged Conoco-Phillips, AACo, the livestock exporters, major stevedoring companies, shipping lines that currently berth here, Minerals Council, and those who currently have arrangements with the port, whether they be heads of agreement or existing customers. We have had a lot of consultation with them and we continue to engage the port users on a regular basis. We bring the port users into a forum and we have two-way exchange of information in the public arena.

Often, customers are a bit reluctant to share what their concerns are in that, but it prompts them to come to me separately to talk about what they want to talk about. To date, most of the feedback has been positive. They see this as an opportunity where they believe the port can be improved in infrastructure and the processes. They certainly have some fears as

well; there is no doubt about that. Overwhelmingly, they are in support of what we are talking about.

Mr WOOD: We asked some of them today.

Mr CHAIR: Following on from that, what are their fears?

Mr O'CONNOR: Their fears related to them wanting to understand they are not going to be locked out through one-on-one arrangements that might see them being denied what they currently enjoy as common user access. They have a worry about whether there will be price gouging and whether they will be impacted by that. They want to understand that the same level of service they receive today is going to be provided, and we are not going to focus just on the big end of town but the guys who come in on a regular basis and we will continue to maintain the existing level of service.

The livestock people have always felt they have been displaced because of the minerals, and the minerals always feel they have been displaced by the livestock. It is healthy that everyone is unhappy.

The reality is they are all important customers and we deal with them in that way. Any commercial organisation that comes in is going to work with them the same. It is about building that relationship. It does not matter what business you are in, a relationship is critical to it.

Mr WOOD: One general question. There is a political question, and tell us if you do not want to answer it, but naturally the community is sensitive about selling a government asset. Does the committee see it has a role that, if it believes we should lease or privatise the port, it explains to the people why, in clear language, it is a good idea to sell the port? We know the sensitivity - TIO was the case, and other assets have been sold without any consultation. My concern would be that whilst the conclusion from all these discussions might be it is a great idea, if you have not sold it to the people then the government has a problem.

Mr BARNES: One of the recommendations that inevitably your committee might make is communicating some of those really base propositions is a useful thing to do. As a part of our committee structure, we were very clear from day one that this should be done. In finding third-party money to support this asset, we have been recommending to governments of all persuasions that getting third-party money injected into the port is necessary.

In fact, in you look at what - Flagstaff will talk to you about this – has happened in other emerging economies - and we are an emerging economy - it is that essential economic enabling infrastructure, which really is about roads, ports, rail and then, believe it or not, things like high-end hotels and grammar schools and the like - if you want your economy to grow and people to headquarter their business in the Territory and see the advantages of going out of a state-of-the-art well-equipped economy then you have to invest.

Quite simply we are - our Chief Minister occasionally uses the word 'mendicant' - relying on others and asking for money. We want to become less reliant on the Australian government for that. Getting good partners to help us realise the importance of things like the rail link we have to Adelaide means that we can develop our economy.

The rail link is an excellent example if you - this is why we keep getting knocked back by Infrastructure Australia on the port. The Productivity Commissioner this year released a report into infrastructure and used the rail line as one of the worst case examples of investment made by the Australian government. It did not stack up on the pure cost benefit analysis they use to assess infrastructure bids in Sydney and Melbourne. If you know anything about cost benefit analysis, it is all driven by the number of people.

If the government of the day - I do not even know which government commenced the railway, but I think it might have gone across a couple of governments - if the logic was to wait because it was not commercially viable until the last three or four years, and others that sit on that overarching company might be able to tell you more, but if government had not sought third-party investment and had that rail line built then our economy would have looked massively different than it does today. We would not have the potential to open up mining. We would not have the potential to get our fresh fruit and vegetables up as quickly and efficiently as we do now. Yes, we need to communicate very effectively with the general public about the reasons why this is important enabling architecture - important so the whole of the Territory can take the next step to becoming the place it needs to be.

Mr GUNNER: We have been talking about getting extra private money or third-party money into the port. As part of work you have done as a committee in looking at models, have you looked at the Western Australian model where they have emphasised the landlord model. It is still a state-owned port, but any investment in the port has to come from private sources.

We got a briefing in Fremantle about how they are doing that at a couple of locations. Essentially, the port remains state-owned but they go to the market and partners to bring money in for specific assets within the port. Has that been part of the work that you have done?

Mr BARNES: We asked Flagstaff to look at all of the different models, and they came back with a model they thought would work best. To be clear, the government will continue to own this asset, but invite a partner to come in and operate the asset over an extended period. As such, the expectation is to realise the benefits of volume and those things which drive commercial returns and they would bring capital into that port.

We are setting up some pretty clear expectations for any partner we bring in, as Terry was talking about, such as common user access. We are not about creating monopolies and exclusivity. In legislation and regulation, this will mean that all players can play on an even playing field.

In answer to your question, member for Fannie Bay, yes, there are a number of models which we looked at. In the regulatory and legislative environment, we have put to government an up-to-99-year model of enabling legislation we decided on which it has now taken before the House.

My understanding in reading the terms of reference of your committee is if there are alternate models your committee would like to advance, and there is a logic for moving away from the one we have put forward, that is something that would be considered.

Mr GUNNER: Something that was raised in consultation with users of the Western Australian ports was lease conditions. If we went down the path of selling a long-term lease to the port, would we consider having a condition which guaranteed future investment? To give a specific example, the users we spoke to talked about the sale of the railway in Western Australia. They said they were given guarantees of expectations, but when they got down the path of it being privately owned for a while, the tier three parts of the railway were disused or stopped and investment they thought was going to happen did not.

It turned out it was not a lease condition, if that makes sense. I know in putting conditions on leases you can affect the value of the proposition you sell. Would we look at or consider, in going down that path of a long-term lease, conditions on the lease around investment?

Mr BARNES: I will get either Alison or Alastair to answer. We are well aware, and we have been aware from day one, of the circumstances. Those are atypical circumstances that occurred around that railway in Western Australia. As a committee, we have talked about that. Our very clear commitment is if the lease we form with the operator were to be terminated for any reason, then we would control what any lease for a new operator would look like.

You are also talking about the agreement that an operator might have with a user of the port facilities. My understanding is that would still be included within the conditions of our overarching lease, but I might ask - who is the right person, yourself Alastair?

Mr SHIELDS: Yes. Member for Fannie Bay, as you correctly identified the stronger the provisions you put in a lease requiring investment the greater the impact it will have on the sale price. From the Territory's point of view, there is no need to require someone to invest in new infrastructure or increased infrastructure if there is no need for it. Whilst you could put a provision in a lease that said by the year 2022 you must have invested another \$200m in increasing the quay line, that is a fairly pointless provision unless there is a demonstrated need.

One of the things to consider in the process we go through is asking people who are bidding to tell us what their proposals might be. I think Gary Barnes mentioned in some detail before how we will require not just how much they are prepared to pay, but what their plans are. We can then look at, from those plans, what things should be contractually dealt with in the lease arrangements and what the triggers might be. There might be triggers, for example, to increase the size of the infrastructure should demand reach a particular level, how it might be tested and so forth.

Mr GUNNER: With the new Darwin prison, one of the things that occurred was a public sector comparator that the Auditor-General tested. I am not sure how you would do one in these circumstances, but has that been considered by the steering committee?

Mr BARNES: I might let Jodie talk to that. We know what it cost government to operate the port. We know what we believe we need by way of future investment. We know about the pricing structures, and we believe strongly that if we get the regulatory environment right there will not be price gouging. We know also that the assessments we have done in relation to the value of the port are pretty accurate. In fact, they are very accurate and we do not have the same problems as the Port of Brisbane might have had in underestimating up-front the impact of changes to land valuations on port costs. Mr Applegate will tell you our land valuations are sound and have already been taken into account in the costing structures.

It is a little different to a public sector comparator of the prison, because the prison is not based on the private sector entirely operating it but rather building and then maintaining the prison over a period of time. I might ask the Under Treasurer to add anything.

Ms RYAN: I am not sure I can add much to that. The thing that is different is the prison was something we did not have so we had to look at whether the cost of us building and running it compared to the cost of a private operator running and building it. The difference with the port is, as Gary said, we already own it, we already run it, we know what the costs

are, we know what the revenues are and we also have an understanding of what the future investment will be.

We do not need to develop a public sector comparator because we are already the owner. What we will be looking at when the bids come in would be how that compares to what we think we can get from the port in the future. That is not so much a public sector comparator, but certainly a comparison against the return we would get over the next 50 or 99 years - the lease term - compared to what a private sector operator would be able to return to us.

Mr WOOD: When you talk about profit and loss, we know the port is making a profit but has it an overall debt behind it and, if so, what is that amount?

Ms RYAN: I do not know the debt off the top of my head, but we had to borrow – the government had to borrow to build the port. The port cost many hundreds of millions to build, and part of what we are looking at with the private sector operator coming in would be to get a return on the capital we have already invested. We will get some of that return up front, but we are also looking at how we can get the returns over time as the revenue increases in the port.

Mr WOOD: Would you be trying to pay off that debt by the price that someone pays for the lease?

Ms RYAN: Most of that debt was incurred in the mid to late 1990s, so ...

Mr WOOD: I imagine it is still costing us something, is it?

Ms RYAN: From a government perspective, we have a whole-of-government debt. We have some allocated to the port which, when the port is leased, whatever the balance of that debt is will come back into government. I do not have the numbers off the top of my head.

Mr BARNES: I do not know whether Mr O'Connor might have shared with you this morning, but it has only been in very recent times that the port has been covering costs. For a long period, there were no CPI increases or increases to cover the cost of any capital investment. Inevitably we were overdue for a price correction which happened earlier this year, to bring us into line with comparable charges around ports that are similar to us. As well as incurring capital costs through our upgrades at the port etcetera, you will find if you look back through Darwin Port Corporation's books we might have incurred operating costs for a period as well. Many of the clients of the port enjoyed very affordable port charges.

Mr CHAIR: I want to talk about those risks we are likely to have upon putting together the lease. Some things were raised by other third party users we came across. One was vertical integration and the risk that poses to existing users. I am sure in your discussions with port users this has been raised.

We heard not just from people here but from people interstate about inadvertent monopolies which were accidentally created when infrastructure was leased out. An owner took over a particular plant on the wharf and did not want to run it, so subleased that plant to somebody else, which inadvertently created monopoly infrastructure on the wharf. The land price equivalent between on and off the wharf is another thing which created some consternation, particularly in Brisbane. Have these been taken into account and how are you looking at controlling this within the lease agreement?

Mr BARNES: I will kick off and if anyone wants to add to the answer, they can.

This has been front of mind because these issues around access, pricing and monopolistic behaviour are ones that typically come up every time someone around the world moves to outsource, partner, lease or merge. These are well-known concerns.

You have to put in place well-trying and tested remedies. In putting those remedies of regulation in place you make sure there are appropriate step-in rights and transparency. Whenever these are put in place you have a trade-off, which is to get the balance absolutely right. The balance is not to have a regulatory regime that is overly bureaucratic and causes such concern to an operator that they are not prepared to partner and be a part of that venture, versus having too little regulation which inevitably causes a situation where no one has confidence in the port operator and that has flow-on negative effects in a whole range of different ways. Our regulatory regime has had to traverse that middle ground.

We have been the beneficiaries of looking at two or three other jurisdictions that have been down this path before us. Through our consultants we spoke with them about how to get things right, what was working, what was not working, and we landed on a regulatory environment which gives the powers to a Utilities Commissioner to be very clear about making sure everyone had the right level of access, there was no monopolistic behaviour caused by the integration of pricing, and that we could rely on the ACCC to work with our Utilities Commissioner to monitor and, where appropriate, police any issues that came up with pricing and access.

All pricing and access has to be disclosed publicly as part of the regulatory environment so it is very transparent where we had people that are completely - if they move away from those principles it is very transparent and they will be found out. The general evidence that we have been able to glean is that aside from the odd occasion - you have probably been

privity to that - there was one we heard about involving a gangplank or whatever that only one user could operate in one of our ports that we talked to. Outside those odd examples most of the operators have behaved in a very fair way and most of the regulators that have regulated their behaviour have not had to deal with issues pertaining to access and/or pricing.

The Port of Brisbane, which I think you mentioned, had an increase to port costs which was largely attributed to an undervaluing of land. We asked John Coleman, and now Rod, to double check that there would be no issue with that being a driver to any of our pricing points. Rod, have you done that?

Mr APPLEGATE: As you would probably be aware, the Valuer-General of the Northern Territory conducts a rolling valuation of land assets across the Territory on a three-year program. Fortunately, the port land assets were valued in 2014, and I understand Mr O'Connor has used that as a basis for some recent lease negotiations with operators. I doubt there is any risk of any leases and valuations not being current and up to date.

Mr CHAIR: It is unlikely we will see a repeat of what happened in Brisbane?

Mr APPLEGATE: My understanding is they got it wrong in Brisbane. As I said, our most recent valuations on the land assets that will be part of this arrangement were in 2014.

Mr O'CONNOR: Just add to that, part of our process at the moment is we engage independent assessors who do some price benching across what is outside the gate to what is inside the gate so we are commercially compatible. We sit well within those brackets. The recent experience in Melbourne is not something we would see happening either.

Mr CHAIR: Our travels have been interesting. I would not like to pre-empt what we recommend but two areas I would like to see as a central focus of what is presented are the way that contract details and dispute resolution are being managed, if and when this happens.

In some cases, third-party users felt they had no way of resolving issues they may have had with the private operator. When the port operations were public, if somebody was not happy with their dealings with the port operators, they would go to the minister to resolve the issue. I am not saying that is good or bad. I am asking how we resolve disputes between third parties and the port operator, apart from, 'It is our port, get stuffed'. Is there something in the regulatory framework you are looking at that addresses dispute resolution?

Mr BARNES: The answer to that is it may not be in the legislation, but it will be something we look at within the accompanying documentation. Again, we need to be very mindful of the fact that we do not want to open a pathway or avenue for people who, quite rightly, should be resolving their disputes through accepted commercial practice. If things were to get to a point of upsetting the running or the good governance of the port, then that is something we would need to look at within those other accompanying documents.

Mr CHAIR: Another issue that came up which I had not really thought about was very important, particularly in the case of the rail. It seems that when Genesee Wyoming and Wesfarmers sat down with the Western Australian government to organise the lease on the rail, they had a team of lawyers which were the best money could buy. Anecdotally, the quality of the lawyers for the Western Australian government was not even in the same ball park. In the wash-up when the contract were finalised, it was heavily in favour of Wesfarmers and Genesee Wyoming and left the Western Australian government quite exposed.

Have you thought about how the process of the contracts should happen and how they will be written up? How are we getting this assessed with other legal opinions to make sure we do not end up in a situation where something that is important to the Northern Territory becomes a vague guideline rather than what they should have been, if and when they become real on the ground?

I would look to similar events so we get feedback from people in the business community relating to major projects that are happening at the moment, where they feel like something should have been in the contract and is not.

Mr BARNES: I will let Mr O'Connor start on that one.

Mr O'CONNOR: The current team of consultants which is supporting Flagstaff and this project with legal advice now come from the teams which have done the Newcastle transfer, the Port Botany transfer and are involved in the Melbourne transfer. Whilst the lawyers themselves are not the same, there is a high level of expertise, not just within this type of transaction, but more particularly ports transactions.

This is one of the reasons we have gone to the ports and the government in New South Wales to ask whether it worked. We feel pretty confident the teams we have supporting us at this stage are not second level. They are experienced and understand what we need them to do.

Mr BARNES: Terry is absolutely right. We have invested in the right people who have had direct experience in other port transactions so they have been very good. What we have not done is transferred an approach that has been used in other jurisdictions to our jurisdiction. Our legal expertise from the Solicitor for the Northern Territory has provided a contextual umbrella that has importantly led to what we believe will be a better set of legal advice that picks up our own unique context, because our port is a bespoke asset. In being multiple-purpose, it is not like a straight container port such as Port Botany or the Port of Melbourne. It requires more finessing but we have the right people. With no due disregard to WA, my understanding is that if they had their time over they would have ensured they had taken the time, effort, energy and put resources into getting better advice.

Mr CHAIR: Looking at the revenue sharing part of your submission, how you are looking at the Northern Territory capitalising on future developments in the port because of the funds the Northern Territory government put up? Could you give us a bit more detail around how you see that revenue sharing happening? In any of the discussions through Flagstaff with anybody who might have been interested in the port - how did they react to that?

Mr BARNES: I will kick that off and then I will hand to the Under Treasurer because Treasury and Finance have been assisting in pulling that model together. One of the critical things we have said to people as we have done the investor sounding is they must come back to us with a proposal that allows the government and the people of the Northern Territory to share in the upside, because our port is not fully mature and it will not reach its potential for a number of years.

There are two parts to this. Part one is we want an immediate proposition that allows us to recoup the investment we, and successive governments, have made in the capital upgrade of the port because they are getting an asset that is not too bad. The second is that when the volume increases, as inevitably it will, and the Northern Territory government will play a part in that whether it is through better road access, whether it is through regulatory incentives for mines down the track or whatever it happens to be, when that occurs and if government has played a direct part in increasing volume over the port, and if we are true partners, we want some of that upside. Instead of dictating how that upside might be delivered, we have asked them to tell us that bit.

Jodie, do you want to talk about the first bit.

Ms RYAN: As Gary mentioned, and as we have talked about earlier, we have put a substantial amount of investment into the port which we would not expect to get up front now. We would like to see, as the capacity increases to the point where if we had continued ownership of the port we would have got that revenue capacity without increasing infrastructure investment, a share in that revenue.

If it goes past that point and the new operator has to invest substantially more to increase their revenue yet again they get that revenue all to themselves, we do not share in that. As Gary said, if we choose to then invest early or make a different investment decision than a normal operator would, again we can share in some of the upside from that. We are trying to not just - as Gerry pointed out, it may seem like it is a low point to be selling the port, but we are also trying to capture that future benefit. We will leave it to the bidders to put in how they think they can do that, and that will be part of our assessment.

Mr BARNES: The last thing we want to do is create a disincentive to an operator to growing the port. We want them to grow volume over the port. We contribute to that, either opening up corridors or doing deals where we can get more buffalo over the wharf, which we can grow a little. If we have done that then we want some return on the investment. If government has done something like move away from ad valorem royalties to profit-based royalties - which they have done – which might incentivise mining down the track, then there should be some return to government for policy and capital investment they may make.

Mr WOOD: What concerns me is you mentioned buffalo. I was at the Cattlemen's Association dinner talking to a good friend of mine who have been involved in the buffalo industry for many years. He shakes his head at what the government thinks it can get out of the buffalo industry. It is very difficult because most of it is wild.

What worries me is you can be a salesmen for the port and say, 'We are going to have dragon fruit, prawns and buffalo', but is there anyone to test whether you are being realistic, or are you out there to sell something like a new car?

Mr BARNES: 'Come in, have a cigar, I will sell you a car with a big bumper bar'.

These people are serious investors. As serious investors they test every assumption that is put before them. They have poured and will be pouring through all the data we put in a data room. They will know exactly. They will have talked to the cattle industry, the buffalo industry and the Minerals Council. They know exactly what is happening with the three iron ore mines, they know about magnesium. They will have talked to people who are prospectively looking at turning phosphate into fertiliser. When these guys, when looking to inject into a transaction potentially hundreds of millions of dollars, throw tens of millions of dollars at nailing down every component part of a bid, if they get to the final stages.

Is it important to have people who talk about the prospectivity of the Territory and use real numbers like the highest year on year growth going forward? Absolutely! When you put information in the data room, that can only be data which they will use that to make their assessment.

It is very clear there is intense interest in the Northern Territory as being a highly prospective jurisdiction going forward for all of the reasons I talked about in my opening statement. They will not turn any of those things into numbers unless they are certain they are going to get a return on investment down the track.

Mr CHAIR: We are going to take a five-minute break. I have some notes here saying we need to take a five-minute break. We will give Mr Gunner the opportunity to have a break, and see you back here in five minutes.

The committee suspended.

Mr CHAIR: We are ready to go. Are you going to ask question 16, mate?

Mr WOOD: Yes, and I will add something.

Mr CHAIR: Right. Away you go.

Mr WOOD: The Port Management Bill proposes to make provision of prescribed services by a private port operator a regulated industry under the *Utilities Commission Act*. What are the implications of this service being prescribed as a regulated industry?

Mr BARNES: I am happy to get to all of those provisions. What it essentially means is there is a necessity for transparency of full pricing, access and the way in which the operator goes about their business. There will be an opportunity for the Utilities Commission, because it is a prescribed entity, to report back to the minister and government around the behaviour. Because they are also prescribed to be oversighted by the Utilities Commission there is the opportunity for the Utilities Commission to refer matters back to the operator and, if not satisfactorily dealt with, to refer them on to the minister.

It brings with it a series of checks and balances that give the regulator an opportunity to clearly provide a level of oversight to a private sector operator that is, quite rightly, enshrined in legislation because of the unique nature of the port and the role it plays in the Territory's economy. The Utilities Commission, until the middle of this year, will play a similar role with those public utilities that are our government-owned corporations that oversight our utilities.

From the middle of the year, Under Treasurer, that goes across to the Australian Energy Regulator.

Ms RYAN: In relation to that, some parts of it will start transferring to the Australian Energy Regulator, but will not be fully regulated by them until 2019. Pat Walsh, Chair of our Utilities Commission, is also the chair of ESCOSA, a South Australian regulatory body that looks after the ports, so he has some experience in this capacity.

Mr WOOD: Our Utilities Commission – will that will be its only job?

Ms RYAN: No. Regulating the networks is the part going to the AER. There are other aspects of regulating the utilities area - water and sewerage as well - that we will keep hold of. Whether that continues forever we are not sure, but for the moment that is how it works.

Mr WOOD: What port services are intended to be prescribed as a regulated industry?

Mr BARNES: I might refer this to Terry O'Connor.

Mr O'CONNOR: It is around pilotage, pilot boat, that type of aspect we would see as being the regulated industry. Stevedore, at this stage, would remain a licensed industry, but it is the service delivery that the port currently does in relation to – pilotage services is probably the premium one, but where we do maintenance etcetera we would see that as well. Bulk loader, whatever it might be, may become part of that as well.

Mr WOOD: Nathan, might help me here. I think the Port of Albany, where the bulk loading facility ...

Mr CHAIR: Yes, where it was a third party?

Mr WOOD: Yes.

Mr CHAIR: Yes, a block of land was rented to a wood chipping company, the berth was owned by the port, and the only ship loader they could possibly use was owned by Asciano. We had between three and four times the operating costs to operate the ship loader there as the same ship loader in Portland they owned. Monopoly pricing was inadvertently created.

Mr O'CONNOR: Yes, and that is not something we are trying to create. The intent is that will not occur. The concession agreements and the documentation that comes along with the transaction - it is envisaged that will be put in to prevent that type of occurrence. The common user access and third-party access is critical. We see this working at the moment at the Marine Supply Base with the third-party access and the common user access. It is working quite well there without any disputes occurring. It has only been going for 12 months, but is it is working quite well in that environment and that is the model we would see this being worked around as well.

Mr WOOD: What port services are not intended to be prescribed?

Mr O'CONNOR: We would see stevedoring as not being prescribed, and line handlers and those types of activities that are currently provided.

Mr WOOD: Under the Port Management Bill, what will be required to empower the Utilities Commission to make a price regulation determination for a port service? I picked up something this morning from Australian Transport News Australia which came to the parliamentary library yesterday. The company is quoted as Corrs, Chambers, Westgarth - legal experts – and they were concerned about the Territory's Port Management Bill investing a significant amount of discretion. They say that significant amount of discretion comes from the Utilities Commission being able to regulate prices for goods and services, standards and conditions of service and supply, licensing, market conduct and other economic regulatory matters.

Question on Notice No 1

Mr WOOD: In the Utilities Commission section, it talks about what the determinations of the Utility Commission are. One of those is 'other economic regulatory matters'. Are you going to define in regulations what exactly that is so that concern is looked at?

Mr BARNES: The best thing for me to do, rather than give you half an answer on this one, is to get Anne Tan to give you a comprehensive answer to the question you put before us. Anne is back towards the end of next week and I will make her available to provide a written response to that question so it can be shared amongst the committee.

Mr WOOD: Do you need that as a written question, Mr Chair? Or do you have enough information there?

Mr CHAIR: If you want to make a written question, it is question No 1.

Mr WOOD: I will see how we go. The *Utilities Commission Act* states under section 20 that the Utilities Commission may, in respect of a regulated industry, make determination relating to other economic regulatory matters. In the case of the port being leased to a private company, what would those other economic regulatory matters be?

Mr BARNES: I will get Ms Tan, who is my deputy, to provide that answer.

Mr CHAIR: Question on Notice No 1. Any more questions on that Gerry?

Mr WOOD: No that is all the questions on that thanks, Nathan. We have covered that later one in that question as well.

Mr CHAIR: There are questions about the impact this privatisation could have on other areas in the Northern Territory. Has any modelling been done on the effect that might have to the supply of essential items being delivered to remote communities? Also, are issues around some kind of emergency access to the port being looked at?

Mr O'CONNOR: I will address remote communities first. In the main, the remote communities are serviced by the barge operations which come off privately-owned barge ramps in Hudson Creek. The current construction of a common user barge ramp will provide an all tide access to some of those barge operations. That will potentially improve the service delivery. No longer will they be constrained with arrivals and departures. Until that facility is constructed it remains unknown what the impact will be. From the ports perspective, there will be no impact on those remote community supply chains now.

In relation to the other part of the question on emergencies there are contingency plans and the port will continue to be the first responder for emergencies on the harbour, whether it be oil spill, vessels, man overboard or whatever. The port has the lead role as the coordinating first responder until the police arrive to take on that role. That will continue.

In relation to the other type of activities - firefighting, tugs, etcetera - those facilities will continue to be provided as they are now and there will be no change to those arrangements.

Mr CHAIR: I image it is within the existing arrangements I know are there, but if that should happen what provision is there under the transfer for access by essential and emergency services?

Mr O'CONNOR: Into the port?

Mr CHAIR: Yes.

Mr O'CONNOR: They will respond to a 000 call and will come through. Customs has its free access. If police are responding to a call they have access to the port. That would not change under any circumstances.

Mr BARNES: Going back one question, in regard to flow-on effect of moving to a third-party port operator, apart from bulk fuel - where other ports have gone to a third-party operator, bulk fuel has not been impacted mainly because it comes in bulk and the flow-on effect of any price rise is always quite miniscule when it comes down to prices at the pump.

What is bought into the port over the port which impacts directly on people's day-to-day cost of living is not a great volume of - we get cars, we get equipment to support our offshore oil and gas industry coming into the port, and we get furniture from Bali. If you look at cost drivers for people's day-to-day living expenses, most of the goods arrive via rail or road and are mainly sourced out of Sydney. What some potential operators are looking at is whether there are profitable ways to use our port to reduce cost-of-living pressures by getting goods quicker through our port rather than through the existing logistics networks.

There may be an upside, for example, if there was a bi-weekly route where containers carrying day-to-day goods from Brisbane came into our port. There are some interesting things being explored by operators as they see the potential to bring stuff over the wharf as opposed to the traditional logistic chain.

Mr CHAIR: I guess another thing that will definitely be raised will be staff. We spoke to Mr O'Connor this morning about the number of staff previously employed, the number of staff there now and the number of staff that might be required under a new lease agreement. Is there anything within this proposed lease model that will look at ensuring existing enterprise agreement terms and conditions and staffing allocations?

Mr BARNES: Yes. We might ask the Commissioner for Public Employment, Mr Craig Allen, to respond to that. However, this is a consideration that the committee has been

grappling with to make sure we do the right thing in respect to the staff employed by the port corporation at the moment.

Mr ALLEN: There has obviously been a lot of discussion about the employees, and there is always a certain bit of nervousness about employees when they are involved in a situation where there is potentially a transfer of business. In relation to existing employees at the port, the way in which the arrangement will be made is that a new provider, if there is a new provider, will be required to take on the existing employees. They will be offered employment with the new provider and the terms and conditions of their enterprise bargaining agreement remain in force for the length of that enterprise bargaining agreement. However, that does not preclude a new operator negotiating a new enterprise bargaining agreement with the consent of the majority of the employees at that time.

There have been discussions and a number of meetings with employees, and obviously there will be situations that come down to case by case. I know Terry has been pretty proactive in that space. We have oversight of the employees because they are public servants technically. That is what we are following through.

Mr CHAIR: Do you have any questions about that?

Mr GUNNER: Some of the staff who have spoken to me have been worried about their super provisions and whether they can stay in the current super system. They have also asked me about potential redundancies. They are a couple of questions that have come to me.

Mr ALLEN: The super question is an interesting one. We experienced this with the transfer of business with the buses. It comes down to each person's individual circumstances. If an employee is in a situation where they are in the existing defined benefits scheme, the NTPASS scheme, then what we did in the bus situation and will do in the port situation is give them access to financial advice. Because every individual is different you cannot give a blanket around that. So we allow them to have a discussion with our financial adviser, get some advice, then come back and have another conversation. They cannot stay in the scheme if they transfer over into the new business.

Mr GUNNER: They definitely cannot stay in the scheme?

Mr ALLEN: They cannot stay in the scheme.

Mr GUNNER: So that would be of concern to some ...

Mr ALLEN: That is why we need to have those provisions. From my recollection, the people in the bus situation found it was not an impediment financially into the future for them to come out of that scheme and go into a new scheme. Obviously, an individual needs to make that decision based on their circumstances. That is the process of providing the advice.

Mr GUNNER: No problem.

Mr CHAIR: Looking at how the world changes over a long period of time, obviously the port is not going to look like it does now. I am dead sure most of us sitting around this table are not going to look much like we do now in 99 years' time, depending on how much McDonald's we eat ...

Mr WOOD: Careful with your comments, Mr Chair.

Mr CHAIR: Some more than others, Gerry ...

Mr WOOD: He is a nice bloke.

Mr CHAIR: As is Gerry.

Much will change in the government's objectives for the port - the Northern Territory economy, world markets - over the next 100 years or so. Is there any scope on how flexibility is built into this model to deal with that? Could we be left in the situation where future generations of Territorians wish we had not done this, or look back and wonder if only we had not written a particular clause like that? Is there scope to renegotiate things?

Mr BARNES: Within the context of the agreements we will sign there are regular opportunities for the government to sit down with the operator. Those opportunities are built into the life of the lease agreement, and there are step-in clauses if things go pear shaped. On the other side of things, we are very hopeful if you provide a lease that is of a sufficient amount of time for a true partnering arrangement to develop and for that group to engage with its board and whatever committees within the board that control capital investment, we will end up with a port that absolutely outstrips anything we might have conceptualised that could be done from within government resources alone. The answer is yes, there are step-in rights.

We hope that whatever governance model we finally end up with - and we have been talking to proponents along these lines – will have very clear channels of communication - as we have created within the context of the railway - where a government, on behalf of the community, can very clearly communicate on a regular basis to the operator whether the aspirations are in alignment between the company and government. In the time I have seen that occur with the latest operator of the railway, Genesse & Wyoming, over the last two or three years, they are very mindful of making sure they work together with government. I believe if we get the governance right people see there could be a symbiotic relationship with whoever the government of the day is because of the unique and emerging nature of the Territory. I know that my Chief Minister occasionally talks about us as being 100 years behind the curve in infrastructure. I am not sure we are that far behind, but we are certainly a long way behind. If we share an aspiration to catch up and get the government stuff right, we can overcome that.

Mr CHAIR: Looking at the 100 years from now scenario, which is hard to do given none of us have a crystal ball, what is put in place in the way that investment happens - and it is time frame sensitive? Say we are 80 years into a 99-year lease, what things will be put in place to encourage investment at that point given they may want 40 or 50-year time frames for investment. Mr Gunner mentioned kicking a can down the street. It does not matter how long we make the lease, at some point we will reach the end. Are there options in place at the end of that to expand it from 99 years?

Mr BARNES: There is an emerging science around all these things. If we - as we have - talk to our consultants and advisers, Flagstaff Partners, there are some obvious thresholds for tax which means anything under 49 years is quite difficult. In the usual course of events people start to reconsider bringing money to projects a little time out from the end of the life of that licensing agreement and we need to be mindful of that. The length of the initial contract needs to be carefully thought through. We have always said up to 99 years on the advice of Flagstaff. As a committee we would say probably a minimum of 70 years for our type of asset, and perhaps if you are doing that you are looking at people making informed decisions about what capital they bring in the tail end of any of those long lease agreements.

Alastair probably has some great insights into that, but one thing we will build in is an opportunity to renegotiate an extension an agreement if there is a productive, fruitful and emerging relationship developing with the third party. You would hope it would be exactly the same company that you started that relationship with. We know that occasionally that does not occur, but we are very mindful when providing advice through to government that we get the length of the initial agreement right so any partner feels confident that they will be able to get a return on any significant investment they bring. The commercial reality of bringing capital to any infrastructure project is that you have to look at whole-of-life agreements and how quickly you can get a return on the upfront money you put in. If you make this too short it could, in fact, distort the way in which companies might look to recoup

money which could have a flow-on effect to pricing. Again, that is why we have taken a lot of advice on this. We need to get it right.

We have also been very clear to any of the proponents that we are looking for people who are prepared to bring money into the equation and not look to immediately recoup the investment of that money, but rather adopt a longer lead time for that to occur.

Mr SHIELDS: I can add a little. As the members for Blain and Fannie Bay have both observed, it does not matter how long the term of the lease is, you will eventually get to the point where there is only a small amount of it left to run. There are probably two clear risks as you get towards the end of a lease, both of which we will seek to cover off in the contractual arrangements in the lease.

The first one, I guess, is the temptation for the operator to run down the asset and not maintain it properly. We will cover that off very clearly in the lease. We have in the railway agreement, which is similar in nature where it is handed back at the end of the 50-year operating period, an increasing range of security bonds and reviews of maintenance activities towards the end of the lease so we know we are covered, and when the asset is returned it is in a good state.

The other is this disincentive to invest in the last few years of the lease where there might not be sufficient opportunity to recoup all your investment. There are probably three options that can be considered in these circumstances. One is if the operator is doing a good job they might come to you and say, 'We see a need to invest \$X more, but we would need an extension of the lease for another 20 years or whatever to recoup that expenditure'. That is something you could negotiate at the time, having regard to what you thought the future of the lease was, what the investment required was and what you planned to do with the lease anyway at the end of the lease. If it suited both parties you might agree to that.

The opposite side of that coin is you might say, 'We are not prepared to give any more time, but we are prepared to invest and contribute money to have that infrastructure increase happen and you can get the benefit for the last few years of your lease with or without a profit sharing back to government'.

The third obvious one is some kind of sharing with either a short extension or no extension of the lease. The operators contribute enough capital that they can recoup in the remaining years of the lease and the benefit of the ongoing bounce that comes back to government at the end of the lease.

Mr GUNNER: One of the problems which was flagged during Public Accounts Committee work on the prison is a scenario not around investment but maintenance - when things start to wind down having in place strong enough leasing conditions to make sure they were sticking to repairs and maintenance of the asset.

Mr SHIELDS: I am not terribly familiar with the prison agreement, but the railway one I know quite well, having been involved in negotiations. Clare Gardiner-Barnes and I are both on the Australasia Railway Corporation that administers that leasing arrangement. We have, in the last 10 years or so of the 50-year concession, a ramp-up of the type of maintenance activities the operator has to do, and coupled with that a ramp-up of security bonds that have to be provided.

In the event that the operator at the time tries to let the railway run down, not only do we have the rights to enforce and require them to do it, we also have security bonds to call upon in the event they do not do it so we can have the railway brought up to the right standard.

Mr GUNNER: A risk not necessarily happening in the prison model was identified by the Attorney-General about who you had administering the contract to make sure there was strong corporate knowledge all the way through, and that the private company often has a very good strong team, aware of the contract and the situations and making sure that corporate knowledge is maintained and passed on during the life of the agreement. When you get into a long agreement it is obviously much harder to manage than even – 50 years is a long time, but 99 years is a lot longer. In the 50-year lifespan, you might have two or three long-term public servants involved in that project, whereas once you start getting to 99 years they will be getting long in the tooth.

Mr BARNES: On that one, member for Fannie Bay, typical PPP arrangements have that challenge. Contract management is now recognised by governments right around the western world that have engaged in that model of procurement as being critical to getting value for money propositions realised. What we are talking about here is these commercial arrangements being enshrined in legislation and regulation so they stand the test of time and so people charged with administering the critical elements of these, for example, going back to an earlier question, there are some things where there are rights of appeal that folk will have and NTCAT will, through whichever magistrate is engaged, oversight the resolution of issues bought before that group.

The difference here is this is enshrined in legislation, regulation and binding instruments at a slightly different level than what goes with the typical PPP.

Mr WOOD: Going back to the regulatory framework, Portland does not have any regulation. It had an Essential Service Commission until about five years ago but it is a

completely private port and can charge what it likes. In theory, people can go somewhere else but in practice they cannot.

One matter that has been raised by the private ports is they would prefer no regulation at all. They are arguing you would get a better price if there was no regulation. How have you looked at that regulation aspect? Do you think we will have a light-handed regulation oversight, or have you looked at whether there should not be any regulation at all or should it be fairly strict?

Mr BARNES: Again, this is something the advisers have brought to this committee and this committee, likewise, to government. Government has agreed to introduce legislation to achieve the balance between heavy-handed regulation and no regulation. Of course, any operator has a preference to minimal regulatory and burdensome environments, but most responsible operators do not have any issue in operating in sensible, measured, clearly understood and communicated regulatory environments they know will lead to them being able to operate effectively while the community and the public enjoy the confidence that there is regulation that means people act responsibly, safely and in a commercial way that does not detract from achieving the overall aspirations of government.

As I said earlier, if this were all just about getting the highest price then you could set a whole raft of things in train that would deliver that outcome. We have been very clear in saying we need regulation. We have made informed decisions about where the Harbourmaster sits in relation to the legislation. That is an informed decision that is different to what happens in Port Flinders. The Harbourmaster is going to stay with government – we did that for very good reasons - to maintain oversight of those important functions which operators may feel they might be best placed to do. It also gives, again, an element of real public confidence that government is still maintaining an oversight of those important things.

We made a series of really informed decisions for which, again, we put multiple options to government through the legislative and Cabinet processes. They have chosen to accept that advice.

Mr WOOD: In relation to making money. Obviously, if someone comes and offers you \$1bn for the port - just to cheer you up - I imagine the committee sits down and says, 'Let us look at how realistic this bid is'. Obviously, if the bid is too high the people who use the port will end up paying or the company will go broke. Do you assess every bid according to how realistic that bid is?

Mr BARNES: Absolutely. There is a set of evaluation criteria we will develop and take forward for Cabinet approval if we take the next step in this process. Only one of those evaluation criteria has to do with price.

When you engage in discussions upfront with potential investors and potential operators, you have to be clear that you start where you mean to finish. That meant we gave some very clear advice to government early in the piece about the sorts of conversations we would be having with people which would be more around partnerships, aligning aspirations, making sure governance reflected that and while price was important, it was not as important as some of the other elements they would be evaluated on.

I have to say for some big groups - both Australian-based and overseas-based - that was foreign ground for them to be traversing. They came back to us on a number of occasions to have further conversations about what we meant by that - what level of engagement we wanted, etcetera. Of the people who have expressed an interest - and there are many of them, in the tens - we have done some initial ranking against those initial criteria we developed to make sure, as we importantly go to the next phase of this process, we have a competitive suite of tenderers who tick the box in every one of those criteria we had identified.

I am pleased to say there are many - not all. Quite simply, some of their bids just do not stack up. There are some tyre-kickers, as there usually are in processes like this at the front end. But there are many who tick all of the boxes who are prepared to work with government. We do not know the quantum of what they are prepared to put on the table, but they indicated they are prepared to pay a reasonable upfront price and they know and understand the level of investment governments have had in the port facility. They have indicated they are prepared to profit share. They have indicated they are prepared to lay out what they intend to do in the initial phase of operations and they have a track record of delivering in a good governance framework in other related fields, whether it be port or infrastructure operations.

As a committee, unless we received some other type of interest we would be recommending to our government that it not proceed. Government has been very clear to us, as a group of bureaucrats who are operating on their behalf, that they have certain expectations and certain thresholds to take next steps along this process.

We have said yes, we believe there is a level of interest from the right people who are prepared to operate to the criteria we put in front of them.

Mr WOOD: Does any part of that criterion also include their social integration into the Northern Territory or Darwin, their environmental record? Were there other criteria besides the dollar?

Mr BARNES: Yes. At some point I imagine those criteria will probably become a part of what goes into the public arena. At this point they have been a part of all of our conversations, and part of our conversations are about making sure they have a social licence to operate within the community and understand they are part of a bigger picture.

Most companies coming to the Territory quickly work out that they need to become a part of the fabric of the Territory, so obviously those things are important. Of course, the evaluation committee will probably form an expert evaluation committee for this process, as we have done for some other processes that my office has been looking at - expert and independent group. We need to make sure that the people we bring into our critical piece of infrastructure have the credentials so everyone has the confidence they can do the job.

Sorry Alastair, you were going to say something.

Mr SHIELDS: No, not at all.

Ms GARDINER-BARNES: I would not mind adding from a transport perspective, at the moment I am involved in the Genesee & Wyoming contract through the Australasian Rail Corporation and in two major bus contracts. In administering those agreements the development we have had to bring to the Territory and the commitment of those companies have made the relationship between government and those companies is really amazing. We have been able to talk through how both government and those private entities want to explore the opportunities and bring new growth to the Territory. That means working really collaboratively with government.

It is about engaging a company that is integris. At the end of the day we want a company that is committed to the Territory and growing the Territory, will look after the staff and the employment of the staff who transitioned to the new company if that is what happens, and ensure they are committed to the growth of the Territory. The companies involved in the contracts I administer at the moment do that, they work collaboratively with government and want to be on board with where government wants to go into the future. The outcome that is good for them and good for us.

Mr WOOD: Hopefully that will mean we get a bus service to the prison, but I digress.

You say in your report there is an opportunity to realise the value inherent in an NT government asset to allow capital to be channelled into new productivity and growth enhancing infrastructure. Are you part of where that money might go into new productivity and growth-enhancing infrastructure?

Mr BARNES: To the point where all of us sitting around this table also sit on the Chief Executive's Infrastructure and Major Projects Committee and have provided advice to government around investment in enabling infrastructure. That has been picked up and been part of our submission through the northern Australia development process to the point where the Department of Transport has commissioned, with the support of the Australian government, a report done by GHD about where we need to put effort into roads infrastructure and the like. Of course we have been involved, but ultimately decisions of that nature are made through the political process.

Mr WOOD: That is what I was also getting at because there has also been talk about a second port, which would be very expensive. Do you see that this opportunity to have private input into the present port could be expanded to delay having to spend a large amount of money on a second port?

Mr BARNES: Indeed. It is probably best to ask Terry this question, but I believe a second port will only eventuate if there is a big greenfield exercise, either LNG or mining, or potentially a US Naval base - dare I say it? Not that we have any control over things like that.

There is enough opportunity to operate effectively in East Arm with additional investment in infrastructure, and to do it safely and in an environmentally sound way if the right level of investment is put into the current port. It is a question that is asked of us on a regular basis by potential investors. Yes, down the track we might need another port. If we do we will probably invite whoever our partner might be to have first options on running that port. We do not see that happening in the very near future.

We need to initially get this port right, and to realise its potential. At some point in the future if there was a big minerals deposit that could not be accommodated within the current port facilities, or if there was another two LNG trains where they wanted stand-alone greenfield architecture then we could look at another location. But at the moment we are clearly focusing on this port.

Mr WOOD: My last question. When did your committee start? When were you given the directions to start up?

Mr BARNES: This committee has been going for as long as the projects have been going. and so we took something forward to a government probably well over a year ago. As I said, it is something that has been a standing concern of the CEO's infrastructure group and its various advisers for quite a long time, harking back to whoever was the CEO of DCMs before Mike Burgess, which I think might have been Paul Tyrrell. Paul identified this as something that needed addressing. As I said, up until recently we had pinned our hopes

on the Australian government providing money, but we are now looking at creating third-party investment in this.

Mr WOOD: Thank you.

Mr CHAIR: Any more questions?

Mr GUNNER: The only one I had we did not quite cover off on, but I think we effectively did, around the companies who have expressed interest. Have they come back to you with any things that they want? We have told them we would like advice around these investments or that, but have they said, 'We prefer regulation in this way', or 'We prefer you to shape this thing over here this way'. Have you had any requests about things people expressing interest have asked for?

Mr BARNES: All the companies we have been involved with have had the opportunity to come back with feedback and questions. Investors being investors, some of them have said, 'We would like the barge', – some of them have talked about what they want in the package and some of them have talked about what they do not want. Some of them have talked about how long it takes to get approvals through the NOI or EIS process in the Territory. Some have talked about the regulatory environment, in particular the role of the Utilities Commissioner. Some have asked for further clarification about step-in rights. Some have talked about licensing of stevedores. We have fielded all manner of questions.

Inevitably these groups all have a preferred model for operating these sorts of assets, and they all have preferred finance structuring models etcetera, but all of them know and understand clearly that if they want to be viable in this jurisdiction then we are running the show. We have taken the advice from a range of very good consultants and whatever we end up officially going to the market with they will have to respond to. If it does not fit what they are used to doing or how they would like to operate, then they will build that into their submission by way of addressing that risk. We have been very clear with them that this is not a bog-standard off-the-shelf asset we are talking about, and are not talking about a bog-standard off-the-shelf approach to doing business here.

We want active involvement. We have referred them, on many occasions, to how we operate the railway as a best practice example of us having a continued interest. We have all said we need to be a part of the conversation, whether that is sitting as a member of the board, whether it is us having a company that oversights the lease arrangements, but we – the fact you guys are running this committee process, which I think has been an important part of the process, has allowed a number of those companies to ask a number of clarifying questions that they may not have had the opportunity before we moved into the more formal aspects of the process.

We have probity auditors on board. We are very mindful that anything we share with one prospective bidder we share with everyone. We are also very mindful that for this level of financing, we as a home are still in people's minds. But we get phone calls on a very regular basis to ask if the project proceeding or not because they have to find a place for the capital they have to make it work for them. At the moment we still have all of those very prospective ones that are actively engaged in this process.

The other thing we get phone calls about on a very regular basis from some people is about what is happening in Victoria, which has had unintended consequences right around the country about when is a contract a contract. That is the East West Link issues. As bureaucrats, we hope when we move forward we do it with the strength of some very clear expectations in the conversations we have with potential bidders.

Mr CHAIR: No more questions? I thank you for coming and presenting to us today. If there is anything else you think you might like to add that will help us in our recommendations, please feel free to forward that to the committee and we will circulate that as well. Thanks very much, guys.

The committee concluded.

