

CORRECTED VERSION

STANDING COMMITTEE ON FINANCE AND PUBLIC ADMINISTRATION

Subcommittee

Inquiry into Port Phillip Bay: channel deepening

Melbourne — 6 June 2008

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Witness

Mr L. Salter, Dive Victoria Group.

The CHAIR — I welcome Mr Len Salter from the Dive Victoria Group. All evidence taken at this hearing is protected by parliamentary privilege as provided by the Constitution Act 1975 and further subject to the provisions of the Legislative Council standing orders. Any comments made outside the precincts of the hearing are not afforded such privilege. All evidence is being recorded by Hansard. Witnesses will be provided with proof versions of the transcript in the next couple of days.

Mr Salter, I would invite you to make an opening statement, if you wish, or we can proceed straight to questions based on your submission.

Mr SALTER — Thank you. I would like to make a short opening statement. The dive industry is in a unique situation in this in that the people in it are in the front line in the effects of any change in the operating conditions down around the Heads. I reiterate that all the diving is done in the Heads area of the bay, which is the drainage point for all the water that goes in and out of the bay, so any disturbance eventually goes past our dive sites.

At the SEES there was a large exclusion zone that envisaged by the Port of Melbourne. That would have effectively locked the diving industry out of about 90 per cent of its reliable bread-and-butter dive areas. Since the SEES, the Port of Melbourne has decided to drop that large exclusion zone and impose on us a 200-metre exclusion zone around the dredge.

The Port referred to consultation groups. In those consultation groups we tried to get a communication line that would give us a schedule of where the dredge worked, because an exclusion zone of 200 metres diameter that is subject to movement anywhere in the bay does not give any opportunity for us to operate with surety on the dive site. So the Port of Melbourne has removed a compulsory exclusion zone and has forced us to introduce a self-imposed one because a 250-metre exclusion zone and the fact that we cannot ascertain where the dredge will move to — although we have tried communicate and have asked the port to give us that information. We fail to see how 2 or 3 hours out from us diving they are not able to predict the next work spot for the dredge.

This has two effects on us. One is that you cannot take a booking with any surety in the future. A lot of people want to dive a particular site. They will look at the traditional dive calendar, and they will book on it, but if the floating 200-metre exclusion zone encompasses that at that particular time, then it is a no-go, it is a substitute dive. Divers will put up with substitutes on rare occasions for weather, that is believable, but consistently telling them that we cannot offer a quality service is starting to have a flow-on effect with repetitive business.

The other thing that is going to affect us and have an unknown cost at this stage is visibility. With the interim dredge process that happened at Hovell Pile recently was of a short duration, but it was long enough to tell us that the diving became absolutely impossible at traditional areas off Rye and Rosebud for scallops because of the low visibility — despite the port putting out its monitoring process saying that, I think, it was 0.2; it was an incredibly low number, but it was effectively non-diveable.

The duration of that, as I said, was short enough that it did not eventually affect all the dive sites right up at the Heads. It got up as far as Popes Eye, so it eliminated in that period major areas of seals at Popes Eye and Portsea Hole, which probably constitute about 50–60 per cent of the low-end school market.

The fear that we have is that in the future the major work will be done in the south channel at a time when that low-end market is predominantly happening, and that is the school training at the start back of school terms in January–February, and most of the low-end recreational diving is done in that good weather period from Christmas through to roughly Easter. They have taken no account of our actual operating time, when we make our most money, and they have introduced their worst situation.

We also cannot evaluate the cumulative effect of the turbid water coming down from the north and combining with the operations in the south. As I have said before, the only way the turbid water can get out of the bay is through the Heads, so there is going to be an unknown combined effect which will affect our business, but we have no way of ascertaining it.

We have repeatedly asked the port to sit down and work out a compensation model in advance. We figure that we are going to be affected. The port, in its own document the SEES, has identified the dive industry as suffering a 25–30 per cent downturn; that has been done without any consultation with the actual main players in the dive industry to ascertain whether that figure is accurate or not, and we would contend that it will probably be greater than that.

The Port has refused to sit down and discuss a compensation model. I presume that is because it hoped we would go broke and disappear and it would not have any compensation to pay. The Dive Victoria Group is the largest operator. It operates out of Queenscliff and Portsea. On the Queenscliff side there are two accommodation centres that hang off the activities of divers and school groups, and there are approximately 80 beds at accommodation centres there. There are five large boats involved, and the infrastructure that is required to run a viable large-scale dive business in Victoria is up around the \$5 million mark. With a downturn of 30 per cent it really does not take a financial genius to work out that servicing that capital cost is going to be incredibly hard, if not impossible.

The other unknown effect is the rock falls that are going to occur in the dredging of what we call the plateau. We predicted the rocks would fall in the trial dredge, and we were right. On this current dredging in the Heads we have not been able to go in and ascertain what rocks are going over the edge, but this is technically a very hard spot to control the rocks because there are cliffs on three sides of the knoll. If you are bulldozing on top of the knoll, there is a huge chance it will go over.

Anecdotally we are guessing that from the reduced number of trips that the *Queen of the Netherlands* is making up to the DMG, they are either having extreme difficulty removing the rocks, so there is very little volume being taken, or there is an awful lot going over the sides. We look forward to seeing that. Why I mention that is that that has ongoing damage to our dive sites. It will be loss of habitat and it will also be the scouring effect the constant plume that will stay around and depreciate the dive sites.

Even though the dredging finishes, we anticipate that we are going to have long-term effects and medium-term affects that will go out for years in affecting our business.

The CHAIR — Thank you, Mr Salter. I would like to ask you about— if I can find the actual assessment — and you would be aware of the dollar figure that was put on the impact to the dive industry in the business case. I think it was \$4.1 million — I cannot find the reference immediately. Do you have a view on that dollar figure? I think it was over two years.

Mr SALTER — That was based on an estimate of the value of the dive industry over \$44 million, I think. We did a survey for the EES which placed the value of the dive industry at around \$60 million. There has been no real in-depth analysis of what the dive industry is worth. The cost that has been extrapolated out of those figures I really thought were underestimated. Again, there was no consultation with the major players in the industry as to what their market was made up and how it would be affected and what would be affected. There is an assumption by the Port of Melbourne and the people who put our SKM that substitute sites can be inserted. I can assure you, having operated in the industry since 1980, there are no substitute spots. If there were, we would be exploiting them now.

The only possible substitution is going out through the Heads. In the last couple of years the access out through the Heads has been reasonably high. But 15 years ago I was lucky to get 10 to 15 per cent of the available time to access out through the Heads. That is because of marine regulations prohibiting us going out in bad weather. Anything over a certain set of climatic conditions, we cannot go out. We also operate out there in the open water with a reduced payload. It is not a viable substitute to have an unreliable access and a smaller payload.

The CHAIR — Based on your survey of the dive industry, you would say that these figures are at least a third less than they should be?

Mr SALTER — Quite possibly a third.

The CHAIR — That is assuming a level of impact is as they are suggesting, which you also believe is underestimated?

Mr SALTER — Yes. We cannot conclusively put up figures that will state that it is going to be a 45 or 50 per cent increase. We have looked at as much analysis as we have the resources to do. We feel and our accountants feel that that is the minimum cost.

The CHAIR — What impact have you seen to date over the first 120 days in terms of interest in the dive sector? Have you seen a drop off in customer interest? Have you seen an increase in customer interest? Has that flown through?

Mr SALTER — There is definitely what appears to be a future lack of interest. At the moment, because of the scheduling that has been done and the short duration of the Hovell Pile works, the effects, whilst they were great, were for a very short duration. As soon as the source producing that pollution stopped or the turbidity stopped, it dissipated to a relatively acceptable level relatively quickly.

The big effect on our business is going to be as soon as the massive works starts in the south channel, because that will be constant and for an extremely long period of time. On the experience of the Hovell, it will totally obliterate the diving right through to the Heads from basically the whole dive area.

Mr BARBER — Clearly it is not the operations of the dredge that you need to avoid, it is the turbidity?

Mr SALTER — Turbidity, yes.

Mr BARBER — If they cannot tell you a couple of hours in advance where the dredge is, they have no hope of telling you where turbidity is likely to be?

Mr SALTER — Yes.

Mr BARBER — How many key dive sites do you have? Which ones are likely to be excluded at various times?

Mr SALTER — I had best explain that. The channel comes in at an angle from the Nepean side and diagonally crosses the theoretical rip line and then swings around towards Portsea. That creates a horseshoe, if you like. The inside of that horseshoe is roughly under the main shipping leads.

The western side, which roughly equates to the shape of the Lonsdale bite or bay is the predominant dive site and that whole area is generally referred to as the 'Lonsdale Wall'. It is inside the national park and it is protected from the prevailing winds and the seas so it has got everything going for it. It is fantastic terrain, protected and on that wall there are literally hundreds of dive sites named. Because divers will dive from the sea floor down to around about 45 or 50 metres, you can have six or seven dive sites in the same horizontal strip.

For instance there is one spot where there is the wreck of a yacht and it is at about 40 metres so it has an attraction. Above it there are coral and reef dives which also have names. That is the major area that is affected and that is the major area that we are being excluded from by this floating exclusion zone.

On the other side, on the Nepean side, again the same situation exists. Then on the Queenscliff side, on the northern side if you like, in the wall through there, there are dozens of dive sites. There are hundreds of dive sites but effectively there are three main areas if you want to talk geographically.

Mr BARBER — Did you say before that you have already been excluded from diving with some seals due to the exclusion zone, or due to the turbidity?

Mr SALTER — The turbidity.

Mr BARBER — The seals cannot be doing too well, then. They hunt by sight, don't they? They are excluded from hunting?

Mr SALTER — They have not got a voice in this analysis, but yes, obviously they are probably not enjoying a healthy life.

Mr BARBER — And you said that the port has not been willing to enter into discussions about compensation. I asked them earlier if anybody had made a financial claim against them or had commenced to, and they kind of confirmed that someone has. Do you want to confirm that that is you?

Mr SALTER — It is the dive industry in general through what effectively will be a class action and they have been put on notice, but at the moment the law states that you have got to have a loss that you can substantiate to take a court action.

At the moment there is not categorical evidence that you could go to court on and, with confidence, expect a win. We have to wait until the real effects come on and of course at that stage the downturn in our revenue will be fast and sudden and our problem is then going to be surviving long enough to continue with the court action.

Mr BARBER — What do you have to do? Some of the bigger operations might have deeper pockets, but what do you have to do to allow for the possibility of a downturn? What decisions are you making right now?

Mr SALTER — The decisions are being made to change our operations as much as possible. We have just taken delivery of a larger boat again, and the larger boat will be more comfortable out through the Heads. It will carry more people. There is an application going into the Port to change some of the access rules so that we can get out through the Heads at night time and do some night-time dives outside.

We are trying to mitigate our loss as best we can. There will be, at some stage in the future, probably a year out if everything goes well, a wreck that is sunk outside in the ship's graveyard. That will introduce some more advanced-level diving opportunities but the major area that it is going to affect and there is no substitute at this stage, is the school market, snorkelling market, which predominantly goes to the seals and Popes Eye. There are no substitutes for that, so we are scratching.

Mr BARBER — Have your accountants or banks made any comment on this issue? To you, I mean.

Mr SALTER — They are predictable: that there are tough times coming up, and basically their comment is that they cannot see why the government is not looking at a compensation model because there are precedents in other industries. There were precedents with the equine influenza scare a while back when the government stepped in and looked after participants before the fatality of their situation.

Mr TEE — Thank you for your evidence. There are a couple of things: you mentioned the lack of consultation and I think there has been some evidence given to us already about there being a number of briefings, particularly in June or July last year by the independent panel as well as a number of other consultation processes in 2004 and 2005. Were you involved in those?

Mr SALTER — Yes, I have been involved in most of them and Jason has been involved in the last two or three consultation sessions with the Port of Melbourne.

Mr TEE — The other thing, I think you have said in your submission, is that:

... we have noted a downturn in patronage due to the uncertainty in where clients are able to dive and the reality of the experience they are likely to have.

Yesterday VECCI, when they gave evidence, said that individual businesses have highlighted the dangers to local businesses of individuals and groups talking down the bay. I think what they were getting at is that some of the downturn in business was related to concerns about what might happen rather than what is actually happening. Has that been your experience?

Mr SALTER — A business that is operating when along comes a threat surely has a right and an obligation to its stakeholders to express their concerns and to use their expertise to highlight risks that they can see.

Mr TEE — Sorry, I am not being critical. I am just asking whether that is — —

Mr SALTER — The dive industry has been criticised by the Port of Melbourne and threatened that our objections to this will be used by their lawyers to mitigate their liability and accuse us of bringing on our own demise by talking down the industry. I have always run an ethical business where I have told customers the truth, and if I think that the conditions are going to be bad and they are not going to enjoy it at their level of experience, then I feel that it is my right and obligation as an ethical operator to tell them that.

Mr TEE — I just want to be clear about what I am asking, because I probably could have been clearer. I am really just asking whether you have got a view on the evidence that we got from VECCI yesterday around highlighting the danger to local business of individuals and groups needlessly talking down the bay. I am wondering whether or not that has occurred and whether that is having an impact on your business.

Mr SALTER — The impact on our business — the growth has slowed down. Dive Victoria Group was formed out of two companies, one on either side of the bay, and there has been a very substantial growth rate for a number of years in those two businesses. In the last three months that growth trend is flattening. With three months figures it is really not enough to say that it is a lack of customer confidence, whether it is the general economy, the price of fuel and so forth. But the anecdotal evidence that we are receiving back from divers is that they are happy to dive at the moment, but future diving — as soon as the real project gets going, then it is goodbye; they are not going to dive. They will look at substitute overseas trips or whatever. But that is the anecdotal evidence that we have got.

We are yet to get into the 12-monthly cycle of school bookings to know whether they are going to be affected, but one would assume that they will be slightly slower to lag in the marketplace and they may take a punt on next year's booking, but if they have got a bad experience at that stage, then we have lost them for probably two, three or four years before we can get them back and convince them that the bay is on a recovery road, if it is.

Mr TEE — The supplementary environment effects statement I think concluded that there would be disruption to recreational diving and associated businesses during the period of the dredging. They anticipate that would recover, and you are saying we are yet to see that. It occurs to me that what you are experiencing has been anticipated. It does not make it any easier, and you are now going through this process, I suspect, of anticipating or looking at the risk, and then you will go through the process of seeking compensation for any of the damages that you have suffered. I suppose that is really where we are in terms of the timing and the cycle, is it not?

Mr SALTER — Yes. You cannot quantify the effects on the business at this stage, but you can speculate that there are going to be risks in our own analysis, and it is confirmed with the port's own experts that compiled the SEES, and yes, because it was brought on by external forces, by another business profiteering at our expense, basically, then the compensation path would be an obvious one, I would have thought.

Mr BARBER — When you said that it had been communicated to you from the Port that if you talk down your industry, they will use that against you — did that come in the form of a written letter under a legal letterhead?

Mr SALTER — No, I believe it was at a consultation group, and it was also, I think, the subject of an *Age* article.

Mr BARBER — So it was just said in words at a meeting?

Mr SALTER — Yes. There is a distinct lack of written guidelines from the Port at consultation meetings.

The CHAIR — Thank you, Mr Salter. The committee appreciates your company's submission and also your evidence here this afternoon that explained some of those issues to us.

Mr SALTER — Thank you for hearing me.

The CHAIR — We will have a draft transcript for you in the next couple of days for any corrections you wish to make. Thank you.

Committee adjourned.