



## **PARLIAMENT OF TASMANIA**

### **Parliamentary Standing Committee of Public Accounts**

#### **TRANSCRIPT**

Inquiry into the TT-Line Spirits Project

Monday 18 November 2024

#### **MEMBERS PRESENT**

Hon Ruth Forrest MLC (Chair)  
Mr Josh Willie (Deputy Chair)  
Hon Bec Thomas MLC  
Mr Mark Shelton MP

#### **APOLOGIES**

Hon Luke Edmunds MLC  
Mr Simon Behrakis MP

#### **DISCLAIMER**

This transcript has been edited for readability and clarity.

The broadcast of the hearing can be found at:

<https://www.parliament.tas.gov.au/Committees/joint-Committees/standing-Committees/public-accounts-Committee/inquiries/tt-lines-spirits-project/broadcasts/18-november-2024>

[inaudible] is used when audio words cannot be deciphered.

[audio malfunction] is used when words are lost due to a technical malfunction.

[interjections] is used when members or witnesses speak over one another.



## **LOCATION**

Venue: Committee Room 2 – Parliament House, Hobart

## **WITNESSES PRESENT**

09:30 – 10:30

Mr Chas Kelly (Executive Chairman)  
Captain Stuart Michael (General Manager Marine)  
Mr Patrick Guarino (Chief Operating Officer)

SeaRoad Holdings Pty Ltd

# PUBLIC

## THE PARLIAMENTARY STANDING COMMITTEE OF PUBLIC ACCOUNTS MET IN COMMITTEE ROOM 2, PARLIAMENT HOUSE, ON MONDAY 18 NOVEMBER 2024

**The hearing commenced at 9:30 am.**

**CHAIR** (Ms Forrest) - Welcome, Chas, and your team online, to the Public Accounts Committee hearing into the TT-Line New Vessels project and the matters surrounding that.

This is a public hearing. Everything you say before the Committee and your team is covered by parliamentary privilege that may not extend beyond the hearing. If you speak to the media afterwards, for example, that privilege may not extend beyond that, to bear that in mind. If there was something of a confidential nature you wish to share with the Committee, you could make that request and the Committee would consider it. Otherwise it's all a public session.

Do you have any questions before we start?

**Mr KELLY** - No, I don't.

**CHAIR** - I ask you to read the statutory declaration.

**Mr CLARENCE JOHN KELLY**, EXECUTIVE CHAIRMAN, SEAROAD HOLDINGS PTY LTD WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED

**CHAIR** - Chas, I'll invite you to introduce the other two gentlemen in the room, on the screen there, and your role and their role. Then I'll invite you to make some opening comments or ask your other gentlemen to make some comments as well.

**Mr KELLY** - I'm the Executive Chairman of SeaRoad Shipping, SeaRoad Logistics, and SeaRoad Holdings. On the screen we've got Patrick Guarino, the Chief Operating Officer of those three businesses, and Captain Stuart Michael, who is our marine manager of SeaRoad Shipping.

**CHAIR** - Great. Did you want to open with a few comments? From your perspective, it would be helpful to hear your history and engagement in the Mersey River, from the time when the new *Spirits* were being actively engaged to berth in the river. What we're looking at is, what's happened that's caused the delay in the delivery of Berth 3. The matters relating to the actual increasing price for the *Spirits* themselves is probably well outside your area of interest. It's more about the berthing facilities, noting that you have Berth 2 and it is a fairly tight berthing arrangement there. We'd like to hear your perspective on that.

**Mr KELLY** - Our perspective is, the risks that were going to be transferred to us in terms of the increased length and overhang of our berth. Initially, we received a letter from the Harbour Master saying that the *Spirits* would not be allowed to berth at Number 1. It wasn't actually overridden, I don't think, but there was an attempt to override it by having modifications to Berth 1 and allowing the new *Spirits* to berth there. On top of that, they wanted to shift us forward. That would have been a bit of a disaster for us in time and motion.

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Really, what it boiled down to for us was the risk of the ships touching, colliding. Our new ship will be 42,000 tonnes. I imagine the *Spirits* are probably 55,000 or 60,000 tonnes. If they do touch, you can't take them around the corner and buff it out. If there's enough damage, both ships have to go to Singapore to be repaired. That would be a disaster for Tasmania. I've said all that publicly. As well as that there was a further investigation into a revolving doughnut fender that, after simulations, proved to be not the way to go. Luckily, from my perspective anyway, common sense prevailed in terms of the risk. As I've said publicly many times, it's all good until it's not.

If I can give you the examples of the Mersey River and the tug being sunk, just a small error. The Baltimore Bridge a few years ago. The *Spirit* was blown off its moorings in Melbourne. Only a few weeks ago *Spirit V* was blown off its moorings - that could have been an absolute disaster. That's the sort of stuff that can happen in shipping circles.

**CHAIR** - Back to you said there was an attempt to override that, who attempted to override the decision?

**Mr KELLY** - I think when Eric Abetz came out and said, 'We're going to put the ships into Number 1', and that's when it all started. I'm not sure who pushed it through: that would be more in your area, I think.

**Mr WILLIE** - Was the ministerial direction from the Treasurer at the time and the Transport Minister, but did they have any engagement with you before they issued that statement?

**Mr KELLY** - No, not before they issued a statement, but we had some discussions afterwards where I put to them our concerns of risk and, at the end of it, at nearly every part of it, we were the ones assuming the risk, not TT-Line.

**CHAIR** - Your view was that the risk was almost yours entirely should that have been progressed. Is that what you're saying?

**Mr KELLY** - Yes, that's correct. Captain Stuart Michael might be able to expand on that in terms of increased length, increased width, and some of the movements into the berth through the river.

**CHAIR** - Did you want to speak to that, Captain Michael?

**Captain MICHAEL** - Yes, that's fine. Some of which just confirms what Chas has indicated. The original process started over three years ago with the TasPorts master plan, in conjunction with the news that *Spirit of Tasmania* were introducing larger vessels, as would SeaRoad.

The early assessments, which go back a long period of time, it was decreed that a new larger *Spirit* would not use Number 1 Berth and that they would be using the new terminal at Number 3. There was a second part of that, there could be no existing *Spirit* at Number 1 and a new *Spirit* at Number 3 because it didn't provide enough room for SeaRoad to Berth at Number 2. That's going back a long period of time.

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Roll it forward to recent events and we have the situation where Number 3 Berth is not ready and we were informed in July by TasPorts, or thereabouts, that other items were being looked at, or other ways to try to facilitate using the new *Spirit* on its arrival this year. That included the use of Berth 1 for the new *Spirit*.

The original assessment basically considered the risk because we berth inside the bow of the *Spirit* at Number 2 with a larger vessel at Number 1 and hull to hull contact would be catastrophic.

Rolling forward to now, it was looked at differently on the basis that Number 1 Terminal would be beefed up to secure the new *Spirit of Tasmania* vessel.

And they introduced a theory that to try to avoid hull to hull contact between ourselves and *Spirit* they would put a fender in between us. That's where the doughnut theory came from: that was simulated and it was assessed by the Harbour Master TasPorts as creating even further risk or damage to our hulls, regardless of whether the *Spirit* was on the Berth or not. Hence the decision not to move forward with that.

**CHAIR** - In terms of your role after the ministerial direction was issued and then there was communication from you to the Government, I assume around raising concerns. The modelling was then undertaken. That's when we originally scheduled your appearance and that clashed with that day. Can you tell us a little bit about that time between issuing the ministerial announcement and the modelling being done, and then subsequently what the modelling showed?

**Mr KELLY** - I think we'd go back to Stuart for the modelling, but I had a meeting with Eric Abetz and told him basically what I've told this hearing. We then wrote to TasPorts and we wrote to the Premier expressing our concerns, basically exactly what I've been saying here. We had a reply from TasPorts that they were looking at it, and didn't get a reply from the Premier, but that's fine he's busy. We then had the modelling and then it was discontinued which, in my view, was common sense finally prevailed.

They're two big sails, those ships, and you get a wind event, as I mentioned earlier - the wind event, the cyclone in Finland - and that's what happens.

**Mr WILLIE** - Did it surprise you that a ministerial direction had been issued for two Government Businesses to then deliver Berth 1 without any engagement with you first?

**Mr KELLY** - We didn't have any engagement from day one on the new Berth, which is probably none of our business. I don't think there's much wrong with that. But the general consensus around my area was that there was no way that Berth was going to be finished, and that goes back 18 months to two years, that discussion.

**Mr WILLIE** - I'm talking about Berth 1. It's pretty serious to issue a ministerial direction to direct the companies to deliver that interim solution. Were you surprised that happened?

**Mr KELLY** - Nothing surprises me in politics. No, it didn't surprise me, but I thought it was totally out of order. The word then was that it would cost at least \$60 million to do that.

**CHAIR** - Just the Berth 1 works or the works are required to facilitate?

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**Mr KELLY** - No, just Berth 1 to modify, as I understand it. To me, that's our money, that's your money, my money, your money and it was a waste because after 12 or 18 months, two years, it's of no value.

**CHAIR** - In terms of your interaction with TasPorts around this period - I mean they responded to you - but how have your dealings been with them in general terms on your current berth, and then the suggestion they may need to move you a little bit up the river and putting that doughnut fender and that sort of stuff?

**Mr KELLY** - They were probably quite okay, but we were against that idea because of the problems and, again, I said that financially as well, it was a waste of money.

**CHAIR** - Financially for the State or for financially for your business?

**Mr KELLY** - Certainly for our business, but for the State as well.

**CHAIR** - What impact would there have been on your business? You talked about earlier a disaster for Tasmania. I'd like to flesh this out a little bit. What you saw as the negatives in terms of cost to your business, but also cost to Tasmania in that.

**Mr KELLY** - The cost to Tasmania gets back to modifying Berth 1 for no real reason, in my view. With our business is basically a time and motion study. We have very tight parameters to discharge and reload. If we have to travel another 38 metres each time we come on and off the ship, that all adds up and we may not have achieved our unloading/loading parameters.

**CHAIR** - That move would have meant you would have had to discharge and then drive every container and everything coming off the vessel an extra 38 metres to get unloaded and then to bring back the new freight.

**Mr KELLY** - Every movement has that 38 metres.

**CHAIR** - Time critical turn around. Do you have much gap there or not?

**Mr KELLY** - No, we don't have a gap because our ships aren't as fast as the *Spirits*, existing ones or the new ones, and we don't want them to be as fast, but our travel time restricts us to our in-port time.

**CHAIR** - You still would have been able to fully load, but it would have impacted on your turnaround time. Is that right?

**Mr KELLY** - Well, maybe not fully load. That was the point. If it took too long then we may have had to leave freight. Then that would have been an impact on our customers and consequently our customers may have gone somewhere else.

**Mr WILLIE** - And the State may have had to compensate you for that arrangement?

**Mr KELLY** - They may have. We didn't get to that point.

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**CHAIR** - Okay. Going back to the master plan, when that was put forward, were you actively engaged in that and then made aware of the proposal for the Berth 3, the new Berth, the *Spirits*? Were you involved in the development of that, or are you 'just' a customer of TasPorts?

**Mr KELLY** - I guess we are just a customer. Stuart may be able to answer to whether he was involved in that to start with.

**Mr GUARINO** - If I may, it's Patrick Guarino here. I was involved with the discussions with TasPorts, myself and my team, which included Stuart Michael, our Marine GM and our GM of Operations, Travis Kalia. We were pretty much on the ground floor with TasPorts throughout that master plan negotiation on how that should formulate. That was some years in the making all the way through. There was a cooperative approach between SeaRoad and TasPorts and that. So, yes, there was no issue with the master plan itself.

**CHAIR** - Berth 3 is a bit further up the river than where you are, Berth 2. You felt that you were adequately consulted during that period about the passage of the bigger vessels up past your Berth into their Berth once it's built?

**Mr GUARINO** - Yes, the consultation between us and TasPorts was good regarding the construction of Berth 3, the passing of the vessels in the river, and even the conversations and negotiations regarding land swap because part of Berth 3 required some of the land that SeaRoad currently occupies and therefore there was a land-swap negotiation that took place. All those things took place a long time ago and an agreement had already been reached with TasPorts in that regard.

**CHAIR** - From your perspective, then, there was no barrier from the process of land-swap and that to delay the further development of the Berth 3 area?

**Mr GUARINO** - No, not from our point of view. Our point of view is, we agreed with TasPorts early on about what SeaRoad required as of today, and as a growing business going forward. That was established very early in the piece. I can't remember the timeframe, but it would be years ago that we agreed on what SeaRoad's final piece of land, should I say, would be at the end of the master plan being delivered. We knew that there was going to be some inconvenience while Berth 3 was going to get built. We understood that some of the land that TT-Line was going to occupy at Berth 3 was currently occupied by SeaRoad and there was going to be a transition period where we would have to give up some land and we would receive land at the other end of the terminal.

All those discussions took place and there was a genuine spirit of cooperation between SeaRoad and TasPorts. Obviously, there was always going to be some items of debate, but in those sorts of situations we listened to each other and we reached a reasonable outcome.

**CHAIR** - On the land swap - obviously, it was an important thing to enable the Berth 3 to proceed. I'm not asking for the commercial details around your lease here, but was there an adjustment to the lease itself to facilitate that land swap?

**Mr GUARINO** - No, the only adjustment to the lease would be, it's not so much commercially - in simple terms, if TasPorts had required - very simple terms - 1 square metre



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on the south side of the terminal, they would give us 1 square metre at the north end of the terminal. As simple as that.

**CHAIR** - Okay, so in terms of the lease, are you able to indicate how long the lease is that you have with TasPorts?

**Mr GUARINO** - All I can say there is that those discussions with the lease between SeaRoad and TasPorts are continuing. We have a temporary arrangement at the moment. We do not have a final lease document. In fact, had I been in Hobart today, after this meeting I was catching up with TasPorts to continue those discussions and trying to finalise that lease.

**CHAIR** - We have just heard from a range of other customers of TasPorts, including TT-Line, but from other customers and in another committee that I have been on, that TasPorts has increased lease fees significantly for some of their customers. Have you had an increase in lease fees in recent times?

**Mr GUARINO** - Absolutely, we did. We had a significant increase, if memory serves me correctly, and Mr Kelly, correct me if I am wrong here, I think it was 1 January 2021. I might be out by a year, but it was definitely 1 January the date that it started and I am pretty sure it is 2021. We had a significant increase in our lease costs and wharfage cost that year. I think if somebody did the research it will pick up in the media as well, it was certainly there. So yes, we did wear that.

**CHAIR** - What was the percentage increase?

**Mr GUARINO** - Again, I am going off memory now. Parts of the increase were in excess of 100 per cent, some of it was 70 per cent - it depends on the on the tariff that we are talking about. Lease was probably at the lower end of the spectrum, tonnage was high, wharfage was even higher. It depends because we get charged from TasPorts on principally three different sectors. One is the tonnage, which is the access to and from and up the river; lease, which is actual land; and the other one is wharfage, which is a fee that you pay for any cargo that is imported and any cargo that's exported. So there are three elements to a TasPort charge.

**CHAIR** - 2021 was the last year of increase to date?

**Mr GUARINO** - No. In 2021 there was the significant increase when we reached a new agreement with TasPorts, then thereafter there is a CPI increase applied each year.

**CHAIR** - Since 2021 then, there's only been CPI increase. The reason I'm asking you is because I've heard from other people that they've had a significant increase quite recently with no additional services.

**Mr KELLY** - We got ours, as Pat says, I am not sure whether it was two or three years, Pat, but we got ours then, which was a huge increase as Pat has explained and now other people are catching up. When you look at the numbers they quote today to what we were put up and the amount of trade that they've got, the amount of trade that we've got, it works out, it's about the same we think.

**CHAIR** - I did hear one the other day, 400 per cent increase in one hit.

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**Mr KELLY** - They must have been really low then.

**Mr GUARINO** - I think the question is, it all depends on what base you come from, where's the starting point and where's the end point. The other thing is, increases will come and coincide when leases expire. Ours expired back in 2021, so that's when that increase occurs. Other companies would be exposed to an increase when their contracts run out. Our philosophy is pretty simple: charges with respect to the wharfage in particular should be the same for all shipping companies and TasPorts has committed to that. So, we have no issues with the road that they're taking in respect to the wharfage charges specifically.

**Mr WILLIE** - One of the responses of Government to this whole fiasco is to create a super merger of government businesses - TasRail, TT-Line and TasPorts. Do you have any concerns that you would potentially be competing against a government freight business that also controls the port?

**Mr KELLY** - We do. I have always been concerned about competing with Government because what are they going to do next? Are they going to buy an ice-cream shop or a tyre shop and compete against those? My view has always been that government should supply the facility for private enterprise to get on with business, unless there's a market failure. The risk there is, if they own the lot, it could be at a great disadvantage to private operators.

**Mr WILLIE** - They can squeeze you out commercially?

**Mr KELLY** - I guess, yes. I wouldn't expect them to do that, but the opportunity's there if it was chosen.

**Mr WILLIE** - If that eventuates, would you seek assurances from Government? There's Federal oversight bodies like ACCC?

**Mr KELLY** - Yes, we would. This is a serious business shipping.

**CHAIR** - Particularly when you're an island.

**Mr KELLY** - Also, there's not too many people investing in this industry. We need to be sure that we're not going to be tightened up by Government or somebody who has that ability. All we've asked of TasPorts, and Pat will back me up, is a level playing field and we're happy to compete. If it's not a level playing field, then you know, we've raised those issues.

**Mr WILLIE** - The Government's opened up a review process around some of this. Will you participate in that review process?

**Mr KELLY** - We will, yes.

**CHAIR** - Do you believe that currently it's a level playing field?

**Mr KELLY** - It hasn't been for quite a few years but, as you've now mentioned, it is starting to become a level playing field.

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We've been at a disadvantage since TasPorts put our rates up, and we debated that right up until eight o'clock on New Year's Eve. At midnight on New Year's Eve we were out of the game according to them. We had nowhere to go.

**CHAIR** - Just beaten into submission?

**Mr KELLY** - Basically, yes. We did argue very well though.

**CHAIR** - I'm sure. I'm just thinking - is there a power imbalance going on here, where you have a State exercising its power, or a State-owned company at least exercising its power over a private business here to set a fee schedule?

**Mr KELLY** - I think that's probably what happened to us at the time. Pat, what would your thoughts be on that, if I may?

**CHAIR** - No, that's alright.

**Mr GUARINO** - There's no doubt that TasPorts drove a hard bargain and so they should. At the same time, we stood strong on the position, as Mr Kelly has indicated, that all we want is a level playing field when it comes to port charges across all three coastal operators. Let the shipping companies compete squarely and freely. Port charges shouldn't be a competitive advantage for one shipping company compared to another.

That message was taken by TasPorts, they understood it. We also understood that they needed time from a perspective of transition to make sure that all shipping companies would end up on a level playing field. We accepted that. We're taking TasPorts at their word that at one juncture going forward into the future, not too far away we hope, that level playing field will be reached. We believe that's what their strategy is, we're taking their word that they'll do that, and that's how we've constructed our relationship. I have no reason to believe that TasPorts will renege on that.

**CHAIR** - Just on that, obviously, you compete with other private operators, too. The strait that you go into Burnie, but use TasPorts facilities there, is that part of the complexity of this that you have the state-owned company owning all the port, well nearly all of the wharves now, they have sometimes tried to give up a couple small ones, but the major ports at least. Does that work in your view, Chas? Or is it more going back in the past when they were individually owned, they competed against each other, was that a preferable model? I'm interested because you've been around for a while.

**Mr KELLY** - I have.

**CHAIR** - In this business I mean.

**Mr KELLY** - I think it was a smart move on the Government's part to make them the government owned, all of them, but they had individuals running them and competing, probably back then, a smart move. Today it should be a fairer and a more level playing field than what it was back then.

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**CHAIR** - Do you think that that's where it's headed? You made some suggestions that is where it's headed. From your perspective, and from what I've heard you say, correct me if I'm wrong, that it hasn't been level playing field. You see that that's where we're headed?

**Mr KELLY** - That's where we're hoping it goes and that's where we keep pushing with TasPorts: that we shouldn't be paying any less or any more than our competitors, whether that be Strait Link or TT-Line. But, at the moment, until there's some catch up somewhere, then we are paying a lot more.

**CHAIR** - You don't have visibility of those other arrangements with the other companies, I assume?

**Mr KELLY** - No.

**CHAIR** - When will you know that there's a level playing field?

**Mr KELLY** - That's a good question, but I think we've got to take people at their word to some extent.

**CHAIR** - Acknowledging that some of the leases and other arrangements, according to TasPorts at least, the legacy issues have been agreed to a long time ago, is that part of the problem that needs addressing?

**Mr KELLY** - Yes.

**Mr WILLIE** - Regarding the competition issue, a little bit further, we hear from businesses that they can't get on TT-Line. Is your business constrained at all? Obviously, there was an impetus for Government to get larger ships to increase capacity.

**Mr KELLY** - Well, we were the first ones to get a larger ship eight years ago, which obviously fired people into increasing the size of ships and the task grows, say, roughly 2.5 per cent a year. We know that over 20 years there's a 50 per cent increase. I think that it will keep growing and we'll keep competing.

**Mr WILLIE** - The extra capacity is not going to impact you? It is just that there's demand that's not being met and then it'll be soaked up.

**Mr KELLY** - We have increased capacity coming too. These days there are 30-year deal in a ship. You can't buy a ship knowing it's going to be full tomorrow because it's going to -

**CHAIR** - Plan for the future.

**Mr KELLY** - It allows for future growth.

**CHAIR** - One of your ships is not that old, is it? I thought you had a fairly new one?

**Mr KELLY** - The *Liekut* is five-years old and it's on charter to us. The *Searoad Mersey* is eight-years old. But our new ship -

**CHAIR** - The new ship that is coming?

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**Mr KELLY** - It is being built at the moment, yes, that is substantially bigger than the *Liekut*.

**CHAIR** - Can that fit into Berth 2 without any problems?

**Mr KELLY** - We build our ships to fit our berth.

**Mr WILLIE** - When's that coming on-line?

**Captain MICHAEL** - Took about four minutes to berth the *Searoad Mersey* when she arrived. She pulled in, backed up a bit,

**Mr KELLY** - Put the ramp down.

**Mr WILLIE** - When's the new ship that you're building coming on-line?

**Mr KELLY** - We think that it will be in the first quarter 2026 at this stage.

**CHAIR** - Will that take a little bit longer to berth? Same time to unload, discharge and reload is that?

**Mr KELLY** - It'll take longer because it's bigger and it'll have more freight.

**CHAIR** - Would it be faster across the strait?

**Mr KELLY** - Yes.

**Mr WILLIE** - Regarding your berth - can I go to a different topic?

**CHAIR** - Yes.

**Mr WILLIE** - There is some discussion in the Government reports just released about *Spirit V* operating from Berth 2 when you're not using it. I'm wondering what considerations there would be and whether you're open to that?

**Mr KELLY** - There was some discussion about that. Pat, you had knowledge about that?

**Mr GUARINO** - Correct. We spoke to TasPorts about that idea. We cooperated with TasPorts. We said that we were okay with TT-Line using our Berth when we weren't there, essentially, after dark. In general terms we did say to TasPorts that there would have to be a commercial arrangement between TT-Line and SeaRoad to facilitate that. We obviously would need to work out some of the operational and operating procedures to make sure that there was a safe operation between the fence, so to speak, because we do share the fence. TasPorts tabled that idea. We were cooperative about that, but it hasn't gone much further than that.

**Mr WILLIE** - Could that impact your operations at all? Like if something went wrong with *Spirit V* was moored there?

**Captain MICHAEL** - So the theory of the *Generation Spirit* operating at our berths was on the back of SeaRoad's operation being moved south. So the two impacted each other. The theory of us moving south in the first place came at a considerable cost and disruption to the business and to add the *Spirit* which is a larger vessel again with a greater displacement. So, in moving any of the vessels or considering using a larger vessel at our Berth or using *Spirit* at our berth, you're talking about secure moorings, fendering, global strength of the wharf.

In any of these instances, let alone a combination of us and them operating at Number 2, the cost would have been absolutely significant. It's not just a matter of saying, 'Let's just move everything down the wharf and put it there'. There's a lot of construction, global strengths, calculations that need to be satisfied, upgrades to be made, new fendering to be put in, and relocation of automatic mooring units, which we currently use. That's besides the physical extra distance it would have cost us. There's a lot of nuance in these suggestions that were put forward.

But going back and just to finish one of the original questions, when TasPorts approached us mid-year and how they went about that engagement, I can say from my point of view it was open and transparent. They weren't coming with a brief of, 'You will do XY and Z'. It was a very cooperative approach and they asked us for our views on what could be done with *Spirit*, where we could interact, what options were available to us, and what options were available to be explored. That was a very collaborative process to which we involved ourselves fully and went through all viable outcomes to see if it could be done.

Ultimately, the direction of the independence of the harbour master of TasPorts, those matters have been seen as clearly too great a risk and on the basis of that these potential theories of a way out to allow us for it to operate have been closed in.

**Mr WILLIE** - Just to clarify, the harbour master said that *Spirit V* operating from Berth 2 is too great of a risk?

**Captain MICHAEL** - No, I think we didn't get to that further point. So, at Berth 1.

**Mr WILLIE** - So it sounds like there's a lot of investment that would be needed and it sounds like it would be unlikely for *Spirit V* to operate from your Berth, Berth 2, for three day sailings, I think they were talking about in the report - a week. Sorry, three sailings.

**Captain MICHAEL** - Okay. Can it be done? Yes, it could be done. But it would mean considerable amount of work. Whether that would be cost effective and whether operationally it would be cost effective, that would be a matter for TT-Line. But yes, we've already got to the point where there's bits in between getting to that point that have already been shut down.

**CHAIR** - I imagine that would have been quite costly, the extra work that would have been needed to facilitate that. If it were to go ahead, which has been ruled out now, I think anyway.

**Captain MICHAEL** - The cost would have -

**CHAIR** - And the time taken to do it. That would have taken some time to do that work that would have been required?

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**Captain MICHAEL** - Absolutely. These are not small fixes or quick fixes. You're talking considerable construction work.

**Mr WILLIE** - And difficult to do in a port that is operational?

**Captain MICHAEL** - Well, that was another matter that was looked into in some of these scenarios. The actual impact on both operations, certainly we can speak to ours. But yes, whilst you're doing this at a working terminal, it allows very little time. So you're then interrupting the business on the way through to make these changes, which of course it's not particularly palatable, especially with us where we have a very - we're within a window that we haven't got additional time available.

**CHAIR** - So how many sailings a week do you do currently, Chas?

**Mr KELLY** - We operate 6 nights - or sail 6 nights a week, but two vessels each way. We don't work on Sundays at this point, but that is in the future.

**CHAIR** - So you've got a vessel in port every day?

**Mr KELLY** - Every day, yes. We can stay out on Sundays, but we don't.

**CHAIR** - Sure. In terms of - and if you're not happy to respond to this, that's fine, I'm interested in being the next-door neighbour to Berth 3. What have you observed about work going on Berth 3?

**Mr KELLY** - I sit 100 metres away from that everyday watching it from my office. It appears now that they're right into it, great colour, making a lot of noise and vibration there so, and I think they'll finish it pretty quickly. I noticed that the Premier said 27 February, but hopefully 26 October and I'd say that that he'll get it done.

**CHAIR** - In terms of prior to the sudden, the much-needed increase in speed, we've had evidence from TT-Line that they had challenges accessing the berth pocket and the berthing area to do their geotechnical drilling with a bed being variable due to a barge being in place. Did you observe a barge sitting out there for a period?

**Mr KELLY** - No, we don't take a lot of notice what's - you know, different things around the river there, but that shouldn't have happened.

**CHAIR** - The delay shouldn't have happened? Shouldn't have had the access issue that had happened?

**Mr KELLY** - No. Just a point that I'd like to make so that you're aware. Stuart used to drive the *Spirits* for years, including the Sydney ship, *Spirit*, and - didn't drive the Sydney one?

**Captain MICHAEL** - I didn't drive the Sydney one. I was never master of *Spirit III*, but only *Spirits I* and *2*.

**Mr KELLY** - So he's well versed in the operation of the port and the *Spirits*.

**Captain MICHAEL** - Can I just backfill a little bit more on the previous question and commentary? There have been occasions during the construction process the TasPorts post [inaudible]. So, during the TasPorts' portion of Berth 3 requirements and getting it ready, there have been occasions when there has been by necessity barges in the vicinity of No. 3 which is ahead of us. We're advised of that, they come and go as needed. Their time in position is limited to the minimum amount of time to do the work. So there has been traffic at Berth 3 as you would expect because they are required to do piledriving, wharf restoration, et cetera, to fulfil their requirements. Nonetheless, as I say, they come and go as needed.

There's certainly been no obstructions from the waterside point of view permanently for the last 18 months, two years. It's just been doing operational as required from TasPorts and they engage with us because it's putting an obstacle in front of us as we're berthing. We've been acutely aware of times that there has been river borne traffic on the -

**CHAIR** - The barge hasn't obstructed the entry of your vessel to your berth though?

**Captain MICHAEL** - No, we've got close to it on a few occasions depending on where it needs to work. It's not always there. As I said, they interact with us when vessels or barges are put into that vicinity [inaudible] Berth 3 and more work early on in that area. As a site, it's just why right of notices are there to warn us that there is our vessels coming along.

**CHAIR** - If I just come back for a moment, Chas, you mentioned the catastrophic nature of a collision or a lesion, I think, or something - it's an unusual term that we use for ships running into each other. From the risk associated with that, I'm interested in understanding, we made mention of the *Spirit V* breaking its moorings in Finland under an extreme weather event, the one near the Baltimore Bridge, that sort of thing. In terms of the infrastructure in the Mersey River, acknowledging that we do get some pretty fierce easterlies at times, are you confident that the current infrastructure is adequate to prevent those sorts of things occurring in the Mersey?

**Mr KELLY** - You can't prevent Mother Nature of course. Stuart might be able to answer that better. We are happy and confident that we are safely operating and we cope with those weather events. That's one of the risks that's in this business and we're ready for it.

**CHAIR** - Is it mostly easterly weather that's the risk here, blowing you off your mooring? Or is it westerlies as well that could?

**Mr KELLY** - We don't think we'll get blown off our moorings because we use an automatic mooring system. Stuart, you might be able to tell us the amount of safety we have there compared to lines, which is what they were using on the *Spirits*.

**CHAIR** - On the new *Spirits* as well? Lines? No?

**Mr KELLY** - As I understand it, they'll be on automatic mooring as well.

**Captain MICHAEL** - Automatic mooring units are currently used by SeaRoad. What this does is negates the requirement for running mooring lines. However, whether you be on automatic mooring units or lines and fenders, there are always limits. The rules around the strength of wharf and strength of fendering is articulated. It's statutory so they are built to the required standards. The upgrades, the master plan is taken into careful consideration with us



and upgrade or with fendering. Again, in terms of larger vessels being introduced that have been introduced and are being introduced, that would be no different. I can't speak on behalf TT-Line, but it would be no different for them. The fendering system would be matched to the size of the vessels that are coming in.

The automatic mooring units will hold vessels. Easterlies, because it's off the berth, it's pushing you off the berths, are the most significant risk. The automatic mooring units, once they reach certain limits, have to be augmented by mooring lines. Then if you're on a normal fendering system, which is mooring lines, you can then introduce storm bollards as well.

All I can say is that the rules cater for the size of the vessel and the size of the moorings, whether it be automatic mooring units and/or mooring lines. There can be, it is Mother Nature, extraordinary events every 100 years that are an exception to the rule. But that's the risk of the business globally, not just local.

**CHAIR** - In terms of the costs associated with repurposing Berth 1 or sharing Berth 2, that would have been part of the cost of ensuring, because they are bigger vessels and heavier vessels, that the mooring requirements would have had to be strengthened at least.

**Captain MICHAEL** - One of the theories of course was us to keep us in our original position. That would have meant that the fendering system with automatic mooring units that are on our berth could be used and there would be no change. Hence one of the theories of trying to provide protection between the hulls and see if we could do that, because moving that introducing new fendering or moving the automatic mooring units is no small feat.

In respect of the Number 1 Berth, that was never envisaged for the new *Spirit* hulls, from my point of view, they would have to have been concerns over the global strength upgrades and the fendering would, in one way, shape or form, have had to be enhanced on the basis of those hulls, of larger hulls coming onside that Berth. That would have been significant work. Number 3 Berth will be purpose built for those hulls.

**Mr SHELTON** - Good morning, Chas, and to your team. Fantastic to hear that you've got the confidence in the State that you're ordering a new ship. That's the first thing. When it comes round to the ministerial statement, and I can't remember exactly what the words in it were, but you guys have the practical knowledge on the ground. Surely nobody begrudges the fact from our Government's perspective that we needed to do some investigation into all the options. As you said, Chas, common sense has prevailed. But, are you happy with the amount of work that went into the decision that it's not viable and not economically feasible, and therefore the testing that went on through the process of making sure we're safe? I guess a question on that and the work that's gone into determining that nothing is going to happen for the new *Spirits* in Berth 1.

**Mr KELLY** - I think the frustration for me was that there was a lack of common sense in wanting to put them on Number 1. If they'd have gone to the right people initially before the announcement was made, they would have found out some of the risk that's involved let alone the cost. That's pretty well my view on it, Mark.

**Mr SHELTON** - Thank you. On the overall master plan that we've talked about, you guys ticked off on the original master plan. Any comments on that master plan and a couple of years down the track when you've another new ship floating in and out of the Mersey and

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there's two *Spirits* floating in and out of the Mersey about the opportunities for Devonport and the State on that?

**Mr KELLY** - The opportunity there is for us to get some more land to be able to work more efficiently and -

**CHAIR** - From Berth 1 area?

**Mr KELLY** - Yes. So once the *Spirit* has moved to Berth 3, that means it frees up the rest of Berth 1. We're looking forward to expanding our business into that. We see some opportunities there.

**CHAIR** - In terms of other opportunities, from my understanding, there was some expectation that berth would remain and be used for other vessels, perhaps smaller cruise ships, you are not going to get the really big ones in there, I wouldn't think. Are there opportunities for other shipping services or are you suggesting that SeaRoad would want to take over the whole area?

**Mr KELLY** - No, Berth 1 will remain as a common user berth. There's no problem there, but there's land there that we can use and use effectively.

**CHAIR** - Sure.

**Ms THOMAS** - In follow up to Mark's question, we're talking about common sense prevailing and the work that was done to explore all the options. You suggest that perhaps it was common sense. Would you say then that the work that was done to explore those options was a waste of people's time and money?

**Mr KELLY** - Well, if the questions have been asked earlier and people accepted those, then there's so much - and that's why I've got these people on today - there is so much involved here I don't know about, so I ask these people, they're the experts. The same as there are engineers in TasPorts no doubt. You've heard the comments about global strength of the wharf and fendering, the automatic mooring units, all that stuff, if you don't know about it, comes into play.

**Mr WILLIE** - The ministerial direction wasn't to go and find out about it, it was to deliver it. You could find out about it without issuing a statement at all.

**CHAIR** - Would that have been an option, Chas, in your view?

**Mr KELLY** - To go into Berth 1?

**CHAIR** - No, to find out, get some expert advice before issuing a ministerial direction.

**Mr KELLY** - Well, that again is available. We ended up going through all those things which we cooperated with and, as Stuart said, we did all the -

**CHAIR** - Expertise?

**Mr KELLY** - the simulations, sorry, brain fade, and it just proved it is too much risk.

**CHAIR** - But you knew that before the modelling was done?

**Mr KELLY** - Yes.

**Ms THOMAS** - Thank you. Based on your experience and the turn of events that have occurred here, what do you think are the lessons to be learned? That's really one of the things this Committee is exploring: what lessons can we learn to make sure something like this never happens again. The shipping industry is really important to Tasmania as an island. How can we put measures in place to make sure we don't see something like this ever occur again?

**Mr KELLY** - I'm not sure how you can put measures in place on politics, and really that's what it is. All these people are available, we spent countless hours, or our people have, cooperating in this. Again, it's investigate a little before you make a statement.

**CHAIR** - Which notionally is a cost to your business if you got to engage your people in tasks to deal with something that's not really anything to do with you other than to protect your vessels.

**Mr KELLY** - Yes. Another thing that I've said publicly, and you can look it up, is that if it's nothing to do with us, why should it cost us money?

**CHAIR** - That's right, and it has cost you money. Is that what you're saying? Have you got a bit of a ballpark figure of what it's actually cost?

**Mr KELLY** - No.

**CHAIR** - How many hours would your people put into this?

**Mr KELLY** - I'm not sure there, but there's been a lot of discussion. Stuart and a couple of our other Marine people have spent countless hours on it and it goes back many years, of course. We're not concerned about that now that we're not at risk.

**CHAIR** - Can I just go to a different area? One of the things that was raised more with a different Committee but also looking at matters related to TasPorts is the simmering conflict in some respect of the regulatory role that TasPorts has and there is a further extended email between TasPorts, EPA and MAST in relation to the regulatory role. Do you see there's a problem there with TasPorts being the regulator and employing the harbour master who does act independently in many respects, but TasPorts as the regulator?

**Mr KELLY** - Well, the harbour master has got - as I understand it, Stuart might back me up on this. As I understand it, the harbour master is the final is the decision-maker and independent, and should be, for the safety of everybody.

**CHAIR** - That's right, yes.

**Mr KELLY** - But I think regulatory wise, at my peril I will say it, that TasPorts tried to have us report to them on every single issue that was reportable to every other government department, which just act like a policeman. I think we've overcome that, Pat, the initial -

**Mr GUARINO** - Yes, I don't think TasPorts would mind us saying that our sticking point when it comes to our current lease is that we see TasPorts as the infrastructure experts. They do their job quite well, but they're not a regulator. There are other government agencies that are regulators, whether it be the EPA, whether it be AMSA, whether it be WorkSafe: that's where regulation need to be managed in control. TasPorts, in our view, is essentially an infrastructure provider. They do that well. Stick to your knitting and don't go into the regulatory space.

**CHAIR** - Do you think there's some issues here with TasPorts playing in that regulatory space because they clearly do at the moment?

**Mr KELLY** - As we say we report to AMSA and WorkSafe and every other government authority. Whilst we do that properly, in our view it's no business of TasPorts unless we do it wrong.

**CHAIR** - Yes, in another committee we had communication with MAST which has regulatory roles as well and this is the agreement between the three parties, TasPorts, MAST and the EPA continues to get extended, gets almost to the drop-dead date when it's going to fall over and there effectively will be no regulatory framework, and it's extended. Have you participated in those discussions at all, or had any input into it? Noting your concerns about the perhaps slightly heavy-handed approach of TasPorts in matters of regulation.

**Mr KELLY** - I haven't. Pat and Stuart, have you had any discussions with either of those?

**Mr GUARINO** - No I haven't. In regards to what you just spoke about, MAST, EPA and TasPorts reach an agreement of final death knoll, no, we have never been consulted in that respect, but we would certainly support that MAST should be in the harbour. MAST should maintain its independence. Now whether that can be done by being inside TasPorts, I doubt sometimes, but there needs to be some point of separation from a government's perspective.

I think that's probably part of the issue that brought us to this table today. That is, it's not so much about whether TasPorts, TT-Line and TasRail should be one big organisation. It is probably more about governance and where that broke down with respect to the relationship between TT-Line and TasPorts. I think that's where it starts and finishes.

**CHAIR** - If I take that a little bit further then. The Committee and another committee have heard about some of the failures of governance. Is this more the crucial factor to fix in this story, which the PAC is looking at in terms of the procurement and delivery of the new *Spirits* and related infrastructure? It's more the governance frameworks and the accountability and transparency process here? If that was addressed as a priority, do you think that would be one factor that would be seen as a preventative approach to these sorts of problems happening in the future?

**Mr GUARINO** - That is certainly my opinion.

**Mr KELLY** - I don't understand why people can't cooperate because that's really all that was needed here. TasPorts is blaming TT-Line, and TT-Line is blaming TasPorts. I don't know why they couldn't - and the Minister said go and play in the sandpit.

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**CHAIR** - It's not entirely a helpful comment if there's a major communication breakdown, wouldn't you say? Surely there should be - if the Minister is required to make that sort of comment, do you think a more structured approach from the Minister in terms of the governance of the two organisations should have been progressed with?

**Mr KELLY** - I think that's obvious now, but it didn't happen, did it?

**CHAIR** - No. Mark, have you got any further questions?

**Mr SHELTON** - We've talked about the cost, wharfage costs, and that sort of thing for Chas and his team. Of course, you operate out of Tasmania into Victoria. Can you give us an indication of what the charges are on the other side of Bass Strait - similar or substantially different?

**Mr KELLY** - That is a packed question, mate.

**Mr SHELTON** - Where are those charges? How do we compare?

**Mr GUARINO** - When you're dealing with a monopoly called TasPorts, and then you do it with another monopoly called Port of Melbourne, you're pretty much a price taker. That's the problem. Look, the wharfage charges are probably comparable. I will say that TasPorts is possibly a fraction lighter, but they're comparable.

**CHAIR** - I think all shipping companies are saying the same thing, the ones I've been talking to.

Well, thanks very much for your appearance today. Chas, is there anything you wanted to say to the Committee that you think I really should say that before I leave?

**Mr KELLY** - No, we're here because we're in the river, no real reason apart from people putting us at risk. That was our argument all the way. I think and I hope now that common sense has prevailed.

The only thing I'd say is, I've suggested they should lease the new *Spirits* out while they're finishing the wharf. I did hear there are some components that don't comply with European regulations. I only heard that and don't know if it is right, wrong or indifferent. I still think that would be an opportunity if it was available. There's hundreds and hundreds of these ferries running around Europe and the same people that TT-Line deal with. That would have been an opportunity to save us, I don't know whether it's \$100 million or \$150 million.

**CHAIR** - On that Chas, if I might, just to keep you for a couple more moments. You may know if you're buying a new vessel, if you did that, would that void any of your warranty provisions?

**Mr KELLY** - The fit out?

**CHAIR** - No, the ship itself, like if some harm came to the vessel, it wouldn't void that? We also understand that the *Spirits* were due to come to Tasmania prior to going into service in Tasmania for fit-out of local items like mattresses, kitchen equipment, table tops and a whole range of other things. One would suspect that those things are not in place on the ferry. For it

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to be leased out without coming out to Tasmania to get the Tasmanian content that has to be put in over in Europe somewhere, then what happens to that commitment of Tasmanian fit-out? Would it be suitable to continue when it would have been pulled out and replaced?

**Mr KELLY** - You could pull it out and replace them. We were not talking much money when you talk about if a shipyard fits it out. You know one of my great disappointments was when - and good for the Launceston firm that made some deck fittings and shipped them over there - but the shipyards, they turn them out by the thousands. They are there every day. I just see that as - I don't like being treated as a fool and I think if you look at that sort of stuff it's just nonsense.

**CHAIR** - Do you think it's more politics at play here than the commitment to that? I think it was \$100 million of Tasmanian content, yes.

**Mr WILLIE** - It says \$60 million is the LNG gas.

**CHAIR** - But there was the \$100 million of local product being put into the vessels once they arrived here. Is the political risk of not delivering that too great for them to consider leasing?

**Mr KELLY** - You could have them fit them out in Finland. When they get here, take it out and put it back in. It would still be beneficial to lease them out rather than leave them there, in my view, having been involved in and watching ships being built.

**CHAIR** - Wouldn't that be a bit wasteful, though, to take out a whole heap of internal items? I don't know what you do with them, repurpose them? Maybe put them in - I don't know how many mattresses, but you could put a new mattress in every public house, I guess.

**Mr KELLY** - Well, that's an option.

**Captain MICHAEL** - May I just say, wouldn't it be a simple matter that this equipment, these items, would be ready. If they are disposal items such as table tops and mattresses that I'm hearing here, just send them to the vessel and have them put in?

**Mr KELLY** - Yes, another one of my suggestions was pack it all in containers, send it over to Finland with 25 people, send 25 Tasmanian tradesmen over and -

**CHAIR** - For the fit out.

**Mr KELLY** - Fit it out over there, makes no difference, a few airfares, which is fine. Talk about the waste. If you were to do it there, bring it here and take it out and change it over. That's a lot less waste than leaving them sitting idle for 12 or 18 months, two years, again, in my view.

**CHAIR** - No, no, we're interested in your view. You're an experienced person in this field, not as much running ferries, but certainly doing shipping and freight. I appreciate your thoughts on that. It's helpful to hear the thoughts of people experienced in the sector, so, thank you. Did either of you two on the screen want to add anything before we finish?

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**Mr GUARINO** - Not from our point of view. I think we touched on - the governance is probably where it all fits. Get that right and I think we can avoid this mess again.

**CHAIR** - Thanks very much for your appearance today. We do appreciate it. I don't think there's anything we're going to send on notice. If there's anything else you wish to share with the Committee at later time, or thought we really should have told the Committee that, we're happy to receive it. Otherwise, we thank you for your time today and that of your team. Very good. Thanks.

**Mr KELLY** - Very good. Thank you all.

**THE WITNESSES WITHDREW.**

**The hearing concluded at 10:36 am.**