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STANDING COMMITTEE ON TRANSPORT AND REGIONAL
SERVICES

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MELBOURNE

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HOUSE OF REPRESENTATIVES
STANDING COMMITTEE ON TRANSPORT AND REGIONAL SERVICES

Wednesday, 28 April 2004

Members: Mr Neville (*Chair*), Mr Andren, Mr Gibbons, Mr Haase, Ms Ley, Mr McArthur, Mr Mossfield, Ms O'Byrne, Mr Schultz and Mr Secker

Members in attendance: Mr Gibbons and Ms O'Byrne

Terms of reference for the inquiry:

The committee will inquire into and report on the impact of the Productivity Commission Report on the Economic Regulation of Harbour Towage and Related Services in respect to the nation's ongoing capacity to provide a defined level of salvage capabilities and cover for all Australian Waters.

The report will have regard to:

1. The three tiers of government's responsibility to provide salvage infrastructure;
2. The inclusion of a defined level of salvage capability in harbour towage service agreements;
3. The provision of relief tugs when salvage tugs are engaged in a salvage operation;
4. Minimum standards of salvage tug safety, training and operational capability;
5. The need for public interest obligations to release tugs for marine emergencies.

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Committee met at 10.24 a.m.

BENDY, Mr Paul Raymond, General Manager, Oceans and Terminals, United Salvage Pty Ltd

BIRCHMORE, Mr Alan Gordon, Chairman, Mermaid Marine (Australia) Ltd

BLACKWELL, Ms Susan, Executive Officer, Association of Australian Ports and Marine Authorities Inc.

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HATCH, Ms Teresa Lynne, Operations Manager, Ship Safety, Australian Shipowners Association

HOSKISON, Mr Ian John, Salvage Manager, United Salvage Pty Ltd

McGOOGAN, Mr John James, Area General Manager Australasia, Inchcape Shipping Services Pty Ltd

PAYNE, Mr Lachlan, Chief Executive, Australian Shipowners Association

PHILLIPS, Mr Michael, Managing Director, Shipping Australia Ltd

RUSSELL, Mr Llewellyn Charles, Chief Executive Officer, Shipping Australia Ltd

ACTING CHAIR (Mr Gibbons)—I open this roundtable discussion as part of the committee's inquiry into maritime salvage. Thank you for making yourselves available today for what will be an informal but very important discussion. I apologise for the absence of the committee chair, Mr Paul Neville, who has been detained in his own electorate due to unavoidable circumstances. The member for Bass, Michelle O'Byrne, has an interest in the subject. I think her partner is a mariner.

Ms O'BYRNE—We care about people being saved at sea!

ACTING CHAIR—So we are not totally without expertise on this particular committee! The inquiry is at a pretty early stage. We are just beginning to gather information, and I am sure that the discussions today will be very informative. We would like you all to speak very frankly and very fully and to have plenty of discussions across the table. Do you have any comments to make about the capacity in which you appear today?

Mr Bundy—I am the general manager of Australian Maritime Services, a towage provider on the east coast of Australia.

Mr Bundy—I am the general manager for oceans and terminals within Adsteam Marine. I am responsible for salvage within that group.

Mr Hoskison—I am a director and salvage manager of United Salvage.

Capt. Cole—I am a consultant that specialises in harbour towage and salvage.

Mr McGoogan—I am the general manager of Inchcape Shipping Services and a director of Shipping Australia Ltd.

Mr Birchmore—I am the chairman of Mermaid Marine Australia, which is an integrated oil and gas supply based business. We run about 18 vessels and barges on the North West Shelf, operating out of Dampier. I am also the chairman of the Albany Port Authority.

ACTING CHAIR—There are five areas that we wish to discuss, and we will try to get through each in about 30 minutes. The first is the question of salvage or emergency response, and then we will go onto the area of salvage capability. At around 11.30 a.m. we would like to talk about legislation and jurisdictional authority and, at around midday, places of refuge. After a break we will come back and deal with some security issues, and around one o'clock we will have any concluding comments. My colleague had some comments that she wanted to get on the record. I am not sure whether they can come at the beginning—

Ms O'BYRNE—I can probably do them as we go through.

ACTING CHAIR—All right. We will start with salvage or emergency response. This committee spent some time in WA last week looking at the port in Fremantle, and also up in Dampier, and one of the matters raised was whether they are separate issues—whether salvage is one particular area and emergency response is separate. Some people believe that they are intertwined, so we might spend some time discussing that. I will throw it open to the floor to get some ideas of how individuals feel about the issue of separation and why.

Ms O'BYRNE—Harbour towage is a third issue. In that sense, three levels have been presented to us. We have had a look at the operations in Dampier with Mermaid Marine, so we have a bit of an idea of what is happening up there.

Mr Phillips—Traditionally tugs based in Australia have been harbour tugs, some with outside capability; that is, they have the capability to go out and do salvage work. Those particular tugs have had specific things built on them so they can go out and rescue ships. You also have a situation with the emergency response where something has happened either in the port or just outside the port where the harbour tugs can go and look after those vessels that may have got themselves into a bit of strife. Then there has been another capability, which is outside towage, as in taking a barge or a vessel from one port to another point. All of those have been accomplished by vessels in the port that either have the outside capability or not.

Mr Bendy—I would say that they are all very clearly linked as being an operation with one dependent on the other. We do not actually see salvage or emergency response as being tugs; it is far more than tugs. Tugs are only one piece of equipment at the disposal of a salvor or a person involved in an emergency response who might try to correct the situation and perhaps remove a ship from some risk. So it is about people, it is about equipment, it is about tugs, it is about training people and keeping those people qualified. We really do see that the emergency response category can take in a lot of different aspects. One of them is salvage, one of them

might be emergency towing, but it is all part of a continuum and there is really no clear delineation except for an ocean towing exercise. That may be different but it does depend on the circumstances at the time and what is actually involved in removing the casualty from the danger. As I said, we really do not see that there is a clear line of distinction between each one of those and a lot does depend on the circumstances at the time. Another part of it is also wreck removal, which can be a completely different exercise.

I think the important thing to remember is the skills that you need to build up. A successful emergency response, a successful wreck removal or a successful salvage can be one and the same and the opportunities to actually keep that level of expertise in a country as large as Australia are becoming more and more difficult. That may be as a result of the maritime industry just getting safer as time goes on. That may be as a result of organisations like AMSA and what they are doing in trying to ensure that safer ships trade into this country. I am not going to examine which might be the cause; there are probably many causes. The fact is that it really does depend on the circumstances. I do not believe you can sit here and say they are separate or they are all combined. You have to look at each separate incident to determine exactly what is involved.

Mr McGoogan—Inchcape Shipping Services is a shipping agent, which means that we represent foreign shipowners coming to this country. The foreign shipowner sees clearly a division between each of the items that we are talking about. Salvage is an issue which comes into play when a salvage contract is awarded to a salvor. That supplier can be offshore or onshore. Harbour towage is a contractual arrangement between the towage provider and the shipowner, usually by way of some contractual arrangements under a contract of towage. Emergency response is very different. It is outside of that and is clearly in the area of the port authority.

Capt. Cole—On your initial question, from a professional salvor's point of view I think those professional salvors sitting round this room would not see a difference between emergency response and salvage; they are one and the same thing for me. How you differentiate between an emergency response and a salvage is probably to go down to the contractual arrangements between the contractor and the ship that is in difficulty.

In terms of harbour towage, in Australia we are facing a changing environment. With the pressure for downward pricing, of course, we are now introducing into Australia tugs that are suitable for harbour towage only—that are not suitable for salvage or emergency response except within port limits. I guess this is why this meeting is so important. In the end—and let us not be cute about this—salvage and emergency response can be provided by a tug and all the things that Adsteam Marine mentioned, including the trained personnel, or it can be provided by the offshore industry. There is no reason the offshore industry cannot provide that, and in my paper I have suggested that that is so.

So I would say to you that, in terms of the future for Australia in harbour towage, more than likely we are going to see a division appearing, where we have tugs that were traditionally able to play a dual role of both harbour towage and outside emergency response being supplemented, purely on a cost basis, by tugs that can do only harbour towage. Then we have to answer the question: how do we look after emergency response/salvage outside the port?

Ms O'BYRNE—I know you want to touch on that. Without going into the responsibility of who pays or where they are placed, does everybody sitting around this table agree that Australia must have responsibility for salvage or is there a view that it can be sourced from Singapore or wherever else? I am just trying to get a view of where our baseline might be.

Mr Phillips—You can source it from anywhere you like.

Ms O'BYRNE—But do you think Australia should have an onshore—

Mr Phillips—No, because you are usurping the rights of the owner to decide which vessel or contractor he wants to undertake the rescue of his particular vessel. If his vessel is in the north-west of Australia somewhere, and obviously he can get a tug or facilities from Singapore at a cheaper rate than it may cost in Australia, then that is his right. At the end of the day, unless the authorities step in and say, 'You will do whatever we tell you to do'—and that is a different scenario—at the moment the owner is the one who has the right to call on the market for somebody to provide that service to rescue his vessel.

Mr Hoskison—That is correct, and there is nothing wrong with that.

Mr Phillips—No.

Mr Hoskison—And just 5,000 miles away, at the bottom end of the Barrier Reef, is a different kettle of fish.

Mr Phillips—Precisely, yes.

Mr Payne—We think Australia does need its own salvage capability, for practical reasons. There are two areas that can be identified. One is the provision of a salvage capability that is commercially viable for the provider of that capability. History shows that there have been ports in Australia that have been capable of sustaining the capital investment in salvage capable equipment. The evidence is the retention of that equipment up until quite recently in ports—and there are a number of ports, but primarily the ones that come to my mind are Brisbane, Melbourne and Fremantle.

Mr Phillips—And South Australia.

Mr Payne—Putting that aside, the experience also shows that when casualties have occurred those vessels have been capable of dealing with those casualties as they have occurred. There have been a lot of instances, as has been mentioned, where offshore vessels have responded in an emergency response role. Our belief is that today's emergency response is probably going to be tomorrow's salvage job. A recent example—in fact, in the last week or so—is a ship called the *Harmonic Progress*. She was taken in tow by what, I think, was essentially a harbour tug and when the salvage capable vessel was able to reach that vessel she was taken in tow by the larger vessel and towed to wherever she went. We think that is an example of the system working, if you like. In other words, a casualty was averted by an emergency response capability.

The second category—and I am sure this will be elucidated more fully—is the circumstance in which a salvage capability or an emergency response capability is perceived to exist in ports

where it is not viable for a commercial operator to provide that capability. I would like at some later point to come back to the commercialities of the ports where it has been viable for salvage capability to be provided. In the ports where for some public policy reason a salvage or emergency capability response is deemed necessary to be provided, it is our belief that comes within the realms of community service obligations.

Ms Blackwell—Mr Payne has highlighted a particularly relevant point—that is, the distance that Australia lies from overseas providers of salvage. There may be a time factor involved which will enable overseas vessels to come down and assist the ship, and the *Nottingham* was a perfect example of that. The British Navy were able to go out and put a contract to tender, so there was a lot of the time there. But the *Harmonic Progress* is a very interesting example, because it occurred on the coast of Queensland, which has its own peculiar sensitivities, being of course the Great Barrier Reef. Then, of course, you also have the Ningaloo Reef over in WA and the delicate fishing grounds not only around Tasmania but in a lot of areas around Australia. Those areas might require an instant response. To answer your question: I think it is highly desirable for Australia to have its own salvage and emergency response capacity; it is where you place it that I think is the most important thing.

Mr McGoogan—I would like to make the point again that salvage is a commercial venture. The picture of salvage changes considerably when there is pollution. The *Doric Chariot*, which went aground on the Barrier Reef, was a commercial venture. The owners of that vessel initially sought salvors from offshore Australia rather than onshore Australia but eventually contracted with an onshore Australian company. If, however, that vessel had, in the case of going aground on the Barrier Reef, breached one of its tanks, which in turn allowed oil to spill on the Barrier Reef, then the intervention powers of the Commonwealth and state would have come into play, and it would have been a totally different picture. Therefore, salvage is a commercial venture. We are hearing across this table the vested interests in the commercial venture. The foreign shipowner always wants to get the best deal he can in a salvage operation.

Mr Bendy—My point was about whether Australia needs a salvage capability, and I most definitely believe it does. I believe it would be political suicide for the politicians of this country to come out and say it does not. Through whatever mechanism—I am not arguing how we maintain a salvage capability—Australia needs a salvage capability. New Zealand is fortunate in that it is close to Australia. Australia's nearest neighbour is 10 to 15 days away in steaming time. Every situation does not allow 15 days to sit there bouncing up and down on the Great Barrier Reef before somebody will come along and assist that vessel and remove that vessel from the dangers and risks it may have got itself into.

The *Harmonic Progress* has been mentioned here a few times this morning, and we were the company that responded to that. We responded to that incident on the basis that AMSA had contacted us and told us of the vessel and the situation. We assessed that and, before we had any idea whether or not we would be able to get a commercial contract out of that vessel and go and save the situation or remove the casualties from danger, we deployed two tugs, one from Townsville and one from Brisbane. I was the one who said that we should do that, and in the end I was quite satisfied that even if somehow that ship got itself out of danger it would be a good enough exercise within our own company—it would be a worthwhile exercise—for us to do that. That would cost us a lot of money, but so what? It would be worth the training and the exercise.

But the situation did change and, by the time we got there, the ship was about 20 hours off the reef, fortunately—only due to the weather abating at the time.

ACTING CHAIR—If you are faced with a situation, who determines whether it is an emergency situation or a salvage situation?

Mr Hoskison—The facts. You saw the definition of salvage earlier—Mr Brice’s very useful quotation. The facts determine the situation. If, after the event, it is found not to be salvage, then you will not get paid on a salvage basis.

Mr Russell—I want to go back to that earlier question about whether we support Australia having salvage capability. Shipping Australia does. I think the point is that the owner should have the option of sources of salvage capability other than Australia, but we support an emergency response and salvage capability in Australia, particularly in the new security environment we are entering. In relation to the differences, I think there are a lot of them. Obviously a salvage capable tug can be an emergency response tug, but an emergency response tug may not be able to do a salvage job.

Maritime Safety Queensland is undertaking a review of the emergency response on behalf of the Queensland government. The Australian Maritime Group, which comprises representatives of state and federal departments or their equivalent in relation to transport, are undertaking their own review of emergency response throughout Australia. Your committee is looking at both. We see them as inextricably linked, but there are important differences. One of the differences is really a matter of time and holding an emergency ship—when it can be decided what is going to happen to it and whether it becomes a salvage or it is resolved by being towed into port. Only very recently a ship without engine power at all was towed into Sydney Harbour. That is a type of emergency response. One of the challenges in the emergency response issue is what you do with the tugs that may be taken out of a port. That is the same with salvage. Both of those issues are of concern to us, and we would direct the committee to look at how we try and resolve them.

Mr McGoogan—On the question of emergency response and salvage, I want to try and make sure that you have got it clear in your mind where we are with it. I can receive a message from a vessel at sea which has an emergency. That could be an appendicitis of a crew member. My way of reacting to that would be quite different to how I would react to a vessel that had a tank which was leaking or a vessel that had an engine breakdown. To some degree I agree with Paul that they are mixed, but one tends to lead into another. We can find ourselves initially in an emergency response where a vessel has difficulty at sea, and therefore we react to that in terms of what resources we need to supply to that ship. In the event that that vessel comes into collision with another vessel at sea or goes onto a reef or requires assistance from a salvor, the owners of the vessel will then have the right to enter into a salvage contract for the purposes of salvaging the vessel and cargo. So it must be clear in your mind.

Ms O’BYRNE—Could I just run through a couple of potential examples. We are just trying to get an idea of where the call would be made. In the case that the *Iron Baron* runs up on Hebe Reef and oil leaks, immediately everyone identifies that that is a problem. A fire in an engine room is best dealt with by the ship. At what point could the company say, ‘Bugger off! I’m not going to pay you salvage. We’ll just muddle through this ourselves’? I guess we are wondering at what stage a decision is made for a shipowner when the situation goes beyond just the

responsibility of the shipowner to a larger responsibility. That is what I think we are trying to get a time handle on.

Mr Hoskison—I could answer that because we have looked at that quite extensively. The Australian government has a responsibility in the EEZ. The government has the power of intervention within the EEZ if a vessel is a threat to navigation or the environment. That is really the overriding sanction, I suppose, that is determined by the government rather than the shipowner. So if the shipowner, in the opinion of the government authorities, is making the wrong call on the basis of all the information made available then the government has the right to intervene. The salvor does not. The salvor is quite right—the salvor can be contracted or told to go away. But if he is told to go away on the wrong basis, according to the government, then the government will intervene and has threatened to do so very occasionally, not often.

Capt. Cole—To answer your question about Hebe Reef, the *Iron Baron* was a salvage.

Ms O'BYRNE—Yes, and clearly so.

Capt. Cole—Yes, it was clearly a salvage.

Mr Hoskison—No, it was not. It was scuttled.

Ms O'BYRNE—Yes, it did get scuttled.

Capt. Cole—The final outcome was the scuttling.

Ms O'BYRNE—We did get some of my friends off first, so that was good.

Capt. Cole—But, clearly, at the start it was a salvage. The agreement was between the salvor and the ship's owner—in this case, BHP. In the case that you have mentioned, with an engine room fire, it becomes problematic.

Ms O'BYRNE—That is what I am trying to get at.

Capt. Cole—How you can define whether it is an emergency or a salvage, in the end, in my view, breaks down to what negotiations take place between the emergency responder or the salvor and the vessel owner and underwriters. A salvor would like it to be a salvage and will then sign, in most cases, an appropriate salvage contract, but in some cases they cannot get that and so it is better that they use some other form of contractual arrangement to provide the response. In that case I would say, because no salvage contract was signed, it becomes an emergency response, which is covered by a contract that is clearly not a salvage contract.

Mr Phillips—And that prescribes a daily rate of pay.

Capt. Cole—It can, or a lump sum.

Mr McGoogan—An example—and I think that is the best way to deal with this—is a vessel at sea, proceeding from New Zealand to Australia, finding that they have an engine room fire. The master of the ship will usually contact his owners and his agent, and he usually will attempt

to fight that fire himself and rectify the position on board the ship. At that point the ship itself is not in danger, the cargo is not in danger and the persons on board are not in danger, so it can be dealt with. In the event that the vessel's engine cannot restart because of the fire then, in turn, the owner of the ship will enter into a salvage contract with a salvage service and have the vessel towed to an appropriate port. If, however, the vessel has collided with another vessel while in passage from New Zealand to Australia, that is a very different thing. On the question of intervention, which Ian has spoken about, the intervention powers of the Commonwealth and the state immediately come into play—

Mr Hoskison—Only in the EEZ.

Mr McGoogan—in which case a determination is made.

Ms O'BYRNE—What happens outside of the EEZ?

Mr McGoogan—It is in international waters.

Ms O'BYRNE—Yes, I am aware that it is in international waters, but what happens? What do you do?

Capt. Cole—It becomes a commercial arrangement.

Ms O'BYRNE—It becomes a completely commercial arrangement on the basis of the shippers.

Mr Birchmore—I would like to make a comment. It seems to me that there are some varying views around the table which probably have a common core. I have been listening carefully and I see that the Commonwealth is probably seeking comfort on the capability around the coast—what happens if certain things happen? There have been concerns expressed about the rights of the shipowners to act in their own interests so long as it does not cut across Australian interests. The comment was also made that salvage is a commercial venture. It seems to me that there is a great depth of capability around the Australian coast already but perhaps that could be enhanced by effectively auditing capability port by port or region by region. Auditing vessel capability is not an unusual thing: we are audited on a weekly basis by Woodside, Chevron, Apache and so on. Vessels must be kept up to standard. Most of those in the north-west do have seagoing capability because of the nature of the work up there: the work is not just in-harbour; it goes out to platforms and so on.

At this early stage of the morning I would make a suggestion as to the first thing that the Commonwealth could do. I see that you are doing the right thing by touring around, but I think that probably needs to be enhanced with auditing. Once an audit process is done—and I would not see the Commonwealth blessing one particular operator in any one particular port—if a company wanted to put its name forward to be audited, it could do so. Capability and backup could be understood and, if you like, a register compiled as to what the existing capability is. The reality is that it takes time for a ship to get to salvage. That is our experience and also that of our cousin company, which is Semco out of Singapore. The Port of Singapore are our largest shareholder; they own Semco, which is a salvage company, 100 per cent. They find that from the time that they first make application or first show interest in a salvage to the time when the job is

actually allocated to them generally takes about a week. In the meantime there is work that needs to be done keeping the ship safe, keeping it off rocks or from other danger and harm. Around the Australian coast the chances are—which I think should be determined by audit—that that first level of response can be attended to, but it should be audited and it should be part of a register.

Ms O'BYRNE—Going on from that, we have spoken a lot about the physical capacity of ships to perform. You talk about doing auditing and we talked about where you would source them and why you would source them. One of the things in the Australian industry is the argument about whether or not we have skills capacity in people—whether we have enough trained people—because of the nature of our seagoing life now. Ports are identifying that they are going to struggle to source the types of skills that they need, as we have an ageing capacity. Is training and capacity of appropriately trained people an issue for salvage as well? I have got the AMC in my electorate, so I have a particular interest in everybody being trained lots in Launceston.

Mr Birchmore—I would agree with that. I think that part of the audit process should be in skills and people.

Ms O'BYRNE—Yes, but you would need to make an analysis from that.

Mr Phillips—In my experience, traditionally the towage owners who have outside capable tugs have a hard-core bunch of people who are trained and have the skills to take a tug out to sea and to tend to the necessary requirements. They often supplement these with people from a roster or from other sources to make up some of the numbers when they go outside. Once they are on a job—and depending on the circumstances and where that particular vessel may be—they draw upon the resources that are then available either locally or from backup teams that they have organised over a period of time. So from that point of view—and I would dare say they would have those facilities already within what they are doing today—it would continue on. Again in my experience, as far as the tug that has left the port is concerned, the operator makes provision to utilise crew that are off on leave to come back and continue the roster, with a fewer number of tugs in the port. The port continues—maybe short one tug—with a fewer number of tugs, albeit they have the crews working through the tugs to provide facilities whilst that tug is away.

Ms O'BYRNE—That still assumes that that staffing capacity exists. When we were in Dampier, they said that they had significant issues in trying to get people just to work on their normal roster, let alone a backup roster. That is Dampier and maybe that is why—I am not sure—but that is still a significant issue.

Mr Phillips—Again, you have to go back to the sources of what has happened in Dampier and those places. Traditionally, in the old days, those ports had everybody working within the ports, whereas today a lot of them just fly in, fly out, so that is what they are there for.

Ms O'BYRNE—But that is the nature of the industry.

Mr Phillips—It is the nature of the way the industry has changed. Again, the last incident in Dampier was back in the sixties or seventies, I think, when a ship went aground. They called

upon the resources of the tugs in the port—one from Port Hedland and one from Fremantle—to refloat the vessel.

Ms O'BYRNE—They have also implemented a right ship policy.

Mr Phillips—I am not sure about that.

Ms O'BYRNE—When we were in Dampier, they talked about the fact that they are actually quite careful about the ships that they now allow into their port. They do assessments on 'right ship'.

Mr Phillips—As a vetting system?

Ms O'BYRNE—Yes.

Mr Phillips—That applies Australia wide. It is just not unique to Dampier. Most ports have that policy in place.

ACTING CHAIR—Is it an industry that attracts people to go in and train to be able to perform a task? How do people decide that they want to work in the salvage industry?

Capt. Cole—In Australia?

ACTING CHAIR—Yes.

Capt. Cole—The difficulty is—and I am not sure how many people here have actually been on a tug at sea—

Ms O'BYRNE—They are vile.

Capt. Cole—that they are the most uncomfortable vessels that probably ever go to sea. A lot of professional seamen out there get very badly seasick and do not put their hands up for this role. To answer your question, there is a shortage of seafarers—

ACTING CHAIR—Yes, that is what I was thinking.

Ms O'BYRNE—Full stop.

Capt. Cole—full stop. Next question is: how many are involved in salvage? Very few of them have a lot of training, because at the top end they are all getting greyer and are leaving the industry.

Ms O'BYRNE—Is it in-house training for salvage?

Capt. Cole—Most of it is in-house. Probably the best area to get training is at the coalface, when you do it, but we do not do enough of it.

Mr Hoskison—Certain courses are run at the AMC: a tanker course, a safety course and a firefighting course.

Ms O'BYRNE—But they are generic courses.

Mr Hoskison—Yes, that is right. They are particularly important to our people.

Mr Payne—The towage and salvage industries in Australia are not the only sectors that are suffering from maritime skill shortages. There is a whole range of other maritime related activities that are suffering the same dilemma. The shipping industry in Australia, which comprises the employers of seagoing labour in Australia, is taking steps with the federal government at the moment to try to amend certain aspects of the Income Tax Assessment Act, which in the Australian shipping industry's view would substantially increase the potential for recruitment and training of young Australian men and women for careers in the Australian shipping industry, and we are progressing that with the federal government at the moment.

I just want to pick up on one point that was made by a previous speaker where reference was made to a roster. I am not sure whether the reference was to internal rosters of individual companies or to what used to be known as the roster in the industry by which ratings—that is, seafarers who are not officers—were allocated to vessels. I just want to make sure for the record that it is clearly understood that that no longer exists and that seafarers who are not officers are recruited, trained and engaged independently by direct employers, including towage and salvage operators.

Mr Phillips—My comment there was internally.

Mr Hoskison—I would like to touch on a few points that have been raised by other people.

ACTING CHAIR—Are they in relation to salvage capability?

Mr Hoskison—Yes. Firstly, the thing that has not been touched on by anybody is how we are going to address the trend of salvage capable vessels being lost, as with the *Gurrong* and the *Redcliffe*, and being supplanted with port-only capable vessels. I am not suggesting that I have the answer to that; I am just saying that nobody has addressed it.

Capt. Cole—I have in my paper.

Mr Hoskison—Well done.

Mr Bendy—We have not seen it.

Mr Hoskison—With emergency response/salvage we have to remember that there are other interests. There is insurance industry interest for the fact that not only is it the insurance industry that pays but also vessels that venture forth on salvage operations have to have the correct insurance arrangements. This is the problem with ports suggesting that they can order tugs to do anything they like, even within their port limits. They cannot, because they are not insured for it. There are liabilities involved which are quite complicated. There is also the matter that you cannot contract salvage crew out of their claim for salvage remuneration. Salvage is a fact, as we

have seen. If it is salvage, if it is to remove a vessel from a danger, either financial or physical, immobilisation is a danger. A vessel aground, such as the *Mirande* in Melbourne, is in danger, if only of seriously long immobilisation and loss of moneys to the owner. Dale touched on something with which I thoroughly agree: that the differing dangers—the emergency versus the towage versus the salvage—are differentiated commercially by way of contract. Dale explained that.

With regard to the seaworthiness of port tugs, sometimes they are not even capable of operating in the far vestiges of the port limits, because they are outside. Gladstone, in the outer limits, is a case in point. Fremantle would be, outside the harbour. The offshore industry is useful up to a point. We have used oil field supply vessels. We did on the *Jody F Millennium* over in New Zealand. It cost us \$US46,000 a day to hire one and then they took it away after a week. So it is a limited option. Their priorities are not with salvage; their priority is that very expensive oilwell. That comes first. As for *Harmonic Progress*, there was some talk that it was an emergency response leading to a salvage tug—which was then salvage. It was a seamless operation. We sent two tugs, as Paul has mentioned. We look upon Townsville as being possibly an underresourced salvage capable area, because such a lot of vessels in that part of the Barrier Reef get into trouble. We have to look at Townsville a little more closely.

The *Doric Chariot* went out on the market and they were told a lot of fables by various European salvors, but what was really required was more than one tug. They were looking for big horsepower. It was not a big horsepower operation; it was a control operation. We needed more than one tug. We had to wait till the *Redcliffe* got there from Brisbane before we could effect the refloating safely. That is about all I picked up. There was something about keeping things off the rocks. That is salvage. It does not matter what sort of language you use. Holding a vessel that is going to venture into danger is salvage. You might not contract it under that basis.

Ms O'BYRNE—We have a number of sections to look at and I am conscious that the acting chair wants to move through them. We have some difference of opinion at the table about whether or not Australia needs to have a specific salvage capacity. Working on the theory that there is a decision that it does need to do that, I guess the next step is to say, 'What are the financial implications of that?' Shipping companies obviously do not want to pay for huge towage expenses when they are in port if they do not have to. They want something cheaper. Ports have an interest in whether or not they should be lumbered with it, and the federal government needs to make some decisions about its responsibility. I guess I would like some feedback. Should the Australian government say, 'Yes, we believe there should be a capacity'? Where do you then see the responsibility for costs lying?

Mr Phillips—I would like to make some brief comments. Firstly, I would like to just go back to a comment made previously about a tug being taken out of Australia and relocated to England or wherever it went. Presently in Australia there is a salvage capability from different tugs around the coast. Four of those tugs have been in existence since the 1980s; those tugs are still in operation in Australia. Those tugs are still in the traditional ports where they were introduced back in the eighties. So it is not as if they are brand-new salvage tugs sitting around here chewing up lots of dollars. Sure, the capital cost of those tugs when they were introduced was high compared to what the port tugs were at that time. But we are 20 years down the track now, so they would have been written off unless there were some other arrangements when the company was floated off under a new guise. I am not sure what the capital cost was at that point.

Even if you take the holding costs of those vessels and allow for a differential, we are not talking about a huge amount of money to maintain those vessels in Australia. I do not know what has happened to the company since it was floated off, but the reality is that, even if you allow \$1 million or \$2 million per tug for the extra salvage equipment, times four, you are talking about \$8 million written off over 10 or 15 years or whatever. What sort of figures are we talking about and how is it funded? When they do a salvage, there is a reward for doing those sorts of things. If they do a contract tow, an emergency tow, there is a reward for doing those things. Obviously, money for capital costs is written into it because the actual added costs for putting that tug out to sea would be recovered through the charges to the client for that particular work, be it a salvage job or a contract tow and so on.

So the only additional cost that you are looking at is the holding cost of that vessel because of the capital costs to have that equipment on board. In terms of how you do it and who pays for it, you may want to look at the most recent example of that, which is what has happened in England, and I would commend to the committee that they talk to people in the UK to find out exactly how they went about it and the arrangements they came to.

Ms O'BYRNE—I would say that they probably have a slightly different coastal surveillance area.

Mr Phillips—Yes, but it is still the same principle in terms of what you are looking at. You are saying that Australia must have a salvage capability, and nobody denies that we should have one, but the issue is how you fund it and what goes into the pot to make it all work to keep the operators and the shipowners happy and so on.

Mr Russell—I want to go back to the issue of who pays and also our resource area for salvage and emergency response tugs. Shipping Australia, in its submission to the Productivity Commission inquiry into economic regulation of harbour towage and related services, made the point that we saw exclusive—and they could actually be non-exclusive—licenses requiring at least one of those tugs in certain specified ports being salvage capable and/or emergency response capable, or both, as a way of ensuring their employment in a towage capacity as well as their ability to go out and undertake a salvage job. Again, that raises the point of what happens when those tugs are employed elsewhere. We have tried to cover that to some extent in our submission by suggesting arrangements can be made between ports and between companies, if need be, to resolve it.

So there may not be that massive additional cost that we have talked about in relation to these resources being made available. But one of the things we need to be clear about is the difference between emergency response and salvage. The *ANL Excellence* in Brisbane ran aground near the main channel. The harbourmaster was concerned and asked for two tugs to go and put lines on the ship to secure it. It floated off four hours later in high tide—it got itself off the sandbank it ran onto with the pilot. The point I am making is that we need to be very clear on what is a salvage and what is an emergency response capability, particularly in relation to costs that have to then be met by the shipowner.

Ms O'BYRNE—So does the shipowner pay for that sort of circumstance?

Mr Russell—Yes, that is correct.

Capt. Cole—In the longer term, it is the underwriters or the insurers that pay for it. Initially it is the shipowner, but the person who really puts his hand in the pocket and feels the pain is the underwriter.

Mr Hoskison—That is not a good example.

Mr McGoogan—Could I just make one point? What we have got to do is look at the salvage contract, the principles of the salvage contract and what it is all about. It is international law and it is international conventions, and Australia is a signatory to the International Convention on Salvage 1989, so we have got to look at that. But the principles must be looked at. The principles are simply this: salvage on a no cure, no pay basis is a reward. It is a contract that is entered into between the shipowner, initially—and that can be by the master of the ship or the owner with a salvor, like Adsteam or United Salvage in Australia—and there is a reward there if the vessel is salvaged. That reward can be quite considerable and very lucrative. On that basis, there is a vested interest in the supplier to have placed around ports that he might be in in Australia equipment for just that opportunity. It is a question of demand. It is a commercial entity. The difficulty we are facing at the moment is, if we then start to move into the Commonwealth or the states intervening in that venture, we start to move away from the international law.

CHAIR—We are going to get to that. That is the next topic. Captain Cole, you wanted to say something before that.

Capt. Cole—Just to pick up what Michelle said on who pays, in my paper I identified where I thought 10 salvage emergency response tugs could and should be located within Australia. That is open for debate, but that is my view. I also stated in there that I am against the ports, through their towage tariff, capturing a percentage of that tariff to assist them in their providing towage services, simply because there are a number of ships that go into a port that do not use tugs and they are getting a free ride. My suggestion in my paper is twofold. We can do it through a mechanism, through the Commonwealth through the light dues—and in those 10 ports you can actually quantify the costs of maintaining an emergency response/salvage vessel in the port, which is additional to the normal port harbour towage or offshore industry requirement. Alternatively, we can do what they do in the UK, which is share in the reward.

Mr Payne—I think there is another aspect to this, which is the competition argument which was highlighted in the Productivity Commission's report. In a circumstance which is emerging more and more now, there is a situation where tenders are put forward for the provision of harbour towage services in a port which, not unreasonably, are based on the provision of precisely that service by the tugs. The point has been made previously that there are salvage capable vessels that are 20 years old. That equipment is going to have to be replaced eventually and, when that happens, the capital cost of that equipment is going to have to be taken into account by the person taking the commercial risk of providing that capital. The AAPMA, in its submission to the Productivity Commission, made this comment, which was quoted by the commission:

Ports are highly responsive to wider economic and community needs and it is most unlikely than any port would specifically exclude salvage and emergency response requirements from any towage licensing arrangements as this is an essential part of meeting the needs of our stakeholders.

It seems to me that if those who are specifying what service is to be provided in a port are recognising and specifying that a salvage capability needs to be incorporated in that service in the port then that would inherently be built into the pricing structure of the harbour towage service in that port. If it were not, you would be comparing like with unlike. You would be comparing person A, who is saying, 'I'll provide harbour towage services with harbour towage tugs,' with person B, who is saying, 'I'll provide harbour towage services with equipment that is also capable of providing a salvage response,' the capital cost of which is necessarily higher, especially if you are replacing equipment; it is not always going to be 20 years old.

It seems to us that the trick to this is reconciling those two positions. The service provider providing the salvage capability needs to have a reasonable expectation that the commercial risk they are undertaking is going to be viable. But, at the same time, it is probably not reasonable—as has been mentioned—for the receipts from the salvage capability to be used to create a super profit outcome. I think that is the balancing act. It seems to me that, if a salvage tug is required, that has to be reflected in the pricing mechanism at a port.

Mr Bendy—Continuing on from what Lachlan said: any business has to be viable to exist. I believe that Australia needs to have some sort of salvage capability. Exactly how big that salvage capability should be is up for debate. In the end, if we do not get Australia's salvage capability needs correct, in relation to the amount of revenue that a company or several companies may be rewarded with as a result of that to keep their businesses viable, we are going to continue to lose salvage capability. Everybody keeps saying there are highly lucrative salvage opportunities, but the fact is that only 20 per cent of the jobs being done around Australia in recent years have been done on LOF. And that does not necessarily mean that all those have been highly lucrative. Think of a situation where one company was providing Australia's salvage capability and there was a year where there were no salvage jobs. That would put enormous strain on that company's ability to continue. There are certain cash flow implications as a result of that.

All of this has to be taken into consideration, but in the end the proof of the pudding will be whether Australia is able to maintain a salvage capability. If it is not, what is it going to do? Those questions have to be looked at. We cannot just walk away from this problem and say, 'It did not work commercially, therefore we must not have needed it.' The fact is that we do need it. We have to try and establish a way where we can maintain that capability. If a company happens to make a profit out of it, that is not such a bad thing. I think we are all out to do that anyway.

Mr Russell—Shipping Australia communicated with the ACCC, which looked at the towage prices—of Adsteam, in particular—and we subsequently communicated with the Productivity Commission. We argued not that harbour towage should pay for salvage capability but that a tug capable of salvage or emergency response could be used for normal harbour towage and the capital cost of that could be capped at normal harbour tug costs. The additional costs of training, equipment and a lot of other costs which are associated with emergency response and salvage capability would not be met by that. That is a matter, we think, for the commercial risk of a company that is providing these types of services.

It is a risk, and it is an issue, I suppose, of insurance. What United Salvage are saying—quite rightly—is that there now appear to be fewer jobs, because ships are more technologically advanced and, for whatever reason, they are perhaps less liable today to have the sorts of accidents they might have had in the past. However, one does not know about that capability.

That is again a risk assessment process. Maybe the insurance industry can help us in that respect in providing a way of covering that risk while there are not these jobs available.

Ms Blackwell—I was going to make several points about competition, but these have been made very eloquently by speakers before me. To come to the nub of things: ports do not wish to be placed in the position of having thrust upon them a salvage capability if that salvage capable tug is not required for shipping movements or harbour towage movements. Competition between ports is alive and kicking in Australia today, so the extra costs are very closely monitored. I want to make that particular point.

I want to go on to suggest something that we raised in our submission about the provision of salvage and emergency response services being mandated on a national basis by a government body—perhaps in an operation similar to that conducted for the national plan. I leave that suggestion open on the table. I am aware that other people around the table have made similar suggestions about national coordination of salvage. It works well for the national plan. It is a model that has been successful and there is cooperation among the players around the table. Perhaps with the advent of competition in harbour towage with AMS it is time to consider us all working together on this issue.

ACTING CHAIR—We might move on, because the previous speaker alluded to it, to talk about the legislation and jurisdictional authority. Is that what you understood—

Mr Phillips—No, I was just going to add a comment that was passed on—

ACTING CHAIR—We will do that, and then we will move on.

Mr Phillips—There was just one comment that was made—I think it might have been Lachlan who made the comment—in terms of a situation where there are two competitors in a port, one with a salvage tug and the other without a salvage tug. That is not unique. There was competition in the industry for a number of years, up until the last three or four years—

Mr Payne—Two tenderers—

Mr Phillips—I know what you are saying, and it was not uncommon back in those days for one operator to have strictly harbour tugs and the other operator to have a harbour tug and another tug that was capable of doing outside work.

Ms O'BYRNE—But isn't it the issue that if, say, the Port of Melbourne decide that they will take the cheapest contract and the cheapest tender they get is the one that does not have salvage capacity then *Iron Baron* might run aground on Hebe Reef and not get the assistance that it got from the Port of Melbourne previously.

Capt. Cole—As anybody that has been involved in these harbour towage contracts would know—and I have three under my belt now, so I have had some experience in this area—they always involve, depending on where the port is and based on the three experiences that I have, having a capable outside tug or an emergency response salvage. And our tender has included both the harbour-only type tug and the outside one. So it is really up to the request for the proposal—the RFP—to say to prospective tenderers, 'This is what we want you to tender for.'

Ms O'BYRNE—But they do not. Isn't that the issue?

Capt. Cole—I agree with you, but we are in the infancy with this and I suggest that port authorities should take that on board—

Mr Bundy—Exactly.

Capt. Cole—because then you know.

Ms Blackwell—But we do.

Mr Payne—That submission—

Ms Blackwell—Thank you, Lachlan—quoted from our earlier submission. We have a very strong community responsibility and we take it very seriously.

ACTING CHAIR—Before we move on to the next segment, does anybody else want to make a contribution about the salvage capability or the differences between emergency response and salvage? I do not want to stifle the debate. If anybody has something to say, please do so.

Mr Russell—Just quickly, to pick up Michelle's point: we would hope that, in going to tender or in looking at their towage capability, ports would in fact seek the views of their clients, who are the shipowners. The shipowners are saying that in selected ports they want an outside tug that has a capability for emergency response or a salvage capability. I do not think it is a matter of pushing that onto the port; I think it is a matter of saying to the port that we require from it a capability for the range of services that we are asking for. I would hope that it would listen to that in a consultative way.

Ms O'BYRNE—In the discussions that we have had prior to today, though, some port authorities have said, 'Why are we paying for this and why aren't other ports paying for it?' They do say, 'Actually, we don't think that we really need it—we think someone else should do it.' So I guess that is not the position that you have put in, that you believe that ports will automatically take that responsibility. Should they automatically take that responsibility? I guess it is whether we require them to take that responsibility or leave it up to them.

Mr Birchmore—With my Port of Albany chairman hat on, I would say that the ports would be happy enough if there was a request or direction from the Commonwealth. The extra cost is likely to be marginal if one vessel is seagoing in its nature and powerful enough. As to what is enough, I do not know what that would be. You can pick a number, although 150 or 160 tonne bollard pull is probably enough to hold a ship secure.

Before you leave this subject, though, I would like to add that what has not been defined for me—and I am sure I have been listening carefully—is just what is meant by a 'defined Commonwealth service'. Does that mean that the Commonwealth would identify a company and say, 'Okay, we are going to subsidise you to the extent of \$10 million a year or \$20 million a year to provide this service'? I think you would find that, for private operators around Australia—and we are one of them—it would be a great distortion if a vessel which was heavily subsidised by the taxpayers of Australia came into, say, the area where we operate, sat around for

two or three years waiting for something to happen or to go wrong over the horizon and, in the meantime, totally distorted the business which normally operates in that port. Presumably, that extra bollard pull tug is not going to sit around doing nothing for three years. I think you have to be terribly careful about just how you do that. It is easy enough to spend \$15 million or \$20 million or whatever it is subsidising a company or companies, but I think you must be terribly careful of the quite excellent service which is given around the Australian coastline by existing operators.

Mr Russell—That is true.

Ms O'BYRNE—It is the biggest area, though.

Mr Bendy—I have just one comment to make. I believe that we are continuing to overlook what salvage and emergency response is really all about. The majority of what we have spoken about is tugs. That is only one tool in a salvor's armament for going out and saving the day, being the hero or whatever label we want to put on it. Take the situation where there was a national plan for salvage capability. It had, as Dale suggested, 10 salvage capable tugs spread around the coastline of Australia. Take the situation where each one of those ports with a salvage capable tug was operated by a different operator. I would put to you that, nine times out of 10, that salvage capable tug, with its port crew on board, would go out and save the day. But it will not save the day of the one that gets into the newspaper—the one with oil all over the beach, the birds and everything else, which is so graphically highlighted on the TV, thanks to the media—because they will not have the behind-the-scenes infrastructure to support that tug and the people who are out there trying to do a difficult job under very difficult circumstances. It is more than a tug—it is equipment, people, knowledge and backup. One single operator in one single port with his salvage capable tug will not provide that service.

Mr McGoogan—I will just make one point on the leverage that we have got and can apply. What Shipping Australia submitted to the Productivity Commission in terms of tonnage is that exclusive licences are the preferred way to go in ports. That is a lever by which salvage capable equipment can be placed in ports of Australia. The difficulty is that we now have competition in ports. In the case of Melbourne, and in Brisbane and Botany Bay, we have competition. Once we have competition in those ports, it is clearly up to the service providers whether they place salvage equipment in those particular areas. You must look at the leverage that the Commonwealth would have to bring in salvage capable equipment and have it placed there. Right now it is simply placed there by way of demand of the business.

ACTING CHAIR—The next subject is legislation jurisdiction and authority. What problems are there in the present system? Where are the overlaps? Is there duplication? Where are the problems in that area, and what can we do to try to address them?

Ms Blackwell—I will kick off by pointing out that port authorities report to individual state governments, and we have the benefit today of appearing before a Commonwealth committee. That is the first great hurdle. Coming back to what John McGoogan said a moment ago and rebutting his point, one of the hurdles is that it is not up to the provider to determine what is going to be in the port; it is up to the port authority to sit down with the shipping agents and the shipping companies, and say: 'This is what we need in the port. This is what we determine. This is where we are situated.' It is no accident that there is an inquiry taking place at the moment by

the Queensland Transport and Maritime Safety about the provision of emergency towage peculiarly for the Queensland situation. I would be surprised if the Western Australians—those who are located on Ningaloo Reef—were not looking at that very closely as well. It is very much determined by where you are situated. Again, I come back to the point about distance and response. Turning to the legislative area and any impediments there, I urge the committee to look at the respective pieces of legislation pertaining to harbourmasters and the role of harbourmasters in the states around the country as well. Some of it is complementary; some of it is not.

ACTING CHAIR—Can you give us some examples?

Ms Blackwell—I like the one in Western Australia. I do not know whether it is peculiar to Western Australia. I like the fact that the harbourmaster has the right to scuttle a ship if it is getting in the way of ship movements. That is near and dear to the heart of the harbourmaster of Fremantle—very much so.

ACTING CHAIR—Do shipowners have a problem with that?

Ms Blackwell—It really does come down to the delicate balance between state and Commonwealth powers.

Capt. Cole—Following on from what Paul Bendy said and your introduction, the point I want to make is that there is no question that we—and Adsteam are no different—have a shortage of trained salvage emergency response personnel. It is a huge problem. Again, in my submission I suggested ways in which that could be addressed. However, we have to realise—and this is why I disagree with Mr Bendy's comments—that, even if we take my example of having 10 ports chosen to be the home of emergency response vessels and even if we have 10 different operators, whether they be offshore providers or harbour towage providers, you contract a lot of this work out. Adsteam are no different; through consultants they contract their work out. What we are seeing in Australia now is really a lack of skilled people to do this work, and that lack is being supplemented by the capacity of an emergency response provider to contract in the skills.

ACTING CHAIR—Does anybody else have any comments about the legislative requirements, overlaps et cetera? For example, does the current system operate smoothly? We have had one person speak about it, but nobody else seems to want to make a contribution, so obviously it may be all right, apart from that.

Mr Hoskison—The national plan operates pretty well between the federal government and the states.

Mr Phillips—It does.

Mr Russell—Yes.

Mr Hoskison—We have no problems.

ACTING CHAIR—For the purposes of the record, could you explain how the national plan works?

Mr Hoskison—The national plan is a joint venture between the Commonwealth government and the state governments to combat oil pollution and other noxious substances at sea. There are funds available. There are stockpiles of equipment available. Personnel training is available at the government level, using ports authorities—other government personnel. Where we come into it as a salvage industry is that we are looked upon as the first line of defence against pollution, in that we can stop vessels running ashore. If they are ashore, it is our responsibility to minimise the amount of pollution which is released, and we are contracted to do so under the LOF or whatever other contract we are operating under. That works smoothly. There is a casualty coordinator put on board each major casualty, who liaises with all the government departments. It is a one-stop shop, so it works well.

ACTING CHAIR—Good.

Mr Payne—It is worth noting that the national plan is funded by a levy on the shipping industry.

Mr McGoogan—User pays.

Ms O'BYRNE—We will touch on that with security again later, will we?

Mr McGoogan—There are some very important issues with the legislation. As far as the national plan is concerned, it is well managed by the Australian Maritime Safety Authority, it is well known to foreign shipowners and resources are drawn upon when incidents do occur—like the *Laura D'Amato* oil spill in Sydney Harbour at the time just before the Olympic Games. However, I think we have to look further than that. We have to look at place of refuge. In respect of place of refuge, we start to get into some difficult areas, because the salvage contract—

ACTING CHAIR—That is actually the next item for discussion.

Mr McGoogan—I will reserve it until then.

Mr Russell—I just want to make the point I made earlier about the Australian Maritime Group, which does bring the state and federal bureaucracies together. They are looking at emergency response now, and they report to the Australian Transport Council of state and federal ministers—or their equivalent—involved with transport. So I think they also are a good mechanism to try and resolve some of these rivalries and instances where there could be a conflict between different laws.

Mr Payne—If you are directing us to the legislative question which is ultimately the provision of salvage capability in a locality, then I think that needs to be distinguished from the pricing question. Experience would show that, where salvage equipment has been provided in a port, it is presumably done by an operator because the operator finds it commercially viable to do so. In ports where salvage capability does not exist, it is probably a reasonable presumption that operators do not perceive that there is the potential return on the investment required, and so that equipment is not placed in those ports.

Following on from that is the question of the ability of the equipment that is provided to deal with emergencies and salvage incidents that have occurred around the coast. Experience shows

that, by and large—in fact, almost exclusively—those casualties have been dealt with by the salvage capability that has existed because it was deemed to be viable by the person providing it. I think it follows that, where the capability does not now exist, it does not exist because it is not viable—remembering that the casualties have all been taken care of. It follows from all that that, if there were to be some imposition through legislation that said salvage capability ought to be provided in places where it has not been in the past, that would have to be for a public policy reason, not for commercial reasons. We would say that that then moves into the realm of a community service obligation.

Ms O'BYRNE—I think we will probably touch on this when we get to the security section, because there is this interconnectivity that has been raised a few times. That is the last section we will deal with.

Mr Birchmore—Mr Chairman, on the subject of the legislation, I am not clear what the legislation is that you propose.

ACTING CHAIR—We are not proposing legislation. The inquiry is about gathering information to ascertain whether the salvage operations around our coastline are adequate. On the legislation requirements, the question for us is do they work, are there any impediments.

Ms O'BYRNE—Whether or not there are going to be jurisdictional issues.

Mr Birchmore—Is there a roadmap for that to determine whether in fact it is adequate or not?

ACTING CHAIR—That is the work of the committee.

Mr Birchmore—You see, I think you would find that there are a lot of service providers that would be delighted to make changes to their organisations, and this might be skills and people, to quote Paul.

ACTING CHAIR—The way it works is that this committee will prepare a report that may be some months down the track. That report will be tabled in the parliament and given to the minister, and then the government will make a decision at some stage in the future. So there will be plenty of opportunity for people to have input to that once the report is out. At the moment what we are doing is looking at whether there are legislative problems where the legislation is not working correctly, and we have already been told that under the national plan it is, and that is very encouraging. We would also like to know, if there are any problems and it is not working appropriately, how it could be fixed, how we could address that.

Ms O'BYRNE—The other part has probably been answered in the other area, which was about when the jurisdiction applies to what situation. I think we have got that in evidence already.

Mr Bendy—As far as legislation related to salvage capability is concerned, my belief is that we need a national plan for salvage capability, as I said before. My concern is that, if that national plan is controlled by the federal government, I am not clear on how much influence the federal government can truly have at a state level, and therefore at a port authority level, to actually make that plan work.

Ms O'BYRNE—I think you will find with the new security arrangements we can get away with pretty much anything! On the security issues, I am not sure we are going to be able to separate our relationships with ports from the security aspect now, so that is possibly the mechanism to be used.

Mr Bendy—That is welcome news as long as salvage and security are somehow linked as well at that level.

Ms O'BYRNE—We get to that a bit later about what the connectivity might be.

Capt. Cole—You asked me if there were problems. I would say that up to this point in time the various state and federal pieces of legislation have dealt with it very well. I cannot recall any issues that have prevented a salvage emergency response functioning to its ultimate.

Ms O'BYRNE—What about a situation where a port decides not to release the tug? I am not sure if this has ever happened. What if the port says, 'You can't take our tug away'?

Mr Hoskison—I was going to raise that.

Ms O'BYRNE—I do not know whether that has actually occurred.

Capt. Cole—It has occurred, and the differentiation has tended to be on the basis that they will allow the tug to be released if there is human life at stake or pollution at stake. For commercial gain it becomes problematical. There is one port that I am aware of that stopped a tug going, but in that case there were other ports close by.

Ms O'BYRNE—It would also still be an issue for the port itself in managing its own workload.

Capt. Cole—Of course.

Mr McGoogan—I draw the committee's attention to one thing. Australia is a contracting state in terms of the International Convention on Salvage 1989 and you would need to take that well into account.

Mr Hoskison—But there is one article in that convention which was not entered into Australian law, which is article 11.

Mr McGoogan—Yes, that is correct.

Mr Hoskison—It is where the state is obligated to assist the salvor in protecting property and minimising the environmental issues, and with access to ports. That very important article is not in Australian law, and that is a great shame.

Mr McGoogan—That is what I want to draw attention to in terms of port of refuge.

Mr Russell—I want to make the point that, basically, the Queensland review of the emergency response shows that there may be a distinction between 'salvage' and 'emergency'

response' in that they are looking at legislation to perhaps force support, to release the tug in certain circumstances, even if it is against their commercial interests. I would urge you to seek information from them as to what they are looking at.

Mr Hoskison—My point is complementary to that because, under port requirements, the port is required to run the port. It is not required to do anything else. So it is very difficult for a port manager to release a tug for something outside the port if it will delay vessels, because he and the port could be open to legal action by so doing. So they have to have some outside impetus to take that burden off their shoulders. If there is legislation under which some outside body can say to the port, 'We require you to do it,' there would be no problem, and if there were delays of a minor nature nobody would take too much notice of them. It is a real problem that we have, particularly in Gladstone, where there are two salvage capable tugs that we can never use apart from in-port jobs. There is the case of the *Stolt Otome*, a gas carrier that was adrift in the Capricorn Channel, and we could not get a tug released from Gladstone. We had to send out the *Nelia* from Mackay in very bad weather, at the limit of its capability, and it had a heck of a job. We should not have had to do that.

ACTING CHAIR—We will now move on to the next segment, which is 'place of refuge'. Again, this has been raised with us during our travels. There seems to be a substantial lack of places to which stricken vessels can be towed and stowed until such time as the salvage operation gets under way to take it to a place where it can be repaired. That is what has been put to us. What do you think are the problems in that area?

Ms Blackwell—I would like to relate a rather unfortunate story. In the two weeks prior to the *Prestige* accident off the Spanish coast, all of the responsible maritime authorities in Spain got together to conduct a tabletop exercise on pretty much exactly what the *Prestige* accident turned out to be. Each party knew where they were supposed to fall and what responsibilities they had. When the *Prestige* accident occurred, everyone ran for cover, and the tabletop exercise failed miserably, spectacularly and disappointingly. When it occurs in your own backyard it is a very difficult situation. I will not name the ship but, in living memory, there may have been a vessel that may have been off the coast of Australia that may have been urged to go out beyond certain limits and stay there until it was determined exactly what was wrong with the vessel, and then action was taken.

ACTING CHAIR—What happens in situations where that is not advisable?

Ms O'BYRNE—I am not sure that it was advisable.

ACTING CHAIR—If there is a dispute somewhere over who gets to salvage the vessel and take it somewhere, probably internationally, to have it repaired, where do you store it? What is the appropriate place to store a stricken vessel? It is not an emergency—that has been addressed and dealt with—but it has to be stored somewhere before it gets towed, salvaged or whatever.

Ms Blackwell—Places of refuge focus primarily on the environmental impact. If, as in your example, the environmental problem has been put to one side and there is no danger of a spill, it is possible that the port would take the vessel. However, the environmental impacts do have to be measured very carefully, and the spectre of politics is raised. When the *Eurydice* was foundering off Sydney a couple of weeks ago, the loudest shouting and comments were from the

minister for the environment, who was not coming from a maritime background and who really might not have known what he was talking about. He was concentrating on the environmental spill, which is fine because that is his area of responsibility. But it really gets very murky. Every incident that you look at around the world is a mess.

Mr Hoskison—Bizarre is the word sometimes.

Ms Blackwell—It is bizarre.

Mr Phillips—I might add that it does not help if the publicity that comes out always refers to it as a tanker, a time bomb or something like that. If you got rid of some of the emotive comments then we might be able to say, 'Put it to Sydney—

Mr Hoskison—There are two issues regarding ports of refuge. One is the physical condition of the ship and getting a balanced view of the risks that are involved in taking a vessel in. I believe that that balanced view should be in the hands of AMSA and the state maritime authorities, not in the hands of ministers of the environment, who are going to take the absolutist view of it. The second issue is: what is the appropriate amount of security which is going to be asked by the port authority to take that vessel in? I will give two examples. When the *Iron Baron* was being considered to enter the Tamar River, the first amount of security asked was unlimited. Unlimited is not security that can be put up by anybody. I believe that, with the *Eurydice*, the amount of security being asked was out of all proportion to the risk involved.

On the other hand, take the *Sea Empress*—probably the worst type of casualty. You would not wish to see it coming into your port; nonetheless, it went into Belfast, mainly because Harland and Wolff have a shipyard there and it could slip. It was a pollution hazard, a fire hazard and a sinking hazard. They put \$US100 million up as the security that was required. That was fair enough. Nobody is worried about \$US100 million—or even \$US200 million in an extreme case. But if you start talking about unlimited security, \$1 billion or things like that, somebody else has to look at it from the outside and determine the appropriate amount of security.

Mr Payne—We would just like to note that, if a ship is required to proceed to a place that increases the hazard to which it is exposed, there is a very valid and essential point that has not been raised but that should be raised. It is that the danger to which the crew is exposed could be exacerbated enormously by a decision to require the ship to proceed into a more hazardous situation than the one it is in already. I think the security and safety of the seafarers involved should be high on the list of priorities.

Mr Bendy—It should be higher than the environment.

Mr McGoogan—To go by examples, again, take a vessel proceeding from New Zealand with a timber cargo. Say the timber cargo shifts and the vessel takes a considerable list and then in turn enters into a salvage contract. The entry of that vessel into an Australian port would probably go through without great difficulty in the sense that an application must be made at the port of entry. That application is defined by AMSA, and there is an involvement with regard to the port that the vessel would come into. In the case of a vessel—again, in a similar condition—leaking oil, the situation changes considerably, and that in turn supports your position. So it is a question of the condition of the ship. But it must be emphasised that there is no right of

automatic entry into an Australian port for the purposes of port of refuge. Under a salvage contract a vessel must be saved.

Mr Hoskison—Delivered or saved.

Mr McGoogan—Or delivered, yes.

Ms O'BYRNE—What about the SOLAS convention—the risk to sailors stuff?

Mr Russell—Safety of life at sea—SOLAS.

Ms O'BYRNE—You are saying that the port does not have to accept people. Does SOLAS impact on that or do you just assume that you will get them off?

Capt. Cole—This is a grey area. The short answer is no. You can go forever, like the *Prestige*, and eventually be winched off when the vessel is sinking. I have a couple of points to make about this. A, we have to identify ports of refuge in Australia; and, B, we have to get somebody senior enough in the political arena to sway all the politicians to keep politics out of this while we stabilise a very unstable situation.

Ms O'BYRNE—You would probably get everyone except the local member, who is defending their coastline. That is the issue.

Capt. Cole—That is very true, and that is what happened when—

ACTING CHAIR—In Bendigo we do not have a coastline.

Ms O'BYRNE—Okay, so we can make it Steve's call!

Capt. Cole—Whilst people want to score political points, this will never work. If we go back to the *Iron Baron*, which you are familiar with, when we proposed to take it north, we could not get a port of refuge, because we wanted to do certain repairs and the only port in Australia that would do it for us was Brisbane. It was Brisbane only because they had a person in charge of what was known as Queensland Transport who had the power and the prestige to accept it and make that decision.

Mr McGoogan—The difficulty that foreign shipowners face is their position, in terms of a vessel at sea, seeking a port of refuge. It is clear what is required, and that is that the application, in turn, must be made. But I think the difficulty is—and the point was made by United Salvage—that the decision makers are very important. It certainly should not be in the hands of EPA. It certainly should not be in the hands of anybody except skilled maritime people so that they can clearly take a view as to environmental issues, the safety issues of the ship and the safety of the persons on board.

Mr Hoskison—And the most appropriate place to go under the circumstances.

Mr Russell—We would draw the committee's attention to the risk assessment guidelines for maritime places of refuge which were endorsed by the Australian Transport Council in May

2003. They obviously do not cover all the issues raised, and we would certainly endorse all those comments. What we have argued in our submission is not that there be predetermined places of refuge but that ports or central authorities, state or federal, do look at areas that may be considered in the circumstances as good places of refuge in an emergency situation to speed up the process.

Mr Bendy—What I was going to say, following on from what Dale had said, is that I think the issue is a matter of when we determine these places of refuge. I agree with what Llew has said, that there needs to be some pre-work done to try to identify these, because at the time that there is a casualty there are a lot of things happening. The most important thing, I believe, is that we do not identify ports or places of refuge and then advertise those as such. That would be absolutely crazy. You could just imagine the thought processes of not only the locals around that area but the politicians in that area as well. But we do clearly need to have some sort of mechanism predetermined as to how we are going to identify these places. That is probably the most important aspect of it because, in the end, the place of refuge, as I have said earlier, can be the determining factor of success or failure when it comes to a major salvage incident.

I would like to go on record, in case it was not caught before, that I firmly believe—and this is often overlooked and hardly ever taken into consideration—that the saving of lives is far more important than the environment, and it will be and should be every single time. But that is often overlooked. You will hear that a ship is sinking off the South African coast and reports of oiled birdlife and things like that, which are very distressing and very important, but there will not be a mention of the 30 seafarers that went to the bottom with the ship.

Ms O'BYRNE—That is a good point.

Mr Payne—I absolutely concur with that, as you would imagine. There is one agency in search and rescue operations that is regarded as being the sole determinant of strategy and so on, and that is AMSA. We would suggest that AMSA would be the logical body to be responsible for determining places of refuge in the circumstances at the time and that, like most government agencies, it should be beyond political influence in the circumstances at the time.

Ms O'BYRNE—So the general view is that, regardless of who makes that decision, it has to be someone who has some level of maritime understanding and experience?

Mr Payne—Exactly.

Mr Hoskison—You must not forget the amount of security that is required. Ports can use that as a lever to keep something out of the port.

Capt. Cole—And they have done so.

Ms Blackwell—It is a matter for negotiation between the port authority and their insurers. Fellas, it is not just the port authority, so please don't beat up on us! The people who are going to pick up the bill at the end of the day are the insurance companies and then their clients, so it is a matter of negotiation. I believe that the *Eurydice* was negotiated to a level of around \$60 million, which was quite manageable.

Ms O'BYRNE—Is anyone able to provide a briefing to the committee on the insurance position and the amounts that you are talking about in terms of unlimited risk and those sorts of things? It would be helpful for the committee to have an idea on that.

Ms Blackwell—I think we could jointly put our heads together and come up with a name. I have a couple of people in mind, and I will run that by my colleagues. If the committee would like to give us a couple of questions, I will be happy to tell you who we have in mind and you can write to them.

Ms O'BYRNE—It might be helpful to have that now.

Ms Blackwell—It is no-one around the table. It is a particular area of expertise. We have people in industry who can help you on that.

Ms O'BYRNE—Thank you.

Mr McGoogan—I would like to make a point regarding port of refuge. There was recently a tanker off Port Botany which had a split tank which was leaking oil. That vessel was refused entry.

Ms O'BYRNE—That is funny, because they let ammonium nitrate in. As you said before, there are far riskier things going into ports, but they do not get the emotive reaction.

Mr McGoogan—In that particular case, Sydney Ports Corporation sought an indemnity which was quite excessive. I think they were initially talking about \$1 billion. It became a technical issue. Divers were engaged; they went to the ship and put a magnetic plate on it. This sealed the tank, and the vessel was allowed to come into port without further indemnity. So it is a question of degree.

ACTING CHAIR—And the capability of the emergency repair.

Mr McGoogan—Yes.

Mr Payne—It was a week later.

Mr Hoskison—The vessel was entered with a classification society on the international group. Being a tanker, I think its cover was \$650 million, so it was already covered. But that does not convey very much to port authorities or EPAs that the P&I club is covering it anyway, up to that limit, which is the biggest single policy lodged with Lloyds.

Mr Bendy—It would be \$1 billion.

Mr McGoogan—A further example is the *Laura D'Amato*, which was in the port of Sydney. It had an unfortunate accident and spilled oil in the port. It was an emergency response issue, and the national plan was switched on. That ship could have gone out of port a day earlier. However, that raised difficulties with the requirements of the port authority to get their indemnity in place. The demand was considerable.

ACTING CHAIR—At this point we will take a short break. The only other topic we have for discussion is port security. We might spend about half an hour on that, and then, before concluding, we will spend 20 minutes or half an hour wrapping up the whole day to give everybody an opportunity to emphasise what they believe to be the most important aspect of this inquiry.

Proceedings suspended from 12.09 p.m. to 12.30 p.m.

ACTING CHAIR—In this second component of our roundtable we thought we would include a discussion about the security arrangements in our ports. It is probably outside the terms of reference of this inquiry, but everywhere we have gone it has been raised as a major concern, so we thought we would take some evidence or some information from you people who are the experts and incorporate it in our discussions when we formulate our report. We want to know where you see the security side of our ports and harbours being vulnerable and what we might do to address it.

Ms Blackwell—I think that the security heading is a wonderful banner under which in the current environment you can, if you seek to, get almost anything done. I refer the committee to the work that has been done on dangerous goods by a number of inquiries, particularly the Australian Logistics Council. Putting that under the banner of security gives it immediacy.

Ms O'BYRNE—It has not taken us that long to get there, has it?

Ms Blackwell—It gives it an immediacy that has not been previously apparent. Therefore salvage could also come under the same sort of banner. The example given to me not so long ago by a friend in the Navy was this: what would happen if there were a security incident and a terrorist blew up a ship in the outer harbour at Fremantle, blocking the channel there, and, being a terrorist incident, the government determined that there needed to be a naval response but the Navy ships could not leave Garden Island, WA? What would happen? My Navy friend—I am not going to give his rank; he is not senior—suggested that perhaps a swift removal involving explosives might be the way around the situation, to which my environmental friend at the same dinner party went green around the gills at the thought and said, 'What about the environmental impact?'

Ms O'BYRNE—Anecdotal evidence we have heard is that it is not as easy to bomb as they would plan.

Ms Blackwell—Again, a delicate balance occurs. But in the security environment, if it were determined to have been a terrorist incident, a whole raft of responses swing into action that might overcome other concerns.

ACTING CHAIR—I think we need to focus on the security aspect of the salvage operation. I guess we should assume the worst, that there has been some sort of incident which has resulted in a vessel blocking one of our major channels. How do we go about addressing that? Are we equipped to do that? What do we need to be recommending?

Ms Blackwell—The security incident has really occurred, hasn't it? It is finished, it is done. We then move on to the salvage situation.

Ms O'BYRNE—Not necessarily. Surely the fact that we have tugs makes that a different situation. I would be interested to know if those people who are involved directly in that arrangement have considered the fact that their vessels may be used to block incoming vessels.

Mr Bendy—I see security as two main issues: prevention and then response. The response aspect of it is very easy to align to salvage and emergency response and all the capability that you might have in that area. That is one part of it, and typically that part of it could be a very short time. But the prevention side of it, in other words getting prepared to try and minimise a potential threat, is probably far more important. When you look around the coastline and at the marine capacity that we actually have, both in equipment and people, you see that there is a lot Australia could be doing on that side of it in its preparedness for any threat, be it from terrorism or anything else. To me there are clearly two aspects of this, and both are equally important. But, when you look at the time frames associated with them, one tends to be far more important than the other one, as far as I am concerned. We could still respond to a terrorist incident that has some marine consequence to it purely by our capability that we have built up through normal commercial shipping because Australia is the fifth-largest shipper in the world and we need some capacity to be able to respond to incidents in that, so they do go hand in hand. But both aspects need to be looked at, and I believe we could be doing a lot more in that regard.

Mr McGoogan—With regard to the current situation, it can happen as a result of a terrorist action or a navigation action and the same problem can occur. In the case of a cape vessel fully loaded proceeding out of the Port of Newcastle, it can lose steerage and can collide with the shoreline going out of the port and possibly sink, therefore blocking the channel. That is an example for Newcastle. That can occur by way of an errant navigation, by way of machinery damage or by way of a terrorist bomb. It is therefore a question of having the resources to react to that. The salvage issue would immediately come into play. The port authority would be involved in the removal of the wreck, so all of the mechanisms that we currently have in place would, in turn, come into play.

Ms O'BYRNE—I know that the ports are currently going through the whole security upgrade and I know that there is a huge level of debate and discussion about the cost of that and those sorts of things. If our ports are having those kinds of negotiations, are our salvage companies having those kinds of negotiations? Are we at a stage where this is taking place now?

Mr Bendy—As far as harbour towage is concerned and related salvage, there are now security plans.

Ms O'BYRNE—Are you doing those?

Mr Bendy—Yes. The time frame is exactly the same.

Ms O'BYRNE—Are Mermaid Marine doing those?

Mr Birchmore—Yes, Mermaid Australia and Albany, so we will advance with both.

Ms O'BYRNE—Is that part of the port plan, or are you doing it as part of a different plan? I am just trying to get a picture of the interconnectivity. I know the port is doing a plan about what

it does in terms of security. Are salvage companies doing plans with the government that are separate from that, or are they included?

Mr Bendy—My understanding is that it is part of the port plan.

Mr Payne—I do not think tugs have to have ship security plans.

Mr Bendy—No, but the port does.

Ms Blackwell—But the overall port corporation or authority might be in the situation of coordinating security plans from the stakeholders in the port if they were identified as being maritime industry participants.

Ms O'BYRNE—I know the government has gone directly to ports and said, 'You must do it.' I was wondering whether it has gone directly to different shipping and salvage companies and asked that as well.

Mr Birchmore—Under the current security legislation—the ISPS Code—the towage provider, launch provider and pilotage provider are all industry participants and are therefore required to put in a security plan. The shipping agent is in fact an industry participant, but he is not required to put in a plan.

Ms O'BYRNE—Is this all part of ISPS?

Mr McGoogan—It is all part of the legislation.

Ms Blackwell—It relates to the Maritime Transport Security Act. The nexus is the connection with the ship. The tug and the pilot have that connection with the ship. The issue of contamination comes in. We do not want our security regulated ships, berths and facilities being 'contaminated' by non-security regulated providers—it is not my term!

Mr Bendy—It is a good one.

Ms O'BYRNE—It is an interesting phrase.

Capt. Cole—When I checked up on this a month or so ago, the pilotage was seen as being part of the second tranche. You are saying to me that it has been upgraded to the first tranche.

Ms O'BYRNE—And towage would be locked into that as well—or salvage.

Ms Blackwell—There is not a first or second tranche.

Capt. Cole—I am only repeating what DOTARS said to me.

Ms O'BYRNE—I am just interested in whether or not, under the current security negotiations that we are having with ports—and we know that that stands alone—we are also negotiating in

terms of security and salvage. I think it is going to impact on the decisions that this committee makes about the information we have.

Ms Blackwell—It is with the company that provides the service, so if that company provides a salvage service and they are located within a port corporation's map of security—at a regulated port—then, yes, they would have to provide a security plan—

Ms O'BYRNE—Through the port?

Ms Blackwell—Not necessarily. They would go straight to DOTARS. Most of the port facility operators are writing their own security plans and submitting them separately to DOTARS for assessment. All those plans are now in with DOTARS and are currently being assessed, because they have to be approved.

Ms O'BYRNE—And they are all getting their phone calls saying, 'Can you add this?' or 'Why didn't you do that?'

Ms Blackwell—Exactly. All of those questions are now being asked.

Ms O'BYRNE—So what are you guys doing, as our major towage and salvage people?

Mr Bendy—As best as I understand it we are not putting in security plans related to salvage, but we are as far as port harbour towage services are concerned.

Mr McGoogan—I was actually going to make that point. A salvor is not defined under the current legislation as an industry participant. The only party who is defined under the legislation is in fact the towage service provider.

Ms O'BYRNE—So as towage services you are bound by the act to provide a security plan?

Mr Bendy—That is right.

Ms O'BYRNE—It gets complex.

Capt. Cole—There is an added complication—not a complication but a reason—and that is that most salvage vessels are under 500 gross tonnes, and intrastate vessels and vessels under 500 gross tonnes are not required to have an ISPS Code.

Ms Blackwell—A ship security plan.

Capt. Cole—Yes.

Ms Blackwell—The body providing the security plan is the shore based company controlling the actions of those vessels.

Mr McGoogan—The service provider is defined as the industry participant.

Ms O'BYRNE—The service provider, who is defined as the industry participant, must put in the plan?

Mr McGoogan—And certain industry participants are defined under the act such that they must have security plans in place. One of those is a towage provider.

Ms O'BYRNE—So it specifically says that then—otherwise they would be exempt because of the nature or the size of the vessel. Thank you—I think! I am getting more confused.

Mr McGoogan—But they are not defined as salvors.

Mr Payne—The example was given a moment ago of a ship blocking the channel at Newcastle. That is a very real example. We had a meeting recently with, amongst other people, the Director-General of ASIO, who provided a chilling description of the criteria that the intelligence agencies believe that terrorists would use in determining what a target would be for their activities. We were in this meeting—there were shipowners there with this gentleman, amongst others—and we put that sort of proposition to him: 'How are you going to provide this sort of security in what for the most part are our ports where this sort of economic damage could be done?' The response was that economic damage is probably not the highest criterion on a terrorist's agenda. We do not need to go into the sorts of horrifying images that we have all seen from Madrid and other places in that regard, but what that does indicate is that, in their view, if shipping were to become a target, it would be more likely to be in a much more obvious, highly populated place, such as here in Melbourne. The minister himself, in fact, described the possibility of, one Sunday morning, an ammonium nitrate ship going up under the Sydney Harbour Bridge when the shipping industry was used as an example of going from 'Be alert, not alarmed' to 'Don't be alarmed; panic.'

Ms O'BYRNE—That is okay: once the ammonium nitrate is on the soil, we tend not to worry too much about where it goes; only two Bali bombs a year go missing!

Mr Payne—The reason I mention that is that the security issue in the maritime sector was really cranked up substantially recently, presumably mainly for political reasons, we think, because nothing discernible that we can establish has happened in the month or so that has elapsed. Be all that as it may, if there were to be a terrorist incident, it is thought by those who are expert on the issue that it would be in a highly populated place.

One of the things that the shipowners put to that meeting and those very senior officials was, as they described it, that they have 16 men and 800 feet of steel that they are concerned about. How on earth do you protect that? As late as last weekend I think we had lettering daubed down the side of a container ship on the Brisbane River, and not long before that lettering was daubed down the side of a warship in New Zealand. It is a very real and large problem, and the towage or salvage industry by connection, because it is the same thing for most equipment purposes, is obviously a part of it.

Ms O'BYRNE—This question is probably outside of where this committee will go, but there has been mention of the introduction of ship marshals similar to the air marshals. Do you have any comment on that? I would be interested to know, while we have you here and given what you have said, what you think about the capacity for them to be of any use.

Mr Payne—It has been suggested to Australian ship operators—and I imagine to the tug operators—that one alternative might be escort vessels where a ship is perceived to be some sort of risk. It is not hard to envisage a ship coming up Port Phillip Bay with some escort vessel in attendance having to decide at what stage some runabout with mum, dad and the kids on board on a Saturday afternoon goes from being out for a happy jaunt into becoming a terrorist threat that they shoot. Luckily, we do not have to make those decisions, but if you were going to the point of having this marshal concept you would have to address those sorts of issues.

ACTING CHAIR—What about a radar system? We were in Dampier, where the port is going to introduce a visual identification radar system. Is that something that already exists in other ports—for example, in your area—where a vessel approaching the port can be detected by the radar and identified?

Ms Blackwell—That is the AIS. That has certain advantages in being able to track the ship as it comes close to the port but certain disadvantages in other areas, such as in security detection. AAPMA had a presentation from AMSA and ATSB recently at a meeting that we held, and those particular gentlemen do not want AIS to be used too much in the security role, for a number of reasons. One of them is that an AIS aboard a ship can be interfered with. Apparently, the AIS had been tampered with on one of the Uruguayan fishing vessels, and it gave a position 1,000 miles away from where the vessel was actually caught. It is not tamper proof, so there are difficulties with AIS.

Ms O'BYRNE—Obviously one of the biggest risks would be a tiny plane coming towards a vessel or infrastructure. Would AIS pick that sort of thing up?

Mr Payne—No. You could not do anything about it if it did.

Mr McGoogan—With regard to security, one of the points we put to the initial meeting with DOTARS was the fact that Australia does not have a tracking system for ships around the Australian coast. One of the most important elements of security that we believe should be in place is a centralised computer system which tracks all vessels—both Australian and foreign—operating around the Australian coast. There should be a central database for that, and that should be easily accessible. The question then came back: 'Don't AMSA, Customs or any of these organisations have it?' The answer was no.

Ms O'BYRNE—How would you do it? How would you have a tracking system that you could be sure was completely—

Mr McGoogan—Every vessel attending an Australian port is represented by a shipping agent. That shipping agent would progressively report the ETA of the vessel at his port from the—

Ms O'BYRNE—Unless you have an issue, such as the Uruguayan one, where the vessel does not want you to know where it is. You are still relying on the fact that it is legitimate business being conducted and everything is going fine and that it is not Patagonian toothfish pirates in the Southern Ocean who are going near the coast.

Mr McGoogan—In the case of an emergency or a salvage operation we need to know what we have in the area—what resources are there vis-a-vis tugs or other ships. Therefore, we need

to go to a database immediately and find out where they are. Currently, under the AUSREP system, a vessel proceeding from one port in Australia to another port in Australia is required to report to that system, but a vessel coming from a foreign port to an Australian port or proceeding from Australia to a foreign port is not required to report to that system, therefore we do not have a monitoring or tracking system. If the Commonwealth wants to go down a particular road, it is absolutely essential to create a national database system which would record not only all Australian ships but all foreign ships and all fishing vessels. So there would be a total database available to the Australian Maritime Safety Authority in Canberra, in terms of the emergency response procedures. Currently that does not exist.

Capt. Cole—At the moment, with the technology that we have, we would probably say the only way of doing this, when it becomes mandatory, is the AIS, for all its faults.

Ms O'BYRNE—That is the only thing in existence?

Capt. Cole—Yes. For all its faults.

ACTING CHAIR—What about exclusion zones? How appropriate would it be to have an exclusion zone where vessels that enter that particular zone must identify themselves, the reason why they are in that exclusion zone and where they are headed? Would that work? There has been a suggestion that we might do that amongst the oil platforms in the North West Shelf.

Ms O'BYRNE—So you could then automatically assume that—

Capt. Cole—Could I just answer that question—

ACTING CHAIR—Would that work in other areas, in other ports?

Capt. Cole—with a comment about what happened in European waters. A Wilhelmsen RORO ship sank in the English Channel. They put out buoys, promulgated its position and had a naval vessel there, and yet still three vessels ran into it. It was partly submerged. So, yes, what you are saying can be done, but it is not foolproof.

Ms O'BYRNE—The US exclusion zones appear to be a little more tightly organised.

Capt. Cole—That is right, but they have the resources. We do not have a coastguard—and you can argue the relative merits of that.

ACTING CHAIR—We would be happy to argue the merits of that.

Capt. Cole—You can argue the merits of it then.

Ms O'BYRNE—Maybe in Launceston.

Ms Blackwell—This leads to an interesting point. When you talk about exclusion zones, under the Maritime Transport Security Act you do already have the provision to declare maritime exclusion zones around certain vessels at, say, security levels 2 and 3.

Ms O'BYRNE—For instance, visiting US warships have exclusion zones.

Ms Blackwell—They have the capacity to pay for the contractors that come in; it is not necessarily their own troops who are protecting their own vessels. I am aware that in the Port of Fremantle they contract and they also use the local police. That leads me to another vigorous discussion that has been held, between port authorities and the Office of Transport Security within DOTARS, over the provision of waterborne security vessels. This may be of interest to the committee. It is not particularly on point, but you are leading there. Some months ago, port authorities were told to identify what waterborne vessels they could employ to use in detection and deterrence measures at certain security levels.

Ms O'BYRNE—Some of the small ports have really enjoyed answering that!

Ms Blackwell—There have been a variety of colourful responses to this. But other ports and port facility operators have actually taken the question quite seriously, to the extent that it was thought at one stage that it was necessary to have mum and dad armed on the local tinnie to prevent an incoming terrorist. In fact, it was pointed out to DOTARS by some very helpful people that the only people who are licensed and trained to use an armed weapon on a moving vessel—given that they do bob around a fair bit—are the SAS. Licensing, permitting or requesting ports to suggest anyone else was just plain dangerous.

Ms O'BYRNE—I think the only other people are Customs. Customs have some potential to be armed.

Ms Blackwell—They have a potential to be armed, but I do not believe they are actually trained to use those weapons on a moving vessel. It is a very fraught situation. So we have had a long, ongoing and vigorous discussion with DOTARS about the provision of waterborne security: what does it mean, what can we provide and what do we have at our disposal?

Ms O'BYRNE—I heard one little port say that, so long as the terrorists did not mind waiting about four days for them to get the vessel and get it out, they would be fine.

Ms Blackwell—Picket vessels have been suggested. It has been suggested that tugs be used, and tug operators have properly said: 'We do not have the training. We will naturally do the security training that is required to raise our detection awareness and levels, but please do not ask us to go out there and deter it.' So there are vigorous discussions between AAPMA and DOTARS. We are urging DOTARS to have discussions with states about the provision of waterborne vessels at levels 2 and 3. We are drilling down to the provision of certain vessels at certain facilities around the country, so that has been a vigorous discussion that has taken place over many months. It has not been resolved. We have included it as part of our submission to the Shergold committee—the SCONS inquiry that the Prime Minister announced recently—and we wait to see the outcome. It clearly calls for more resources on the water.

Mr McGoogan—I will tell you about the incident of the British warship *Nottingham*. That vessel had all of the components that we have been talking about today. First of all, it went aground at Lord Howe Island. There was some leakage of oil. It was required to be salvaged, to come to a port of refuge for the purposes of security and to be taken back to the UK. We could have lost that vessel on the island, but we did not—we were fairly lucky. The crew did

everything possible to save it. Basically, that vessel was salvaged by way of the resources of the salvage master, who was the key component of this salvage operation. That chap came from the UK—he was an Australian, by the way—he went on board and was supplied with resources from our company, which is Inchcape Shipping Services. The RAAF assisted to get all those resources to the island. The vessel was secured, tugs were engaged, and it was brought to Newcastle.

The most difficult part at Newcastle was finding a place where there could be an exclusion zone around the ship, which was a safety issue as opposed to a security issue. The difficulty was that there was a requirement from the Brits to have waterborne security for the vessel, which was totally impossible. The reason it was impossible was that it came to the old BHP wharf in Newcastle and there were coal ships coming and going from the other side.

Ms Hatch—Just going back to your point on exclusion zones: Australia does have a REEFREP system already operating in the Great Barrier Reef. It is there as an aid to navigation but, in a way, you could say that it works a bit like an exclusion zone, in that all the ships that come into the area are polled and logged. They have comprehensive radio coverage of the area—it is not complete, but it is comprehensive—and that allows them to communicate with vessels and find out what they are doing and why they are doing it. The question then is, ‘What would you do if the ship did not call back or did not answer the radio?’ but that is a secondary question. So there is a kind of example. The AUSREP system does extend to the EEZ so, whether it is compulsory, ships certainly are polled all the way to 200 nautical miles.

Also, AIS was developed as an aid to navigation, not security, so it is currently trying to be used for something that it was not originally intended for. That is something to be borne in mind when using AIS.

Capt. Cole—You raised the question of sea marshals. I would suggest to you that the idea may have merit, but it certainly would not be one, because, whereas the air marshals are possible because transit times are generally 20 hours or less—

Ms O’BYRNE—I would argue that the air marshals do not necessarily work either.

Capt. Cole—No, and I would agree with you.

Ms O’BYRNE—I just cannot see that that is a—

Capt. Cole—You would need at least three. Ships do not have the accommodation. Well, they can do—you can do all sorts of things.

Ms O’BYRNE—Tugs do not have the accommodation. They are too small or tiny and unpleasant, we have heard.

Capt. Cole—You would run into a lot of problems with foreign crews. You just have to see the problems that one pilot on the Barrier Reef has.

Ms O'BYRNE—I was about to mention that we talked about the Barrier Reef and the contact that you might have with ships. If you look at the AMSA record, it appears to be the training of those on board the ship that creates a significant issue.

Mr Payne—Piracy is probably the only situation in which ships come anything close to this sort of terrorist threat. If you are boarded by pirates, you are being subjected to what you would perceive as a terrorist threat, because you have no idea what they might be driven to do. As we understand it, if pirates threaten to or do come on board, the conventional wisdom on a ship is to simply lock the accommodation and stay inside. I know of no ships that carry arms to try and respond to them. In fact, I know that most, if not all, shipowners have a policy not to do so.

Ms O'BYRNE—I think the only example in the southern seas is that we have had armed Customs officers on some occasions. That appears to be the only time.

Mr Payne—Yes, but the crews themselves would not be—

Ms O'BYRNE—No, the crews themselves are not armed.

Mr Payne—provided with armaments.

Ms O'BYRNE—I think that is a very wise move.

Mr Payne—Yes. So piracy is probably the closest that we have to the situation in real-life experience.

Mr Hoskison—I would suggest that the problem is not so much terrorists boarding the vessel but what is carried on the vessel. Goodness knows what is in the containers on container ships, and that is the most likely big-bang scenario. Terrorists just going on board a ship cannot do that much damage in a built-up area, which is what they seem to like, but they could put a container ship alongside a wharf in a major port, such as Brisbane. We are off to Brisbane tonight! But in Melbourne or Sydney it could make a nasty mess. I was going to mention something else but I have forgotten it now.

Ms O'BYRNE—In terms of the operation of tugs, going back to the issue of the use of tugs in security, the things that you would be looking at include salvages—you would normally do salvages—but the security aspect would be the prevention issue. I would suggest—but please tell me—that the only time it would be called upon is when someone says, 'There is something coming. Block the entrance.' I guess I am trying to get an idea about where tugs play a role in this.

Mr Bendy—There are a lot of areas of prevention and preparedness. As an example, a role that tugs could play is in escort. That may not stop the terrorists' attack on a vessel. I am not a terrorism expert, but terrorists typically hit and go. They do not hang around to see if there is a second, third or fourth opportunity to hit again. You could have a situation where a ship is hit in an important area—an entrance to a harbour or something like that—and the tugs could at least move the ship to a safer area before it sinks in a vulnerable position or whatever.

Ms O'BYRNE—Going back to Fremantle and Garden Island, if something sinks in the channel it is a serious impediment for us. The role would then obviously be to deflect something from coming in.

Mr Bundy—You have to get it into perspective. Big ships do not sink very easily. You have to put a lot of holes into them to make these things go down. As an example, if you put a hole in an oil tanker it floats higher. It does not sink, because there are so many compartments in the thing. So there is time on the escort vessels' side, if that is a particular scenario you want to focus on, and they would have time to do something, as long as they were on hand to be able to do something. So it is not a case of 'boom'—it is sunk and gone. It does not happen that way. There is a lot of time—it could be hours. The worst thing would be if a ship were hit and it went out of control, ran into the heads, swung around and blocked the channel. But if tugs were on hand to do something to stop that from happening, that would save the situation.

Mr Bundy—I am relatively new to Australia. It seems to me there is tremendous emphasis on shore-side security in the ports, but the intractable problem I think many of the port authorities have is that that the public have open access to the ports from the water side.

Ms O'BYRNE—You can close off the gates to the port but you cannot close off the water.

Mr Bundy—With the USS *Cole* and the French tanker off Aden—

ACTING CHAIR—The *Limberg*.

Mr Bundy—a small speedboat, loaded up with explosives, went into the side of the ship. Where could there be greater impact for that sort of thing to happen than at Swanson Dock or Port Jackson? This is the biggest hole in the ISPS system. There are massive resources being put into making sure the ports are secure and that the port users are secure from the shore side, but the problem is the access by all and sundry to the waters alongside those ships 24 hours a day. People talk about water police, but where are they coming from? Where are they being funded from? And you cannot just have one policeman. In Brisbane, for example, there are many kilometres of riverbank to patrol.

Ms O'BYRNE—You get to the point where the cost of providing that level of security at the water side is an unmanageable amount of money.

Mr Bundy—Or you get to the politically unacceptable position of having to prohibit public access to these areas. I do not think that would go down too well.

ACTING CHAIR—Before we wrap up, we might go around the table once again to get some feedback. Put yourselves in our position and tell us the changes you would recommend this committee should recommend to the government to enhance salvage operations. Before we do that, I would like to put a question to you. Last time, we took some evidence about the difficulty in coordinating the various assets owned by different companies in terms of a salvage operation. Does anybody have any information they might be able to offer on that? How do you work with competing companies to share assets to get a particular task done? Has that presented a problem in the past?

Mr Bundy—It could potentially do so where there is competition in a port for the provision of certain services. In the UK there is an overall coordinator, I think called SOSREP, who has very considerable powers to command that certain resources are used, and in what capacity they are used. I suggest that a similar position is required in Australia as well to coordinate the best use of the equipment and resources that are available in the port. Otherwise you are always going to be open to competitive disadvantage

Mr Hoskison—That has been visited when a SOSREP, Robin Middleton, has been out here addressing various seminars. It usually falls on pretty stony ground between the state and federal government on the question of which SOSREP you should talk to—the state one or the federal one. You have to overcome those sorts of difficulties, which are present in a lot of Australian life, unfortunately.

ACTING CHAIR—Does anybody else have any thoughts on what sorts of recommendations we ought to be making?

Mr Payne—What I have discerned from the discussion this morning, and what I would put to you, is that it is necessary to determine where the emergency towage/salvage capacity is required. It is necessary to determine where the provision of those facilities is commercially viable. It is necessary to determine whether the industry or the community will be required to pay for that. If the industry pays for that, is the charge on industry to be spread around all ports, regardless of whether salvage capacity is provided in that port or not, or would it be used in the ports in which the salvage capacity exists? Then you would need to address the question of how you would differentiate, from a policy point of view, that pricing mechanism.

Ms Blackwell—I agree with what Mr Payne has said and take up a point Mr Birchmore made a couple of hours ago about the need for an audit of what is available around the country and where it is located—this might overcome some of Paul's concerns about competitive neutrality—and a national coordination body, which would be Commonwealth based, please. The SOSREP is coming out in the next month or so to speak at one of the many seminars.

Mr Hoskison—He is here for Spillcon.

Ms Blackwell—I think you are right. That seminar will take place in August. I am not sure whether that is in the committee's time frame but it might be helpful for you to speak to him.

Mr Hoskison—That is on 23 August, isn't it?

Ms Blackwell—On 23 August, yes.

Capt. Cole—I endorse the remarks made by Mr Payne. The only variation that I would seek would be that all shipowners—because at the end of the day they are the beneficiaries of any emergency response network that we provide in Australia—should pay. The mechanism that I have suggested is through a levy as part of the light dues. The cost of providing that in selected ports can easily be established through a financial modelling exercise. On top of that we have to take into account the lack of resources that Australia currently has in terms of the personnel who man emergency response vessels, the naval architecture and the legal side of it. I have suggested in my paper that we at least go to tender to look for those resources—the naval architecture and

the legal resources—that a respondent can use to support their emergency response /salvage. I think it is generally accepted around the table that there has to be some financial support. If it is deemed that an emergency response/salvage capability is in the national interest then the national interest must support the providers of that service. The providers do not necessarily have to be towage operators; I believe that offshore support vessels are equally competent in providing emergency response/salvage as any harbour towage operator.

Mr Bendy—I recommend that Australia should have some salvage capability. I believe that we have an existing model that has worked for some years, which is not necessarily broken but which needs to be reviewed to see whether it is in line with Australia's current capability needs. It may be more than what we need; it may be less than what we need at the moment. We need some sort of review and we need to get this model. We need to put that model in place, both at a federal and state level, and to have legislation in place to ensure that the appropriate cooperation occurs right throughout the country and in the national interest so that local operators can respond to any incident, be it a security incident or some industrial mishap. I said earlier that I believe that the model we have is not broken but probably needs tweaking. There has been a lot of strain put on that model as a result of competition, and I believe that that needs to be looked at very carefully. If we are not just going to fix the capability issue for a short term but are going to sustain that capability for a long term, we have to put long-term solutions in place.

One of the solutions I would propose would be to get a level playing field for towage operators in all ports, so that any towage operator could come into a port and compete. By that I mean that the in-port towage operation should be part of Australia's salvage capability, so it would all be in the one model. I do not believe there is a lot we have to do to get it fixed, but, in the end, the salvage business end of the towage operation has to be viable. In maintaining that balance, if it was believed that Australia, in the national interest—due to security or whatever other needs—needed a higher level of salvage capability that went beyond the viability of maintaining that business, those operators would be looking towards the government to provide funds to ensure that capability was maintained.

Mr Birchmore—I find myself in very broad agreement with what Paul has just said, to the extent that I do not think what we have is broken. But I think the Commonwealth has presented the great opportunity to bring order to the existing capability. I am recommending leadership. The existing situation could be improved. I believe that one of the ways it could be improved would be for the Commonwealth to set down guidelines to encourage regional capability of both vessels and training—one is no good without the other. I recommended earlier that the results be audited regularly, and those capabilities be gazetted for government agencies and owners.

That might knock out the present poor practice where, when a ship gets into trouble not too far from a port, there is generally a ring around and prices are put in. The most capable units are not always selected. Quite often it will go to price rather than capability. I think price will eventually have its place, but capability is one of the essential measurements. Guidelines and standards are needed in order to establish that. If there were two or three complying companies, that would be terrific. If they had all passed their standards of equipment and people then price could come into it. But first of all the guidelines have to be there.

Mr McGoogan—Shipping Australia, which represents foreign shipowners and industry operators, would not like to see Australia pass laws to interfere with the international salvage

laws and agreement that currently exist. With regard to the decision making processes that currently exist between state and federal authorities and port authorities, I think considerable streamlining is available to the Commonwealth to allow for better processes to come into play when we are faced with an incident. The experience we have had is that there are a lot of competing forces. When an incident occurs, everybody wants to get their finger in the pie. That differentiation of decision should be clearly defined.

On the commercial resources side of things, the industry is very supportive of resources being available for salvors to use within Australia. We now have competing towage operators. We should consider that there may be resources available to a salvor from either of those towage operators. Therefore, they should be called upon and we should define whether or not there is any resistance available from port authorities to prevent that equipment being available to ships in distress.

I think that every salvage incident that occurs should be thoroughly examined by the Commonwealth, possibly by the Australian Maritime Safety Authority or even the transport investigation branch. I think that does occur. What should be examined is whether or not resources were adequate or difficulties arose in respect of the salvage operation. It should look not only at the Australian side of the resources but also at the international resources that may be available so that we can learn from those mistakes in terms of long-term salvage capability.

ACTING CHAIR—Would anybody else like to make a contribution?

Mr Bundy—I think my primary concern and that of Australian Maritime Services as a towage provider and a new entrant into the business here—it has been established for about two years—is about any proposal to pass legislation that would reduce the ability to offer competitive services in the port, which is why I guess my view would be that perhaps you should consider separating salvage type services from harbour towage services. On the one hand, you can then readily identify the cost of providing those harbour services and then the additional premium of providing a salvage capable tug in that port. At the same time we are, I think, in general talking about there being one salvage capable tug in each port. Would you then allow the successful candidate for supplying that tug to then dominate the other three, four or five tugs that are also required to run the port services?

Mr Payne—I think the proposition is to some extent supported by the terms of reference of the inquiry, which say, in part, that the purpose of the inquiry is to investigate the impact of the Productivity Commission report in respect to the nation's ongoing capacity to provide a defined level of salvage. The Productivity Commission said in its report:

The provision of salvage services need not be adversely affected by the efficient pricing and provision of harbour towage services.

I think that the evidence suggests that provision of salvage capability has been adversely affected by what is described as efficient harbour towage pricing mechanisms. It seems to me that that might be the core conundrum that the inquiry is facing.

ACTING CHAIR—That will be determined as the inquiry progresses.

Ms Blackwell—Can you tell us when you will be reporting; can you give us some idea?

ACTING CHAIR—No, I can't. Hopefully before the next election. The committee will determine as it meets and gathers information whether we think we have enough to go into report writing mode. It could be a matter of a few weeks or it could be a few months.

Thank you all very much for coming along and giving information. I know that you are all very busy. The committee certainly appreciates your contribution. Does anybody have any problems with making the transcript of this morning's proceedings open to the public?

Mr Hoskison—Apart from one small reference to Brisbane, no!

ACTING CHAIR—I think we will probably name the report after your reference to Brisbane!

Mr McGoogan—What I have stated about *Nottingham* being a military vessel should in fact not be disclosed.

ACTING CHAIR—I do not think we can make a decision as a subcommittee anyway. We will have to take this to the full committee. We can take it with the recommendation from you that matters in relation to the *Nottingham* be expunged. We will recommend that to the next general meeting of our committee. Again, thank you for coming.

Committee adjourned at 1.24 p.m.