

# CHAPTER ONE

## OVERVIEW AND CONDUCT OF THE INQUIRY

### Origin of the Inquiry

1.1 On 25 June 2001 the Senate referred the matter of the role of AusSAR in the search for the *Margaret J* to the Senate Rural and Regional Affairs and Transport Legislation Committee for inquiry.<sup>1</sup>

1.2 AusSAR (Australian Search and Rescue) is the search and rescue division of the Australian Maritime Safety Authority (AMSA), charged with the provision of search and rescue services under section 6 of the *Australian Maritime Safety Authority Act 1990*.

1.3 The *Margaret J* went missing in April 2001. Tragically, the three men on board, Mr Ronald Hill, Mr Robert Kirkpatrick and Mr Kimm Giles, lost their lives.

1.4 Public controversy surrounded AusSAR's role in the search for the *Margaret J*. Concern about AusSAR's performance rekindled disquiet about AMSA's role in the search for the missing Tasmanian fishing vessel *Red Baron* in December 1995. The relationship between state and Commonwealth search and rescue agencies, and the transfer of responsibility for the search for the *Red Baron*, was a matter of particular concern. In response to criticism of AMSA's role, the agency said:

The reality is the coordination arrangements were inadequate at the time. There was no appropriate mechanism for determining which authority had responsibility. There were problems in the coordination.<sup>2</sup>

1.5 The Committee initially proposed to conduct its first public hearing into the matter on 19 July 2001. Following correspondence from the Tasmania Police, legal opinion from Mr K Bell QC and Ms D Mortimer of Douglas Menzies Chambers in Melbourne on behalf of the Australian Maritime Safety Authority (AMSA), and advice from Mr Harry Evans, Clerk of the Senate, the Committee resolved to defer hearings until a later date.

1.6 Issues raised by Tasmania Police concerned the inquiry's timing and potential to conflict with the coronial inquest and issues relating to speculation arising from media coverage. AMSA's legal advice indicated that the Committee's inquiry might prejudice the conduct of the coronial inquest.

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1 Extract from *Journals of the Senate*, No. 194, 25 June 2001. The initial reporting date was 30 August 2001.

2 Rural and Regional Affairs and Transport Legislation Committee, *Transcript of Evidence*, Budget Estimates, 12 June 1997, p. 329

1.7 Further correspondence from Tasmania Police dated 9 August 2001, advised that the coronial inquest would be delayed and reiterated the original request to defer the inquiry until after the completion of the inquest. The Committee resolved to commence the inquiry and scheduled public hearings for 20 August 2001 in Canberra and 14 September 2001 in Launceston, Tasmania.

1.8 Correspondence dated 20 August 2001 from Mr Lorenzo Lodge, Crown Counsel, Tasmanian Office of Director of Public Prosecutions, outlined concerns that evidence obtained in the Committee's inquiry could pre-determine the issue and undermine the Coroner's determination. Based on this request, the Committee resolved to not proceed with scheduled public hearings and deferred the inquiry pending the Coroner's report.

1.9 The Committee tabled an interim report on 27 June 2002. This report indicated that the Committee had not completed its inquiry during the course of the 39<sup>th</sup> Parliament and recommended that the inquiry continue during the 40<sup>th</sup> Parliament. The recommendation was adopted by the Senate.<sup>3</sup>

1.10 The report of the Coroner, Mr Donald Jones, was released on Monday, 26 August 2002.

### **Conduct of the Inquiry**

1.11 The Committee received and authorised for publication three submissions (see Appendix 1).

1.12 The Committee held two public hearings, in Canberra on 19 September 2002 and Launceston on 27 November 2002, hearing evidence from officers of AMSA, Tasmania Police and local mariner and life raft surveyor, Mr Jim Hooper (see Appendix 2).

1.13 Submissions and transcripts of the hearings are available at the Parliament House website [www.aph.gov.au](http://www.aph.gov.au).

1.14 The Committee's findings are informed by submissions to this inquiry, evidence taken at public hearings, responses to questions on notice, and the coronial report.

1.15 While the Committee's work was informed by the coronial report, the Committee did not seek to duplicate the inquiry undertaken by the Coroner pursuant to Tasmanian legislation. The Committee notes that the coronial inquiry involved 21 days of extended sitting hours, evidence by 48 witnesses, 208 exhibits and a transcript of proceedings that stretched to 3 700 pages.<sup>4</sup>

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3 The reporting date was extended to 12 December 2002 and subsequently to 26 June 2003, 4 December 2003, 11 March 2004, 27 May 2004, 5 August 2004 and 12 August 2004.

4 Coroner's Report, 26 August 2002, p. 1

1.16 The Committee delayed public hearings, and has subsequently delayed the presentation of its report, in order to minimise the creation of difficulties for any legal proceedings, including criminal prosecutions and civil suits, arising from the search for the *Margaret J.*

