

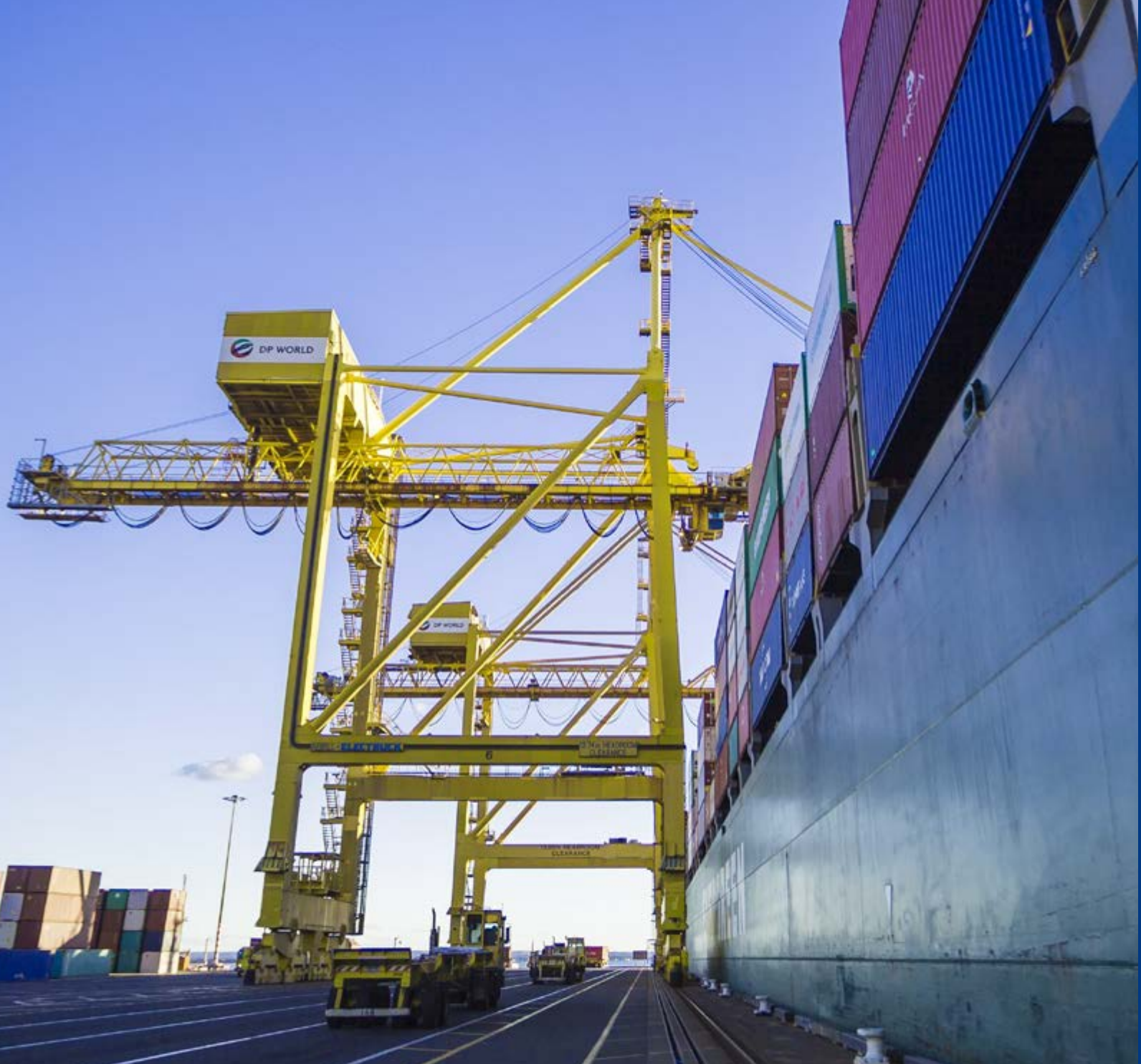
# Shipping Australia Limited Annual Review 2022



**Senator McKenzie:**  
Australia's maritime industry  
is imperative in the success  
of our onshore industries







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**Scott Henderson**  
Chairman

Appointed 24 February 2015  
(Chairman 2 December 2016)

Managing Director, Gulf Agency Company (Australia) Pty Ltd since 2014. Scott has 27 years of agency experience in Australia, prior to that he served as deck officer in the British merchant navy for seven years.



**Kevin Clarke**  
Appointed 12 November 2003

Kevin Clarke has worked in the shipping industry for over 52 years, the past 30 of which have been as managing director, Mediterranean Shipping Company (Aust) Pty Limited.



**Eddy DeClercq**  
Appointed 8 August 2008

Managing Director OOCL (Australia) Pty Ltd.

Eddy has 38 years of shipping industry experience in various key commercial and management positions in Belgium, Denmark, The Netherlands and Sydney.



**Shane Walden**  
Appointed 1 August 2019

Shane Walden is the recently appointed Managing Director of ANL Container Line Pty Ltd.

He has extensive experience in liner shipping gained through shipping line appointments in Australia, France and Hong Kong.



**Captain Sunil Dhowan**  
Appointed 1 September 2020  
SAL VIC State Chairman - 2016-2019

General Manager Operations Oceania, Wallenius Wilhelmsen. Sunil has 42 years of holistic experience on ships and ashore in the maritime logistics industry. He has held various key management roles in Australia.



**Clinton Evans**  
Appointed 20 July 2021

Area Oceania Managing Director, Hapag-Lloyd (Australia) Pty Ltd since September 2019.

Clint has 26 years of shipping & logistics experience in South Africa, Middle East (Bahrain, Qatar and Dubai) and India.



**My Therese Blank**  
Appointed 20 November 2021

My Therese Blank is Maersk Group's Head of Oceania Market and she has responsibility for ocean business in Australia, New Zealand, and the Pacific Islands. She has extensive senior leadership experience in the shipping and logistics industries across Europe, Asia, and Oceania.



**Kristy Craker**  
Appointed October 2022

Managing Director & founder, Ship Agency Services from 2011.

She is also a founder, and the Managing Director, of Propel Marine, a marine solutions provider.

Kristy has more than 20 years of experience within shipping and logistics in Australia.

*Pictured: Senator Bridget McKenzie, Shadow Minister for Infrastructure, Transport and Regional Development.*

# Senator McKenzie: Australia's maritime industry is imperative in the success of our onshore industries

By Senator BRIDGET MCKENZIE,  
Shadow Minister for Infrastructure, Transport and Regional Development

By geographical good fortune, Australia is an island and is therefore naturally predisposed to be a trading nation that depends fundamentally on the shipping industry to support our export industries, to get product to market and for every single Australian who depends on imported goods to live their lives and operate their businesses.

This is why, when I was given the honor of becoming the Shadow Minister for Infrastructure, Transport and Regional Development after the recent election, I decided that I wanted to visit as many Australian ports as I could to understand first-hand how our supply chains operate, to talk to the people who are at the front-line, and to gain an understanding of the issues facing this vital industry.

To date I have visited the Port of Newcastle, Port Botany, the Port of Adelaide, and the Port of Melbourne, with more to come.

If there was one positive outcome from the COVID epidemic was that it gave policymakers a deeper appreciation of the complexities and the vulnerabilities of Australia to domestic and global supply chain shocks.

As I do visit each port, I try to express my gratitude on behalf of the Government I served, to the men and women working in the Australian shipping industry for their hard work,

perseverance, and endurance through those difficult months.

The efforts of ships' crew, pilots, stevedores, and all personnel throughout the industry were steadfast in responding to COVID restrictions and in keeping the export commodities leaving our shores and the imported goods coming in.

Australia's maritime industry is the vital link to the nation's supply chain and imperative in the success of our onshore industries.

Getting the policy settings right is vital, and where possible bipartisanship is important for long-term decision making because trading continues regardless of the complexion of the government of the day.

The over-arching policy prescriptions of government and policy-makers should seek to improve productivity, make the supply chain more efficient through planning, and appropriate state and federal regulation to facilitate the efficient and safe flow of goods.

As Shadow Minister I intend to work constructively with industry, but also will not take a step backward if I see policy decisions from the new Government that are not in the Australian interest.

The previous Coalition Government initiated a Productivity Commission inquiry into the long-term productivity of Australia's maritime logistics system. The findings were released publicly last month.

The Productivity Commission reported impressive shipping results for the 2018-19 pre-COVID period, including:

- More than 6,000 cargo ships made approximately 34,000 calls to Australia
- Australian ports handling 1.7 billion tonnes of freight including 5.1 million containers
- Cargo moved was worth about \$573 billion

What was clear from the findings is that industry can achieve higher productivity, and the Federal Government plays a key role in guiding this outcome.

The report concluded that inefficiencies at Australia's major container ports directly cost the Australian economy about \$600 million a year.

Turnaround times at Australian ports are low by international standards and inefficient and outdated workplace arrangements are having a significant negative impact on performance.

Strike action at shipping ports has led to movement delays, warehousing backlogs and product wastage, resulting in 'significant anxiety and stress' for food and grocery sector businesses, according to the Productivity Commission.

More action by government has been recommended to further reduce industrial disruptions, including



enhanced court discretion to impose penalties for contraventions of the Fair Work Act commensurate to losses incurred, options other than lockouts for employer protected industrial action and empowering the Fair Work Commission to terminate protected industrial action that threatens to cause significant economic harm to a party.

Longer-term infrastructure solutions should also be a major goal for government. “First and last mile” improvements in connectivity make enormous difference to efficiencies.

There is no point building a world’s best practice port that is super-efficient if the road or rail entry and exit points connecting the port to the product source are costly bottlenecks.

In Government, the Coalition implemented the National Freight and Supply Chain Strategy to improve existing practices and create new opportunities for our businesses, consumers, and producers. Our \$120 billion 10-year infrastructure pipeline helped to improve supply chain links between producers and ports. Ports in Darwin, Port Hedland and Newcastle were all targeted to benefit under this nation building scheme.

Under the Coalition the productivity of the maritime industry also progressed. The volume of our exports grew by 294.7 million tonnes, while the value of our international sea freight increased by \$70.5b.

Despite this industry progress, our own fleet of general licence holders is small.

Growing our own national commercial fleet will help strengthen our sovereignty in and around Australian shores. Its expansion will further secure access of supply and goods for our nation.

Australian shipping is at a crossroads. As often happens, a change of government brings a change of perspective, as well as the ideals and stakeholders they are advocating for.

Our focus was around ensuring those international businesses who are contemplating investing into Australia, have a taxation system that is fair and equitable to both the business and the nation. It is no secret that the general licensing system currently in place isn’t fit for purpose – it’s too expensive when compared on the world stage.

We want to see Australian-based shipping businesses on a level footing with their international counterparts, but we also must endeavor to remain internationally competitive.

We must have an industrial relations system and an industrial climate that supports industry, not one that sets out to destroy it.

At the election, the Labor Party promised to establish a taskforce to advise government on the creation of a government supported maritime fleet.

The terms of reference for the taskforce include “establishing Australia’s fleet as quickly as possible”, with a desire for a “strategic fleet of up to 12 vessels”.

This taskforce was commissioned in October last year and the final report will be released in the coming months.

We look forward to this paper and hope that a constructive, sensible, and fiscally responsible pathway forward is adopted as the base of the recommendations.

In simple terms the only way a Maritime Strategic Fleet will work is to adopt a zero-taxation system or for government to heavily subsidize the fleet, or a combination of both.

A clear cost-benefit assessment for infrastructure spending is the key for sustainable success.

As the new government looks to strategic national investment for the industry, it must ensure their use of the taxpayer dollar is on initiatives that offer the highest net benefit to the community.

A responsible national government must attempt to govern for all Australians, rather than sectional interests. And every Australian is beholden to the success our ports and shipping industry, even if they don’t know it.

Any policy that leads to further costs for the Australian shipping industry or to Australian taxpayers is not likely to be one that we support.

The cost of procuring a national maritime fleet is potentially enormously prohibitive.

On top of ensuring the taxation arrangements are fit-for-purpose, we also wanted to see that the industry is regulated well but fairly.

Regulation is important. Nobody argues that.

Regulation ensures the local environment is kept pristine, workers are paid fairly and are supported, and that safety standards are upheld. All these things make Australia the envy of the world.

We need to strike a balance that enables businesses to take risks to grow, while ensuring employees and their environment have good career prospects.

The Productivity Commission inquiry suggests there are more cost-effective options to address issues of maritime capacity and potential shortages of skilled seafarers.

It would be great if the new government acted in the national interest and looked at deregulation to provide more flexibility and lower costs. But given the Labor Party opposed this while in Opposition, that is unlikely.

Finally, it is pointless to have a sovereign fleet if no one can afford to use it.

Worse still is establishing a sovereign fleet with no sovereign workforce to crew it or crews that remain constantly disruptive.

Australia’s coastal shipping is highly regulated and anti-competitive.

Industry and government need to work together to ensure that there are employment pathways for younger Australians to start their career in the shipping industry at a first instance.

Training and workforce development will have to play a key part going forward.

Unfortunately, like many industries in Australia, it is unlikely we can meet this demand on our own.

The ultimate success of any government response to this issue will be measured by greater productivity, increased local and international investment and infrastructure that enhances our national sovereignty.

As we move into 2023, I look forward to working with industry and the Government to ensure we continue to build on the industry’s recent successes, but also to develop a more resilient, and efficient maritime sector that serves the needs and interests of all Australians.

Finally, I want to again thank everyone for their efforts during the COVID epidemic and the individuals who continue to work hard to keep Australia moving, making us a prosperous and strong nation. ▲

# World first hard sail equipped bulker called at Newcastle

By MITSUI OSK LINES

Mitsui OSK Lines held a ceremony on October 24 for the maiden port of call in Newcastle, Australia of the Shofu Maru, the world's first coal carrier equipped with the Wind Challenger (a hard sail wind power propulsion system), which was delivered on October 7.

The Shofu Maru is expected to have 5% less greenhouse gas emissions on a Japan-Australia voyage and about 8% less on a Japan-US voyage compared to a conventional ship of the same type. The vessel is also optimised for slow-speed operation, which will also save a considerable volume of emissions over time, and, as part of that optimisation, does not have a bulbous bow and has a relatively vertical bow.

Mitsui OSK Lines noted that it works closely with the Australian energy industry and port authorities to achieve both stable fuel transport and a reduction in environmental impact. The company added that the ship received a warm welcome to the port from concerned parties representing both Australia and Japan to take on its first cargo.

Nobuo Shiotsu, responsible for Asia and Oceania Region for Mitsui O.S.K. Lines told guests at the ceremony: "In 1897 (125 years ago), our Hikosan Maru carried coal from Port of Newcastle. This was the 1st MOL vessel to call Australia. And in 1917 (105 years ago), our Sydney Representative Office was newly established. So, taking this good opportunity, I would like to say thank you for our long-term relationship & friendship supported by Australian Society.

"Casting a spotlight on the wind as clean and unlimited source of energy, we aim to drastically reduce GHG emissions by reviving sail vessels based on a whole new idea... you may wonder what SHOFU MARU means in Japanese. SHOFU can be divided into two parts, "SHO" and "FU". "SHO" means "pine", and "FU" means "wind". This is because there are black pine trees planted for the purpose of erosion control in discharging port Noshiro,

Japan, so we named her "SHOFU MARU" with the hope that she will operate powerfully even under harsh conditions.

Resolving environmental issues is one of crucial MOL Group Corporate Missions. As one of the world's leading multi-modal companies involved in a variety of social infrastructure businesses, MOL Group is committed to protecting and enhancing the health of our marine & global environment for future generations. One of them is that we announced "MOL Group Environmental Vision 2.1" which aims for net zero emissions by 2050. To achieve this goal, we will continue to make all possible efforts such as introducing and shifting to alternative fuel, including ammonia, hydrogen and methanol, and make wider use of LNG as a transitional fuel.

"Talking to the relationship between Australia and MOL group, I am confident that MOL can contribute in many ways to the idea of a hydrogen hub here in Newcastle. In addition, we also want to contribute the offshore wind business off the coast of Newcastle, which we are focusing on as one of our new decarbonized challenges".

Looking back to my memory in 2018 (4 years ago), together with Hide Irisawa, the

MOL Representative in Sydney, we made a presentation about our new challenges including this Wind Challenger Project at Australia/Japan Coal Conference in Brisbane. At that time, this was just our dream. But this is a reality today. Our dream come true thanks to everybody's efforts involved for this project".

Shiotsu-san expressed his thanks and gratitude to all the delegates and to everyone who will provide future assistance relating to decarbonisation.

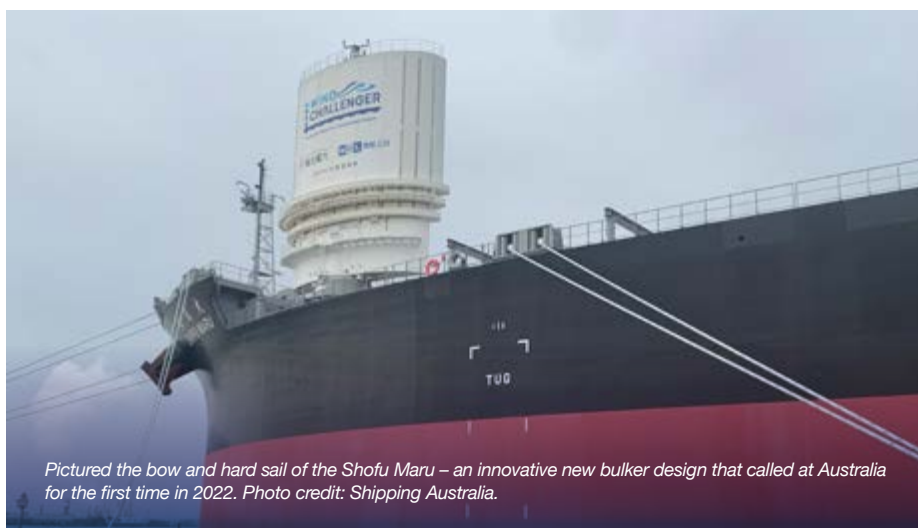
Glen Hayward of the Port of Newcastle also addressed guests. Declaring the Shofu Maru is significant in terms of innovation and sustainability, he described MOL as a "pioneer" in the field of sustainable shipping.

"Congratulations to MOL, you should be very proud of this achievement," Mr Hayward told guests.

Shipping Australia attended the ceremony as a guest of Mitsui OSK Lines.

Shipping Australia CEO, Captain Melwyn Noronha, thanked the company for the honour of its invitation. He also expressed his admiration and praise for the company's decarbonisation work.

"Mitsui OSK Lines is a world leading-company in dry bulk and decarbonisation and projects such as the Shofu Maru can only be of benefit to the shipping industry and to the environment. Innovative projects and the ongoing trade between our nations can only deepen and strengthen the friendly relations between Japan and Australia". ▲



*Pictured the bow and hard sail of the Shofu Maru – an innovative new bulker design that called at Australia for the first time in 2022. Photo credit: Shipping Australia.*



# Port of Newcastle container terminal bill passed into law

By SHIPPING AUSTRALIA

Note: this article was written during as the events detailed below unfolded.

A controversial Bill that could remove a financial penalty imposed on the Port of Newcastle, which prevented it from developing a container terminal, passed into law late last year

It was a fast-moving week in the NSW Parliament in early November 2022. The “Port of Newcastle (Extinguishment of Liability) Bill 2022”, was introduced, substantially re-written by the NSW State Government, then passed in the Lower House (the Legislative Assembly), before being substantially re-written by the Opposition in the Upper House (the Legislative Council), then undergoing a complete re-write back to the State Government version, and then clearing the Upper House.

## Back-story summary

The Port of Newcastle was put at a disadvantage in relation to any future container handling operations during the 2013 and 2014 port privatisations by the Mike Baird administration. The State Government set up two deeds (the Port Commitment Deeds) – one between itself and NSW Ports and, another, separate, deed between itself and the Port of Newcastle. Under the deeds, the State Government is required to pay a fee to NSW Ports for every TEU handled above a certain trigger point at the Port of Newcastle. The payment then triggers a requirement for the Port of Newcastle to pay about \$100 per TEU to the State Government every time makes a payment to NSW Ports.

There have long been proponents of building a container terminal at Newcastle. The former version of the

Newcastle Port Corporation wanted to build a container terminal as far back as 2003.

“Newcastle Port Corporation has a longstanding strategy to develop the next container terminal in New South Wales on the Mayfield site. This strategy is consistent with the NSW Ports Growth Plan (2003) which identified the Mayfield site in the Port of Newcastle as the location for the State’s next container terminal”, the Newcastle Port Corporation annual report of 2010-11 reads (page 59, bottom paragraph, left-hand column).

There was also substantial interest from a private port operating company based in Australia in developing a container terminal at Newcastle.

However, by potentially subsidising NSW Ports at the expense of the Port of Newcastle, the financial arrangements in the Port Commitment Deeds effectively sabotaged any chance that a container terminal would be developed at Newcastle.

Greg Piper MP (the NSW elected official for Lake Macquarie; Independent), who introduced the Port of Newcastle (Extinguishment of Liability) Bill 2022 commented in Parliament that the privatisation arrangements were “a very bad deal brokered by a former government to the great detriment of the State’s economic potential... what was not clear at the time [of the privatisation] was that the reason NSW Ports was willing to pay so much for Botany and Kembla was because they were essentially given a monopoly on container trade in and out of the State for the next 50- plus years. That did not happen by accident. It later emerged that

NSW Ports had lobbied the Government for the sweetest of deals, locking out competition on containers until 2065. That drove up the sale price for obvious reasons, and it was gladly accepted by a government with dollar signs in its eyes at the time and little regard for the long-term impacts”.

## Version one

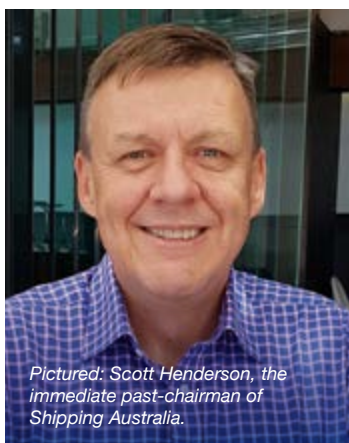
As introduced, the first version of the Bill simply proposed to extinguish the liability of the Port of Newcastle to reimburse the State Government.

## Version two (and the final version) of the Bill

The second version of the bill, as it passed the lower house, was substantially re-written by the State Government. Although the Opposition re-wrote the bill for the Upper House, the NSW State Government changed it right back. The final version of the Bill as passed by both Houses gave the Port of Newcastle a one-off right to request a “determination of the relevant compensation”.

The State Treasurer would then be required to appoint an “appropriate person” who would then determine – on an objectively-reasonable basis – the amount by which the value of the Port of Newcastle lease was reduced because of the financial arrangements made at the time of privatisation. This is labelled as the “relevant compensation” in the Bill.

From the day that the Port of Newcastle operator pays that compensation to the State Government, then the provision in the deed requiring the Port of Newcastle to pay the State Government would have no legal effect. ▲



*Pictured: Scott Henderson, the immediate past-chairman of Shipping Australia.*

# It's time to move on

By SCOTT HENDERSON

I was appointed as the Chairman of Shipping Australia in early December 2016 which means that, as of December 2022, I will have completed six years in the role. It has been my honour and privilege to serve the Australian ocean shipping industry during this time.

On 02 December 2022, I handed over the baton to a new chairman, Clint Evans of Hapag Lloyd. He is highly qualified with years of experience in many different sectors of the maritime industry. His appointment as Chairman will, I am sure, further the interests of the industry in Australia. I wish him "Fair Winds and Following Seas" and, in my ongoing role as a director, I will actively support our new chairman as Shipping Australia continues to work towards the betterment of our industry.

I turn now to the year in review. Although the COVID pandemic continues, its effects have, thankfully, been greatly reduced because of the mass vaccination programme. Australia long ago recorded a population vaccination rate greater than 95% and, as of October 2022, the COVID vaccination rate for seafarers exceeded 92%. A truly remarkable achievement.

Accordingly, governments around the world have greatly eased their restrictions on the movement of people and seafarers. Still, there continue to be crew change issues. Chinese rules complicate crew changes at Chinese ports. Japan continues with a strict protocol on review and approval at Japanese ports and other countries, like Brazil, refuse to disembark non-vaccinated crew.

On the commercial side of shipping, world container freight rates have dropped by over 70% since the peak

and we are now facing an orderbook with over 7 million TEU of capacity. At the time of writing, the idled containership fleet is about 2.6% according to the US Dept of Agriculture, while ship broker reports indicated that the scrapping markets are extraordinarily quiet. It remains to be seen if that situation continues – I suspect not.

On the dry bulk side, earnings have been subdued for some time, with markets either trending downwards or flat for some months, and brokers are expecting that there will be a continued down market. The conflict in Ukraine is contributing to the down-markets as grain volumes ex-Ukraine are sputtering despite international efforts. On the Russian side, fertiliser exports have been blocked by EU sanctions.

For much of this year, Shipping Australia has been extraordinarily busy on the policy front. Our association has made extensive submissions to several government bodies. The outgoing government commissioned a report into Australia's maritime logistics system and its draft report was both surprising and disappointing.

Unfortunately, the Productivity Commission has made several recommendations that would be adverse to the interests of the ocean shipping industry and to the wellbeing of Australians generally. Shipping Australia made an extensive submission, two supplementary submissions, engaged in consultations with, and gave long testimony to, the Productivity Commission. Shipping Australia has also been reaching out with advocacy efforts to employed and elected officials urging that these draft recommendations are not taken up by government.

Shipping Australia has also made a variety of, other, extensive submissions, on topics as diverse as simplified trade, ports management and administration in New South Wales, and Western Australian coastal shipping.

A major issue of 2022 – as it has been for several years – has been the industrial relations environment. Union militancy and industrial action in pursuit of what appears to be control of the waterfront operational and workforce environment continues. We have seen extensive industrial action that is both highly disruptive to trade and is inimical to the wellbeing of Australians.

Politically, nearly all Federal and State governments are controlled by union-affiliated political parties so it would not seem reasonable to believe that the industrial relations situation will ease any-time soon. The Federal Minister for Employment and Workforce Relations, the Hon Tony Burke MP, has introduced new laws that have cut the ability of employers to terminate enterprise agreements and which enable trade unions to gather multiple different employers into one round of bargaining. Given that the waterfront unions have engaged in frequent, repeated, and disruptive industrial action, it seems likely to conclude that, for the next few years at least, there will be a turbulent industrial relations environment.

It is at times like these that continued engagement by the industry with officials in the public service, with elected officials, and with the general Australian population via media channels, is so vital. I urge all members to continue to work for the best interests of Australia through engagement with Shipping Australia in the years to come. ▲





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*Pictured: Parliament House and old Parliament House at night as seen from ANZAC Parade, Canberra. Photo credit: Social Estate via Unsplash.*



## 2022 – port congestion, policy pratfalls and the Productivity Commission

By MELWYN NORONHA

Perhaps the biggest development last year was the reversal of the container rates, and ship charter rates. Rates had in years prior reached astonishing heights. At the time Shipping Australia asserted that the rates spiral was caused by a demand for goods from global populations who were enduring anti-COVID lockdowns. Global container ports were unable to cope with the surge in demand, which led to extensive ship queues. About 12% of world shipping capacity was temporarily lost to queues.

Surging freight demand and a port congestion crisis is a recipe for a price spiral, which is exactly what happened. It was therefore gratifying when the US Federal Maritime Commission found as a fact that collusion had not driven the

surge in freight rates, holding that it was just the free market at work. Critics of the ocean shipping industry should have then adjusted their commentary, but it was sad to see that some advocacy remained unchanged by the facts.

Last year was a year full of policy announcements and a large volume of policy related work was undertaken by Shipping Australia.

### **Productivity Commission**

The biggest work-programme by volume last year was Shipping Australia's engagement with the Productivity Commission's inquiry into the Australian Maritime Logistics System. We filed about 167 pages with the Commission, which is reflective of uncountable

hours spent in research, discussions and consultations, writing, and representation.

The Productivity Commission's final report was released early in 2023. It is approximately 500 or pages, so it will take some time to digest. But we can make some initial comments.

Shipping Australia is pleased to see the change of recommendation on Terminal Access Charges and the comments that there has not been enough time to evaluate the efficacy of the new voluntary arrangements. We note the comments on the potential for a new mandatory industry code, with independent price governing by the Australian Competition and Consumer Commission, to govern Transport Access Charges. Provided



that the mandatory code governs the relationship between terminal operators, shippers, and transport operators, then Shipping Australia would not at this point raise an objection.

It was also pleasing to see the recommendation that notice periods for industrial action should be extended from three days to seven days. We also welcome comments that more effective restraints need to be introduced in relation to protected industrial action, and in relation to the enterprise bargaining framework.

Shipping Australia also welcomes the recommendation that there be restrictions on what is regarded as allowable content in an enterprise agreement. The Productivity Commission argues that there should be a short list of content that cannot be included in port-related enterprise agreements that would prohibit excessive constraints on merit-based hiring, promotion and training; the number of casual workers and other workers with flexible rosters; who employers can choose to backfill positions; innovation and workplace change. This list seems like a moderate, reasonable and appropriate recommendation.

The Productivity Commission has noted that our container ports do not compare well against international ports. It went on to consider a range of other performance metrics to improve productivity in Australian container ports. This is a conclusion with which we and all right-thinking people (we would hope) can agree.

#### **Industrial relations**

The big industrial relations issue was the enterprise bargaining dispute between Svitzer Australia and the maritime unions. The enterprise bargain expired in 2019 and, between then and November 2022, the company reported over 1,100 instances of protected industrial action. Such a lengthy period of frequent and protected industrial action disrupted the towage company's ability to serve ships, which were delayed.

In August, the company sought to terminate the existing enterprise agreement in the Fair Work Commission. This move was condemned by the government's workplace relations minister, Tony Burke. The Fair Work Commission then ordered a four-month adjournment.

Following notice from the unions that

there would be extensive industrial action, in November 2022 the company gave notice that it would undertake an indefinite lockout of employees. As shipping companies and ports put emergency plans into action to clear ships from ports, the Fair Work Commission ordered a six-month suspension of Svitzer's industrial action.

Meanwhile, in October, the government had introduced the "Secure Jobs and Better Pay Bill," which amended the Fair Work Act. It became law in early December 2022.

One amendment aimed to stop the practice of employers applying to terminate a nominally expired enterprise agreement, which would include situations where the threat of termination may disrupt bargaining for a new enterprise agreement.

Shipping Australia has seen commentary arguing that if employees have the right to take industrial action, then so should employers. It would seem that employer responses are now limited, if not impossible. We'll leave it to readers to ponder on the meaning of the word "fair" in relation to the Fair Work system.

Meanwhile, the amendments to the Fair



*Pictured: a pilot boat underway. A new industrial relations policy of multi-enterprise bargaining could affect many different sectors of the supply chain, such as pilotage. Photo credit: Simon Hurry via Unsplash.*

Work Act now enable unions to group together multiple employers and to treat them as one employer for the purposes of multi-enterprise bargaining.

Limitations on space prevent us from considering the amendments in detail, but, basically, employees (or their unions) will be able to compel multiple employers to bargain together as a single group. It is easy to see that, in the logistics industries, certain types of employers are likely to be grouped together for multi-enterprise bargaining. It is easy to imagine that, say, towage operators will be brought together as a bargaining group, as might stevedores, as might pilots, and as might a range of other businesses. Sector-wide disruption is now a possibility.

The new legislation is a direct result of the 2022 Australian Federal Election that was held on Saturday 21 May 2022. That election saw voters remove the Liberal / National Coalition government and to install the Labor Party as the party of government.

### Policy pratfalls

A further consequence of the change of government is the progress toward a long-held fantasy of some kind of Australian national shipping fleet. Bearing the propaganda-friendly label of a “strategic fleet”, the only policy details known so far date from a pre-election ALP press release in which it was stated that the policy could involve up to 12 ships across a range of sectors such as containers, ro-ro, dry bulk and tanker. Little more is known, although a task force was set up in late October 2022 to guide the establishment of the fleet. It will provide advice on what legislative or regulatory reforms are necessary. A report to government was due by the end of 2022. A second phase is expected to complete by June 2023.

Shipping Australia believes, based on the history of previous Australian government policies aimed at supporting shipping and based upon extensive criticism from approximately eight expert economic reviewers, that any national fleet policy is unlikely to work but is likely to have adverse consequences.

A related policy is the 2012 coastal shipping regime. Set up by Anthony Albanese when he was the Transport Minister in the Gillard administration, this

policy continues to disappoint. It hasn’t met any of its goals and it continues to harm Australia. There are several indicators that revocation of the policy would benefit Australia. For instance, the coastal shipping industry has cratered since 2012 while the cruise industry flourished over the same timeframe. The cruise industry was, and is, exempt from the coastal shipping legislation.

Meanwhile, in the early part of 2022, Western Australia was cut-off from the rest of the country by flooding in the central parts of the country, particularly in South Australia. This flooding cut the freight lines (road and rail), causing shortages of all manner of necessary goods in WA. Exemptions to the coastal shipping legislation were issued and international shipping was generally allowed to carry coastal cargo for the duration of the crisis.

Shippers flocked to the services offered by international shipping proving that, if the 2012 legislative impediments were removed, then Australian shippers would use international shipping (but, to be fair, we already knew that because Australian shippers used international shipping prior to the advent of the 2012 legislation). The logical policy response would be to reform (or scrap) the 2012 legislation but, alas, that looks somewhat unlikely right now.

Shipping Australia is also disappointed with developments in the Simplified Trade System review. The ocean shipping industry is, obviously, familiar with international trade in and out of Australia. It is baffling that the Simplified Trade System will not have any ocean shipping representation at the governing-levels of that project. We have sought clarifications from the relevant Minister, Senator the Hon Don Farrell.

### Pratique problems

A major problem occurred late last year when the Department of Agriculture, Fisheries and Forestry (DAFF) updated its pratique-granting processes. Pratique is the permission given to a ship to enter port on the assurance that it is free of biosecurity risks such as e.g., disease. DAFF reviewed its processes following the experiences with the cruise ship, the Ruby Princess, which was the origin of a large number of Australia’s early COVID-19 cases.

DAFF ruled that positive pratique will

only be granted when a ship crosses the 12 nautical mile boundary from Australia. However, the automated system did not work as anticipated. There were unforeseen adverse consequences as the marine pilots could not board without pratique, and pilots were concerned for their own health and welfare. Meanwhile, in some parts of the country, anchorages were outside of the 12 nm zone anyway.

Shipping Australia took a leadership role in helping to resolve the problem by convening weekly group meetings with industry and government, and also by leading discussions and consultations. With input from Australia-wide stakeholders and members, we provided feedback about their experiences and difficulties. The outcome has been that the issues are now largely (but not, alas, completely) resolved and there is now reduced usage of manual systems and processes. There is also now improved communication between stakeholders. This was a classic case of government and industry working collaboratively to achieve regulatory goals while simultaneously maintaining the flow of trade without placing undue costs and burdens on industry.

### Global shipping policy

Internationally, the United Nations General Assembly adopted the United Nations Convention on the International Effects of Judicial Sales of Ships on 7 December 2022. The Convention is expected to provide legal protection for purchasers of ships sold by court order by setting out uniform rules so that the clean title of the buyers will be recognised around the globe.

Meanwhile, late last year, amendments to the international marine pollution treaty entered into law that will usher in the controversial Carbon Intensity Indicator (CII) system. In a nutshell, ships will calculate a carbon score using a formula that takes into account annual fuel consumption, type of fuel used, distance travelled, and ship capacity. Ships must score lower than a benchmark CII and, every couple of years, that benchmark will be lowered. It is hoped ships will be pushed to become more carbon efficient. The international dry bulk shipping industry has supported the ambition of net zero emission shipping but stresses that such an ambition can only be achieved if zero carbon fuels are provided. The global dry



bulk industry body, Intercargo, argues that the CII system should not be used because there a wide range of factors that can affect a ship's CII rating – such as weather – that are outside of the ship's control.

#### Scott Henderson – thank you

I would like to write a few words of heartfelt thanks to Scott Henderson, the Managing Director of Gulf Agency Company (Australia), for his work as the immediate-past chairman of Shipping Australia.

Scott was appointed as a director of Shipping Australia in 2015 and as our chairman in December 2016, a position that he has now held for six years. As a director, he was – and is – a great addition to the team. And as our chairman he has provided guidance, leadership, and oversight on many different matters to help further the interests our industry.

Scott has now decided to step back as chairman, and so I would like to take this opportunity on behalf of the ocean

shipping industry working in Australia to express our appreciation to his outstanding dedication and leadership.

#### In New South Wales

Over in New South Wales the first draft report of the long-awaited review of Ports and Maritime Administration Act 1995 was released. It was disappointing. It focused on landside issues and did not look at a reform of port governance and the regulatory space in New South Wales. The existing regime is based on how the ports were set-up some decades ago when the ports were still government-owned and run. Since then, the ports were set up as corporate entities and have latterly been privatised. The governance regime has been mangled and mashed and squished to cover the current set-up. It doesn't fit particularly well.

As a point of principle there should also be more oversight by the Department of Transport of NSW. Without going into

great detail, there a variety other ways in which NSW port governance does not match best practice, such as that set out by the Organisation of Economic Co-operation and Development.

Shipping Australia in New South Wales was, last year, ably led by our two co-Chairs – Bill Rizzi and Deniz Kirdar True. We thank them for their work and for leading the NSW State Committee. And, finally, we were very pleased to host the NSW State Committee Christmas Luncheon at the Hyatt Regency. Several hundred guests were in attendance, and they were treated to entertainment from industry favourite Vince Sorrenti. Shipping Australia would like to thank our generous sponsors as, without their support, the NSW State Committee Luncheon simply could not happen. Shipping Australia would therefore like to thank the Port of Newcastle, Ausport Marine, Hapag-Lloyd, AGS World Transport, ACFS Port Logistics, and NGS World Transport for their generous support. ▲



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## Victoria

By JAMES KURZ, State Committee Chair, and Charles Masters – State Committee Secretary

And we're back!

After two challenging years, I am pleased to report a return to relative normality at the Shipping Australia Victorian State Committee (SAL VIC). It's refreshing to provide members and the broader readership with an update that is not "pandemic centric" – I think we have all well and truly moved on.

While I say that we have returned to normal, the reality is that we are busier than ever. Industry is catching up on lost time, with major port and freight infrastructure projects forging ahead. SAL VIC has been engaging closely with the Port of Melbourne (PoM), as they continue work on several key projects. In 2021, PoM commenced work on The Port Rail Transformation Project (PRTTP). The PRTTP will offer an on terminal rail solution to meet the needs of the growing port, and to reduce truck movements in Melbourne's inner western suburbs. The PRTTP will see more containers moved by rail more efficiently, by-passing roads in inner Melbourne. The project will increase rail terminal capacity and improve rail terminal operations. The project is being funded by a previously announced amendment to the Pricing Order that included an increase in the tariff on full import containers of \$9.75 per TEU.

The second major project being undertaken by PoM is the Swanson Dock West Remediation Project. PoM is planning to commence remediation

works at Swanson Dock West in early 2023, to ensure the condition of the existing wharf structures can continue to handle container vessels for the next 50 years. Swanson Dock West wharf was constructed in several stages between the 1960s and 1980s, and sections of the wharf are now close to or beyond the typical design life of 30 years. In collaboration with DP World (PoM Tenant of West Swanson Dock), a three-stage delivery program was developed to minimise operational impacts. Future stages will be subject to further consultation with DP World and other stakeholders prior to commencing works. The three-stage construction program will provide a reliable two-berth operation for two 300m vessels simultaneously. PoM is required under the Port Lease and Port Concession Deed to maintain port infrastructure in accordance with good operating practice and for the benefit of the Victorian economy. SAL VIC would like to commend PoM on the efforts they have made to closely consult with all impacted stakeholders on both these projects.

In early 2022, the SAL VIC State Executive set a mandate to provide members with an events calendar that balanced formal industry sessions and committee meetings with more casual social and networking events. We were able to achieve this, holding four quarterly committee meetings and three social events – all in person. The year kicked off with the Phil Kelly OAM

Perpetual Golf Challenge in May. A field of 83 golfers battled it out at the stunning Latrobe Golf Club for the coveted Phill Kelly Trophy, with Patrick Terminals taking out first prize for the second consecutive year. The day was generously supported by our gold sponsors, Port Phillip Sea Pilots. Prizes and hydration were kindly provided by Port of Geelong, MIRRAT and Fiji Water. We sincerely thanks Port Phillip Sea Pilots and all our sponsors for the support of this important day.

Next up was the SAL VIC Industry Winter Luncheon, held in August as the stately Kooyong Lawn and Tennis Club. The keynote speaker was Melissa Horne, State Minister for Ports and Freight. Minister Horne gave an insightful address, updating guests on the latest Victorian State Government Projects and Initiatives in the ports and freight space, as well as commending the industry for its resilience during the pandemic. Minister Horne said: "the pandemic triggered enormous disruption in your industry. It caused delays. It generated friction. It disrupted shipping schedules.... But your industry overcame those challenges. The Victorian Government recognises that. And I recognise that". The event was attended by 150 SAL Members and their guests and was generously sponsored by Victorian International Container Terminal (VICT). SAL VIC would like to thank VICT for their generous support of this event.

The third and final event of the year will be SAL VIC End of Year Luncheon, to be held on Thursday 7th December back at Kooyong Lawn and Tennis Club. At the time of writing, some 160 members and guests had registered. Dave "Hughesy" Hughes will be providing entertainment on the day and will no doubt provide some much-needed comedic relief after a hectic year! We have again received very generous support from Port Phillip Sea Pilots and DP World Australia, as major sponsors for the event. We greatly appreciate the support and acknowledge that this event could not happen without the support of our key partners.

I would like to thank our members for their continued support. Whether it be through regular attendance at our quarterly committee meetings, input into official SAL submissions, or sponsorship of various SAL VIC functions, your input and generosity is greatly valued and appreciated. We look forward to bigger and better things in 2023. ▲





## Queensland

By GEOFF DALGLIESH

I believe this year has been a better year than last year, at least from a COVID point of view. With removing of border restrictions enabling much more freedom of movement between States, it has to a certain extent been refreshing from that aspect.

However, as we all know, that created huge problems with our transport Industries such Air, Sea, Road, Rail, Logistics, Warehousing etc all struggling in some way or other. Whether it be from staffing level issues through either being away ill with COVID or experienced staff just not out there anymore. For that matter even non-experienced staff could not be found and or want an available position. On a positive note, it does appear to be improving albeit a little slowly.

The Qld Annual Golf Day was held on 20th April 2022 at the Wynnum Golf Club with 92 players attending on the day. Winners of the SAL Cup were the Port of Brisbane Team. Runners up for OOCL Martin Briant Cup were Qube Logistics and coming in third for the MSC Chairmans Trophy were the Patrick Stevedores Team. It was a great day and the Wynnum Golf Club were very well prepared for the event as usual and attended to all requirements asked for. Thanks must go also to all our sponsors without of course the day would not have been a success.

This year it was difficult to get a Guest speaker for our June luncheon event and hence the lunch was cancelled. While on these events which have been disrupted over the past two odd years the attendance has fallen to these Luncheons. So next year we hope to reinvigorate our events and would encourage more Members particularly

Shipping Line Members to attend these functions and not just the Golf Day.

We will be holding our annual end of year function on 15th December and trust it will be well supported by all Members.

I would also like to thank Michael Travers from MSC for extending his stay as Qld Chairman and look forward to working with Michael again next year.

This year Poseidon Sea Pilots (PSP) took over Pilotage of the Port of Brisbane from the incumbent Brisbane Marine Pilots. PSP's contract is for ten years and although coming across a few hurdles and procedural issues they have settled in pretty well now. They have a full complement of Pilots on their books and at time of writing appears well in hand.

I would also like to thank the people from MSQ who always attend our meetings and give valuable input and clarity with the decisions they make. Particularly in times of flood and or weather events that come along unexpectedly. They manage to encourage all links in the chain to work together in such times. During the flood in February over 7,000 tonnes of debris floated down the Brisbane river along with many tonnes of silt. Due to disruptions at the peak there were over forty ships waiting to come in.

Port volumes for most if not all Ports around the State were either up or down in some format whether it be container, vehicles, coal tonnage and gas, cruise ships and livestock shipments. Carnival in particular are expecting over 100 cruise ships this year into the Port of Brisbane alone.

The Port of Brisbane appointed a new CEO in Neil Stephens in March taking over from the previous CEO in Roy Cummins. Mr Stephens had led the

Port over the previous eight months while continuing in his capacity as Chief Financial Officer.

The Port of Townsville continues to develop the widening of their access channel into the port and is on schedule for their completion date in 2024. Dredging is almost a third of the way complete.

The Port of Gladstone in March welcomed a new CEO in Craig Haymes. A highly experienced civil engineer with both national and international resource sector experience.

The Port of Mackay has capacity for to handle 550-600 trading ships per year but currently services around 200 so there is plenty of room for growth.

Coastal shipping is still under the State Governments radar but developments have been delayed over the past two years. My understanding is that there are two parties of interest in the further development of this sector.

At this time in particular I must mention my appreciation to all those people in our Industry who have given me and SAL the support that they have over the year. It is much appreciated. ▲



# The New Maersk

## A trusted partner offering flexible and sustainable customer solutions

By KYLIE FRASER,  
Managing Director, Maersk Oceania

When I recently took over the reins of Maersk in Oceania it couldn't have happened at a more exciting time of significant growth. I have been welcomed by a fantastic team that is determined to go all the way for our customers and reinvent logistics, offering our customers an opportunity to look at their supply chain in new, truly integrated ways.

2022 continued to be a year where we learnt to adapt to a magnitude of disruptions in the global supply chain. Climate change continues to dramatically affect our environment with the devastating flooding on the Australian East coast impacting many households as well as the Australian supply chain. The temporary closure of the rail line connecting Australia's East Coast with the West once again showed us the importance of ocean transport and flexible supply chain solutions for Australia as an Island nation.

As our industry has moved from being an invisible hand moving essential goods around the world, the events during the past two years have placed supply chain logistics front of mind. At Maersk, we have continued our transformation to reinvent logistics. As the global supply chain remains disrupted and demand preferences continue to change flexibility is key. Flexible and sustainable solutions is paramount to everything we do as we continue to expand our product offering to connect and simplify our customers supply chains.

A key highlight in 2022 was the Maersk acquisition of LF Logistics, with premium capabilities within omnichannel fulfilment services in the Asia Pacific Region. Following the acquisition, our warehouse footprint in Asia Pacific has grown by 223 warehouses, including sites in Melbourne and Sydney, and is enabling

us to support our customers' end-to-end supply chain needs as a trusted partner in control of the asset.

In addition to the expansion of omnichannel fulfilment, Maersk continues to integrate end-to-end cold chains. Earlier this year we announced the investment in our new 45,000 sqm cold chain facility in Ruakura Superhub, Waikato District, the fourth largest region in New Zealand. Intra Oceania remains a key trade route for the Australian import and export supply chain; with this investment, we will be able to meet customers' demand for a more efficient, tech-enabled and temperature-controlled supply chain.

To complement our strong ocean product, 2022 was also a year of significant growth in airfreight as our customers continuously demand flexible transport solutions, balancing supply chain speed and cost. Airfreight is a crucial enabler of flexibility and agility in global supply chains as it allows customers to tackle time-critical supply chain challenges and provides transport mode options for high value cargo. From air charters to smaller parcels, 2022 opened new doors for our customers in Oceania to experience a new Maersk with multimodal transport solutions. By expanding our Less-than-Container-Load (LCL) network to over 10,000 corridors globally, our Oceania customers now have access to improved supply chain flexibility coupled with transparency, market leading reliability and ease of operation as we handle our customers small-volume shipments through consolidation. The Maersk Global LCL program is designed to make our customers small-volume cargo journey easier through our integrated logistics network.

ESG is a core Maersk priority and as an industry leader we have set course to decarbonise logistics. We are excited that our customers and suppliers in Oceania value sustainability, as we transform the industry from fossil to green fuels. This year we advanced our ambition to achieve net zero emissions from our operations by 10 years, with our new target set to 2040. We continue to make significant progress, following from our initial order of methanol operated vessels in 2021 we continue to make significant investment in decarbonisation, and we now have an order of 19 vessels! In 2022 we delivered over 100,000TEU of product on Maersk Eco Delivery, using sustainable bio fuels, for Oceania customers alone. To empower our customers with visibility and insight into their supply chain we released the Maersk sustainability dashboard earlier this year. The Maersk Emissions Dashboard is a one-stop-shop emissions analytics product that consolidates customers emissions footprint data across carriers and transport modes with an industry-leading calculation methodology that is GLEC-compliant so that our customers can set science-based targets for the future, track progress on decarbonization and pinpoint emissions hotspots in their supply chains. We look forward to 2023 when we will reach a significant milestone in our decarbonisation journey as we take delivery of the world's first methanol powered feeder vessel, 172m long, that will accelerate the decarbonisation of our industry and our customers supply chains.

I couldn't be more excited to see what 2023 has in store for us all. One thing is for certain: we are navigating a complex and ever-evolving market and our customers are leaning into the future and looking to solve volatilities in their supply chains. Together with the entire team at Maersk Oceania, we look forward to tackling those opportunities and to putting our hearts and minds into building strong customer partnerships and powering growth and expansion for our customers. ▲





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# Building Oceania's sustainable shipping network

By ANL & CMA CGM

ANL, as a part of the CMA CGM Group, looks back at another momentous year in shipping and we remain optimistic about the future. Throughout 2022, ANL continued to develop our liner operations with new services, vessels and port calls, staying true to the brand's mantra 'building Oceania's sustainable shipping network'. As digitalisation continues to forge its way across the shipping landscape, it has driven transformation both within the industry and to the benefit of the overall supply chain. Furthermore, the winds of change continue to blow in the ESG (Environmental, Social and Governance) space with sustainability

now considered a mainstay of the shipping industry, by ourselves and by regulatory bodies as well as our customers.

## Developing Oceania's shipping network in line with market forces

Balancing the market realities for the benefit of our customers remains at the forefront of our business strategy. When considering imports into Australia in recent years, demand has continued to grow past 2019 levels. In 2022 import demand continued to be stronger than available capacity, and according to economists are likely to remain high in the mid-term as consumers

are in a good position when it comes to disposable income particularly in Australia and New Zealand (Source: Bloomberg & ANZ Research).

To better service our customers to meet their growth aspirations, ANL has continued to invest in new and innovative products and services. Liner development continues to be important in the Intra-Oceania region and this is reflected in the hearty support seen from the market with the expansion of both the ANL Tranz Tasman service as well as the launch of the ANZ Shuttle connecting Australia, New Caledonia and New Zealand. During 2022 the ANL Kokoda and ANL Tasman Trader were



added to the fleet to compliment growth on our APR and ANZ Shuttle services. These vessels have been selected for their suitability to the Oceania region and will play an important part in further connecting Australia, Papua New Guinea, New Zealand and Pacific Islands. ANL will continue to make responsible investments in correlation to all market evolutions ensuring our customers are supported in their aims to support end consumers.

### The technology wave

The continued rise of the IIoT (Industrial Internet of Things) offers the supply chain industry new benefits with every innovation. As the IIoT continues to grow, hardware enabling this becomes more inexpensive, for example live data collection while cargo is in transit is becoming increasingly more common and can be deployed on a higher proportion of containers. Additionally, software advances allow automated analysis of systems globally for more powerful decision-making providing value within shipping organisations as well as within our client's businesses.

Within the CMA CGM Group live data collection has been leveraged for some time. For example, smart containers have offered clients the ability to directly track their cargo in transit to support just in time KPIs for several years and new innovation around machine learning/pattern matching which now allows clients with refrigerated cargo to do this and much more. This innovation provides exporters essential data ensuring reefer cargo arrives in tip top condition. Furthermore, the technology wave is also iterating the way we interact

with clients prior to cargo being lifted. This was exemplified in 2022 with the deployment of SpotOn, an innovation in pricing offering all ANL and CMA CGM clients to instant pricing per voyage. The technology behind this innovation relies on broad sweeping system analysis to empower deep understanding for fast decision making, ensuring balanced utilisation of space and access to guaranteed space for clients.

As the IIoT continues to drive changes ANL as a part of the CMA CGM Group will continue to embrace these for the betterment of our operations and furthermore our client experience.

### Sustainable business is good business

With the change in Australia's Federal Government this year, the country has adopted a more climate forward approach and addressed the country's record in conservation with the Threatened Species Action Plan. It's pleasing to see Australia's ambition to reduce greenhouse gas emissions to 26-28% below 2005 levels by 2030, and committing to a process to ratchet targets over time. This change in policy sets an excellent platform for the production and bunkering of alternative fuels that our industry requires and for ANL and CMA CGM to meet our ambitious net zero carbon 2050 goals.

Working closely with our clients across the Oceania region and beyond, we appreciate this is a direction our industry is strongly committed to. Many of our clients are recognised leaders in sustainability and have been forging ahead for a number of years already, we are pleased to be in good company as

the road to 2050 is shorter than it seems.

During 2022 ANL was pleased to collaborate with Primary Connect, a Woolworths Group brand and the Queensland Government to complete our first biofuel powered sailing, furthermore this was the first containerised sailing of its kind in the Oceania region. This sailing was bunkered in Brisbane with local biofuel to highlight the need for local alternative fuels and our support of them.

Conservation and protection of life below water continues to be an important part of ANL's sustainability approach. This intention is exemplified through the Turtle Preservation Program and K-Help initiative, the former is a program to save turtles dying from floaters disease – a product of marine plastic pollution, and the latter a program to re-forest the lost giant kelp forests of Tasmania. While the outcomes of these new initiatives are positive, ANL is still committed, along with several clients including Costa Group, Gori, Kalgin Logistics, Coles Supermarkets and Mondiale VGL, to the Reef Recovery program. The Reef Recovery program is into its second year now with two coral nurseries set up to regenerate bleached sections of The Great Barrier Reef.

In conclusion, 2022 has been another eventful year and looking forward our organisation and the industry at large has an exceptional opportunity to set up for the future. The transformation occurring throughout the shipping and logistics space is refreshing and we will continue to embrace it. At the same time 2023 will present an opportunity to get back to basics and focus on service delivery – we are excited about what next year will bring. ▲



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# An end to the container embargo is just the beginning for Port of Newcastle's diversification

By CRAIG CARMODY,  
CEO, Port of Newcastle

The challenge for the Port of Newcastle has sometimes mischaracterised as diversifying “away from coal”. On reflection, I think this misses the mark, not only in that it ignores the fact that throughput trade at Newcastle already involves a diversified mix of bulk materials product (including fuel, grain, mineral concentrates, cement, fertiliser and project cargo) but also in the implication that diversification necessarily involves diminishing trade in coal or bulk commodities more generally. In truth, since the shipping channel at Newcastle is operating below 50% capacity, a more accurate description may be that we are expanding towards a more diversified base of operations. Our aim is to make the establishment of the state's second container Port at Newcastle the centrepiece of this expansion.

In November we reached a significant milestone in this process when the NSW Parliament agreed to a settlement that may soon allow for the development of the Newcastle Deepwater Container Port. The new legislation will remove the financial penalties in our Port Commitment Deeds which effectively prevent container trade through Newcastle. Obviously, what that number comes out at will be critical to the timing of when the Port of Newcastle can start investing in a new large scale deepwater container terminal.

The local appetite to support our ambitions is already evident. From the Central Coast to the New England, our catchment is experiencing robust population and economic growth, with an upswing in warehousing and manufacturing. Newcastle has ample space and the landside transport capacity to cater to this new demand,

and the business case for the NDCT has been further strengthened in recent years by the growing scarcity of such capacity in Sydney and the opening of NorthConnex, which has dramatically reduced freight times to the Sydney basin.

With an eye to these dynamics, and the global surge in demand for containerised trade, the Port of Newcastle has already made substantial investments in container capacity in advance of a solution to the barrier presented by the Port Commitment Deeds. In September we commissioned two new Mobile Harbour Cranes to provide us with an initial container capacity, and we've recently expanded the laydown area at Mayfield 4 berth to cater for increased container and general cargo trade.

The rise of containerisation - and the way in which changes in consumer behaviour through the COVID pandemic have shifted global trade patterns - is one of a number of emerging global megatrends which feature highly as motives for diversification. The boom in e-commerce has supercharged import demand for manufactured consumer goods, contributing to bottlenecks in container trade across the globe.

This has been keenly felt in Australia, and the challenge of improving Australia's container trade efficiency is current the subject of an inquiry by the Productivity Commission. The first draft of this report identified monopolies created through port privatisation as a crucial part of the problem, supporting our efforts to open up the state's container trade through the development of the NDCT.

From the Port's perspective, the addition of a container terminal will allow us

to access new revenue streams in a market growing at a much faster rate than had been anticipated at the time of privatisation. We also expect that cost savings for local exporters will support an increase in local manufacturing activity and the growth of containerised grain exports, creating a positive feedback loop that will deliver additional benefits in terms of seaborne container trade volumes into and out of the region.

The new container port will complement and boost NSW Government investments in the SAPs at Tamworth, Narrabri and Moree, along with the Gunnedah Intermodal Freight Terminal. These developments, combined with the Port of Newcastle's container terminal, will further decrease container freight costs in our region.

And with the growth in container trade fuelling the introduction of Ultra Large Container Vessels - some boasting more than twice the capacity of the largest ship ever to unload in NSW - the NDCT is uniquely positioned with channel depth and dock capacity to take the lead in servicing the world's largest ships.

The second megatrend driving our diversification project - and one of particular importance to the Port of Newcastle, given our status as the world's largest coal port - is the impact of the global shift to renewable energy underway in most of the world's leading economies. Although our modelling suggests that coal volumes are likely to remain strong over the next decade, it would be unrealistic to imagine that this will continue indefinitely, given the immense scale and increasing tempo of changing policy worldwide.

This presents risk as well as a suite of further opportunities for a port like





*Pictured: a mobile harbour crane at the Port of Newcastle unloads a containership. Supplied: Port of Newcastle*

Newcastle. Although total global mining activity is expected to be lower in a world powered by renewables, in the near term, regions rich in minerals such as lithium, cobalt, nickel, graphite and rare earths will undergo a significant expansion in mining activity to support the renewable infrastructure boom.

NSW is well placed to play a prominent role in this new mining economy, with a number of new projects planned within the Port of Newcastle's catchment that aim to meet demand for these materials. This will not only support export demand throughout the lifespan of these mines, but also create a short-term surge in imports during the construction phase.

Our diversification program is positioning the Port of Newcastle us to take full advantage of the energy transition. Serving both bulk and containerised trade, our docks will play a key role the value chain for clean energy projects: landing the machinery and equipment used in extracting critical inputs for renewable energy infrastructure; shipping those raw materials overseas for manufacturing; and offloading components for the wind turbines, solar panels and batteries that will increasingly power our electricity networks into the future. Our status as the closest port to two of only three Renewable Energy Zones in NSW, with easy road connectivity for oversized cargo, puts us in an enviable position to capture these supply chains.

We're also positioning the Port, and the Hunter region more broadly, at the centre

of the emerging hydrogen industry, by laying the groundwork for production and export capabilities on Kooragang Island. We estimate the site has the footprint to scale up to a capacity of 1.6 GW electrolysis of production in five years, making it one of largest early mover facilities of its kind in Australia.

The third dynamic underpinning our expansion and diversification is the effect of more intense weather patterns in a warming climate. Flooding has direct ramifications for our supply chains, and despite the fact that 90% of our trade comes through rail and is thus more protected from localised inundation, we saw clearly this year that we are not immune to this risk, with severe flooding temporary closing the Hunter Valley rail line and pausing coal exports through our terminals.

There have been significant upsides to recent weather patterns as well. Although our role in agricultural trade has been subject to immediate weather disruption as floods damage crops and delay harvests, three successive years of La Niña conditions have greatly increased agricultural output across our catchment, as well as demand for fertiliser imports. Nevertheless, we're mindful of the longer-term potential for longer and more serious droughts to affect throughput of agricultural products.

Our program of operational diversification will assist greatly in mitigating the risk to the Port of such future weather events, and planned development of new transport links will provide us with both

new routes to market and an expansion of our footprint as additional protection against disruption.

As the principal gateway to global markets for many parts of NSW, we're conscious of our interdependence with local economies and the communities that support them, which is why we've been active in providing material support to areas affected by recent flooding.

These relationships are informed by the central role we play in the city of Newcastle and the Hunter Valley, where our impact reaches far beyond our commercial footprint. The Port of Newcastle is a major employer, a key driver of economic growth and the custodian of a large part of the city's foreshore. We're an existential element of its history and key to its future possibilities. By diversifying our operations we're not only protecting our ongoing profitability – we're supporting the growing prosperity of NSW's second largest city and a regional skilled workforce of 32,000 people.

This goes a long way to explain why we've fought so hard for the Newcastle Deepwater Container Terminal, and why we're so proud of the progress we've made in 2022 towards the accomplishment of that objective. Commencement of this project will be a landmark moment for our city, the NSW economy and Australia's maritime industry, and one we look forward to celebrating in the not-too-distant future. ▲





# End-to-end supply chain solutions delivering reliability and flexibility

By DAVID STEELE,  
Head of Supply Chain Development, Aurizon Bulk

Australia's export and domestic markets are increasingly relying on reliable, sustainable and flexible end-to-end supply chain solutions to ensure the successful delivery of resources, especially with so much disruption occurring around the world.

At Aurizon, Australia's largest rail freight business, we have made significant investment over the past three years to expand our national footprint and build full end-to-end logistics capability, including, road, rail, ports and storage, meeting our customers' needs for a single trusted logistics partner.

Rail based freight and full end-to-end logistics solutions perform a vital role for Australia's export industries and domestic markets, with particularly strong competitive advantage for bulk freight over long distances from often, remote locations.

Our national scale and fleet size allow flexibility in allocating resources and rollingstock to respond quickly to customer demand servicing traditional exports such as iron ore and grain, as well as tapping into high-growth markets for critical minerals such as copper, cobalt and lithium which are required for

clean energy and low carbon products now, and in the decades to come.

We are working on new clean-energy technology, including the use of batteries and hydrogen fuel cells, to replace diesel-powered locomotives in our fleet and have a commitment to achieving net-zero operational greenhouse gas emissions by 2050. Our full end-to-end logistics solutions enable us to deliver innovative supply chain to our customers, ensuring security of supply chain, access to external markets and carbon minimisation for commodities across Australia.





Aurion's key investments in recent years include:

**\$100 million rollingstock investment**

Aurizon is investing to ensure the delivery of rollingstock capacity that is required by customers in the rapidly-growing bulk markets of Australia. 20 new locomotives are hitting the tracks in NSW and WA as Aurizon Bulk builds more capacity to meet continuing customer growth in high-demand Australian commodities such as copper, lead, zinc and grain.

**Investment at the Port of Gladstone (2023)** – We have purchased a mobile harbour crane and have entered into a leasehold arrangement with Port of Gladstone for a parcel of land with direct rail connectivity and a goal to unlock freight congestion in the region.

**One Rail Australia Acquisition (2022)** – An intermodal and bulk rail haulage services business in South Australia and the Northern Territory, providing access to key ports in SA

and the NT. The acquisition included the 2,200-kilometre Tarcoola to Darwin Railway connecting directly to Darwin Port, the nearest port to Asian markets.

**ConPorts Acquisition Newcastle (2021)** – Aurizon Port Services is an export terminal and ship loading facility for bulk commodities, adjacent to rail infrastructure at the Port of Newcastle.

**Kooragah Pastoral Company Bulk Division Acquisition (2021)** – Now Aurizon Logistics Services, we provide terminal and road haulage services for the growing Western NSW mineral concentrates industry, as well as grain handling and receival facilities for Western NSW growers.

**Townsville Bulk Storage and Handling Acquisition (2020)** – A bulk transport handling and stevedoring business at the Port of Townsville. Aurizon Port Services complements the existing bulk rail haulage operations between Townsville and Mount Isa.

As Australia moves rapidly to decarbonise the nation's supply chains, rail will have a pivotal role given the major safety, environmental and other community benefits it delivers, including reduced road congestion.

When good connectivity is provided by rail into port terminals, there are many opportunities to deliver highly efficient freight supply chains. The pandemic taught us the criticality of having flexible, reliable and resilient supply chains to meet the needs of consumers, industry and the broader economy.

Aurizon is well positioned and committed to providing flexible and reliable end-to-end solutions connecting miners, primary producers and industry with international and domestic markets to deliver our purpose to grow Regional Australia by delivering bulk commodities to the world. ▲



# Navigating the future of freight

By ROB SHARP,  
Secretary, Transport for NSW

The freight and logistics industry has faced extraordinary challenges over the past three years in NSW and nationally. Bushfire, flood, drought, and a global pandemic have highlighted to the community the importance of the state and national supply chain. Our freight industry has worked hard to keep goods moving despite these challenges.

These unprecedented times have given us all an opportunity to reflect on the freight system in NSW and explore ideas for improvement and growth. How can we create a more resilient, productive, and sustainable supply chain, while maintaining our shared focus on safety, to ensure our industries are globally competitive into the future?

## A dramatic increase in demand

In September, the NSW Government published the refreshed Future Transport Strategy which sets out the State's direction in continuing to improve every part of our transport system for the benefit of customers, communities, and the economy.

NSW's productivity, international competitiveness and way of life relies on the efficient movement of freight. Each year, approximately 689 million tonnes of goods are delivered across the NSW freight network – roughly 84 tonnes per person. Freight volumes in NSW are projected to increase by 34 per cent, and a staggering 56 per cent across the Greater Sydney area, in the next 40 years.

With the growing demand for customers to move goods safely and quickly to their destinations across the State, as well as nationally and internationally, the need to realise greater transport efficiency in the freight supply chain has never been more important.

If the growth potential and benefits to our economy and way of life are to be maximised and the needs of our communities met, the trajectory of freight efficiency needs a dramatic upward turn. This has been recognised as a strategic priority at both a national and state level, and the National Freight and Supply Chain Strategy identifies this as guiding the direction of policy and investment. It is also a strong theme in the Future Transport Strategy.

## Unlocking productivity in the supply chain

The National Freight and Supply Chain Strategy also calls out modern technologies like digitalisation, automation, and electrification, as offering the potential to further shrink supply chains and dramatically improve freight productivity and sustainability. There is an imperative need to look at the end-to-end journey of goods through the supply chain to find more innovative ways, to address the full breadth of freight productivity.

There is a current focused effort across government and industry to unlock opportunities to increase the productivity and efficiency of Australian ports. The Productivity Commission, Draft Report, Lifting productivity at Australia's container ports: between water, wharf and warehouse outlines opportunities for Transport for NSW.

Many of the aspects for improving competition and efficiency to support productivity growth within the Draft Report are being investigated through the Independent Review of Ports and Maritime Administration Act and Port Botany Landside Improvement Strategy. This Review has benefitted from strong industry engagement and will consider

the Final Report of the Productivity Commission before being finalised by the Independent Reviewer Mr Ed Willet and handed to the NSW Government for consideration.

## Ensuring future competitiveness

In the meantime, Transport for NSW is developing a body of work to increase freight efficiency at Port Botany. Development of the Western Sydney Freight Line and Intermodal Terminal is, through a strategic business case, looking to support the growth in freight, ensuring our national and global competitiveness.

Beyond hard infrastructure investment, Transport for NSW is also developing new Standard Track Access Agreements – setting and committing to a level of service for rail freight on the metropolitan rail network, while also reviewing the access policies for road and rail, and importantly, progressing a freight data strategy.

From talking with industry and working with stakeholders, we know that better use of data is key to unlocking further efficiencies in the supply chain, including reduced administration, improved infrastructure and fleet utilisation, and more targeted investment.

## Working in partnership

Transport for NSW is committed to working closely with industry stakeholders across the freight network and other jurisdictions, to leverage expertise and work through the complexities facing the industry to support the safe, productive and sustainable movement of goods throughout NSW. ▲



# A year in review at Subsea

By Captain ZAINOL AHMAD

Subsea has had a very busy year in shipping services. Our teams in Mackay and Brisbane have been attending to many requests from shipping companies to arrange international crew transfers from ship to shore, delivering stores and provisions including underwater survey in ports for vessels at anchor and alongside the berth. Our Mackay boat crew had made many trips to Abbot Point and Brisbane in addition to the normal operation in Mackay and Hay Point. This is our commitment to ensure shipping continuity of shipping services during staff leave or simply the additional work requirements at these ports to accommodate many shipping operation requirements. All crew transfers were conducted and completed in accordance with Queensland Government's COVID-19 protocol and Border Force strict compliance regime. Subsea has developed 'Crew Transfer Guidelines' and a 'Safe Work Method Statements' bringing us inline with the Australian Pilots Standards.

Container ship operators now have the ability to conduct crew change at anchor, previously a difficult task due to the short port stay. Quite often, ships passing by or leaving a port would request Subsea to transfer crew and provisions close to the port area where the transfer could be carried out safely.

In the meantime, Subsea continues to offer class-approved certifications for UWILD in-water surveys, general ship inspections, underwater repairs and maintenance as and when requested by ship owners. Subsea repair and maintenance side of our operation continues during the year in buoy mooring works, wharf fendering and repairs, search and retrieval of underwater objects that are deemed hazard to navigation in and around the port area.

The recent flooding event in Brisbane and surrounding areas kept our marine team busy. We salvaged jet skis, boats and pontoons that were left high and dry and most had to be towed down the river bank onto the river and relocated back to their moorings, some were 10 km from home.

A fairly difficult salvage was done on a 15m Riviera Cruiser burnt to the waterline and sank in deep water at Moreton Bay. Our team had to use a barge and crane to lift the boat up to the surface after our divers attached the required slings. There were numerous smaller vessel salvages successfully carried out as a result of the Brisbane River flooding. All up, Subsea undertook more than 20 salvage tasks as a direct result of the flood. Our crew worked tirelessly throughout the recovery and salvage operation to meet the deadlines, at the same time ensuring safety and environmental protocols are observed.

Further north, our team in Mackay was also kept busy doing a few salvage works off the coast and around the islands which includes;

- a sunken fishing boat that requires our divers to deploy airbags to float the boat and tow it back to Mackay.
- A 6m catamaran that flipped over during a storm. This vessel was righted in shallow water to enable seawater to be pumped out before it could be towed back to Mackay Harbour.
- 13 m yacht near Keppel Island which broke up after she struck a rock. Our

crew recovered pieces of the yacht and disposed of as instructed.

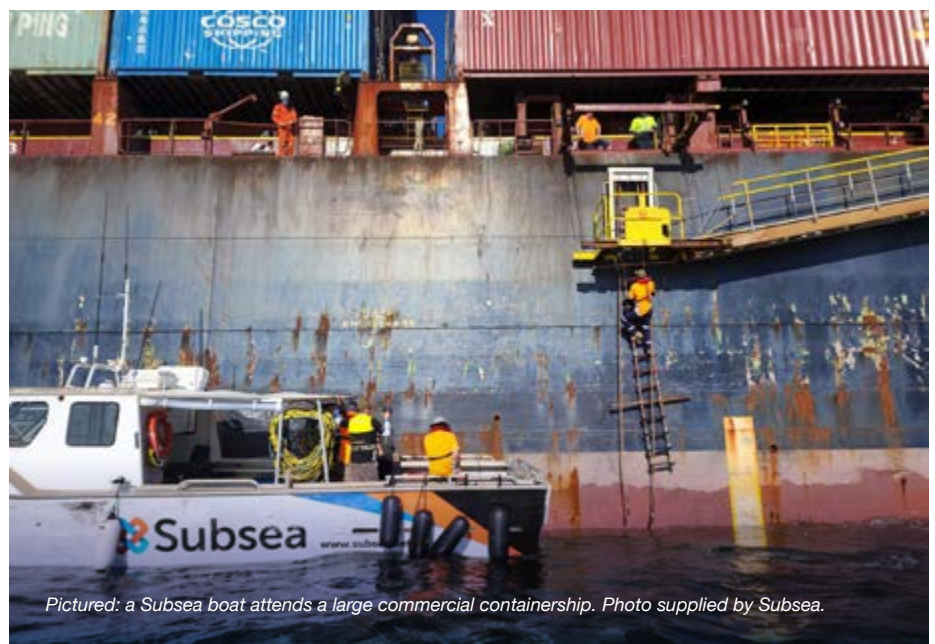
- Unidentified wreck off Stradbroke Island - vessel was floated and disposed of as instructed.

Subsea now has the ability to provide services in major ports of Australia. We are also capable of servicing remote or smaller ports if required, with early notice and logistically practical to transfer crew and equipment to the site.

Finally, we are excited to announce that we have expanded our business by opening an office in Singapore. The business is registered as Subsea Singapore (Pte) Ltd. We have grown organically since starting our modest operation in Mackay back in 2018. We have received quite a number of inquiries from shipowners and ports about conducting our specialised services in and around South East Asia. Travel restrictions during Covid pandemic had somehow restricted our business operations but we are now getting ready to be back in Singapore in earnest.

Our Operations Specialist Capt. Zainol Ahmad and Managing Director Ed Korber will spearhead the launch of our Subsea S.E.A operation by the end of this calendar year. This will be a great opportunity for Subsea to be closer to our South East Asian customers as well as the regions beyond.

Please visit our website [www.subsea.net.au](http://www.subsea.net.au) for more information about us and the services we provide. ▲



*Pictured: a Subsea boat attends a large commercial containership. Photo supplied by Subsea.*



## AMSA delivers on its mission

By MICK KINLEY,  
CEO of the Australian Maritime Safety  
Authority (AMSA)

Responding to maritime emergencies like oil spills, lost cargo and ship breakdowns is just one way that the Australian Maritime Safety Authority (AMSA) delivers on its mission to ensure safe vessel operations, combat marine pollution, and rescue people in distress.

It is something that our people and our partner organisations like state and territory marine safety agencies regularly and rigorously train for under the National Plan for Maritime Environmental Emergencies.

It is also something that we work hard to prevent through our implementation of one of the world's strictest port state control inspection regimes, which serves as a strong deterrent to the operators of sub-standard ships.

The risk of being detected and detained by AMSA – even banned from Australian ports – for serious breaches of international conventions, is a very real one with significant financial and reputational costs to these operators.

We do our absolute best to prevent a worse-case-scenario from taking place in our waters – a grounding, a capsizing, an oil spill, the 'nightmare' list goes on – yet we are always prepared to respond should one unfold.

Alarming, we have come close to experiencing two worse-case-scenarios already this year.

Late in the evening on Sunday, 3 July the *MV Portland Bay* broke down off the New South Wales coastline and came extremely close to grounding on multiple occasions. AMSA was forced to intervene and issue the ship with a legal direction to engage emergency towage services to bring it safely into port.

With rough weather delaying the

operation and a magnificent effort by the tug crews, it wasn't until Wednesday, 6 July when the tugs commissioned by AMSA and NSW Port Authority were finally able to bring the *Portland Bay* alongside. The ship was detained by AMSA the following day after an inspection revealed the extent of its engine issues.

Similarly, just before midnight on Thursday, 20 October the *MV Rio Madeira* suffered a power failure off Jervis Bay, New South Wales. Permanent repairs were difficult at sea due to the severity of the problem, and, like *Portland Bay*, the ship was ultimately at risk of running aground if left to drift off the coast.

The window for intervention was narrow, and AMSA once again issued a legal direction to the operators to engage emergency towage services and return to port. After power was temporarily restored, the *Rio Madeira* limped into Port Botany with a tug escort on Sunday, 23 October. It too was detained the following day.

Faulty machinery led to these two ships effectively becoming dead in the water, and they could easily have become the next *Pasha Bulker*.

In the last three years, nearly three-quarters of all marine incidents involving foreign and regulated Australian vessels in our waters involved machinery breakdowns which are linked to failures in planned maintenance. It is precisely for these reasons that AMSA sharpened our inspection focus on this area for the 2022-23 financial year and increased communications to industry, such as our Marine Notice on Planned Maintenance from October this year.

While we await the results of our increased scrutiny, we are left to speculate on the circumstances that might be contributing to ship neglect

and near misses like *Portland Bay* and *Rio Madeira*.

Unprecedented logistical and operational pressures on industry in recent years as a result of the challenging conditions presented by the COVID-19 pandemic have undoubtedly taken their toll.

Seafarers have been stretched almost to breaking point, and perhaps the merchant fleet has as well.

The perseverance demonstrated by seafarers, often at great personal cost, to ensure the continued movement of global supply chains throughout the pandemic has been tremendous – but not sustainable.

In fact, there is plenty of evidence which shows an indisputable link between seafarer fatigue and incidents at sea. A study conducted by AMSA identified that 1 in 5 seafarers reported experiencing chronic fatigue at sea. This continues to be a concern with multiple investigation reports and studies demonstrating that the shipping industry remains sensitive to the risk of fatigue and its impacts.

Likewise, pushing machinery to its limits without maintaining or replacing worn components before they fail, increases the risk of malfunction.

The cost of conducting proper maintenance is far less than the potential cost of a disaster because of malfunctioning machinery – injury to crew, loss of life, the expense of replacing damaged equipment, technician labour, dry docking, lawsuits over environmental damage... the list goes on.

We will continue to take a zero-tolerance approach to sub-standard ships in our ports and a, risk-based approach to our inspection regime; focusing our efforts where they are needed most, based upon analysis of global incident and inspection data.

We will also continue to work with our international counterparts and the operators that are trying to do the right thing when it comes to addressing emerging safety issues which know no arbitrary geographic boundary.

Globally, major maritime casualties continue to occur, as they have in our waters in the past and will again at some point. We, our response partners and industry, must maintain our ability to keep watch and intervene if necessary to ensure safety at sea and protection of our precious marine environments. ▲





# Seafarers a vital link for Australia

**Let's give seafarers the support they need to keep delivering Australia's supplies and exporting commodities for trade.**

Seafarers bringing ships to our ports and safely berthing, loading and unloading them, are key to the Australian and global economies.

Now is the time for the shipping industry to prioritise and support seafarers, and to substantially improve their working conditions to a level already in place across other sectors.

AMSA is deeply committed to the wellbeing of seafarers and provides a variety of resources and support services.



Australian Government  
Australian Maritime Safety Authority

[amsa.gov.au/seafarer-safety](https://amsa.gov.au/seafarer-safety)



## Strategic partnerships in South Australia

By STEWART LAMMIN,  
CEO, Flinders Ports

It has been a volatile two years for Australian ports, and as Flinders Ports navigated the arising COVID hurdles – from delays in freight leaving ports to congestion – the South Australian company recognised strategic partnerships would be increasingly important to ward off supply chain volatility.

To counter the buffeting and unpredictable winds of global shipping schedules, Flinders Ports has looked for compatible economic opportunities to make South Australia's ports more attractive as a freight destination while maximising the use of its land and other assets.

Flinders Ports has created strategic relationships and begun collaborating with three new partners; working with Hawsons Iron Ltd on its 20Mtpa mine south of Broken Hill to export magnetite via Myponie Port; with Venice Energy to build a \$250 million LNG Import Terminal at Outer Harbor; and with Hallett Group at Berth 25 at Port Adelaide to develop and operate a production and export hub strategically positioned to service both the South Australian and national markets.

Recognising the importance of strategic collaboration, Flinders Ports engaged at the planning phase with the Hawsons Iron and Hallett Group projects to optimise the export process, seeking to reduce potential bottlenecks.

In early November, Flinders Ports signed a binding agreement with Hawsons to co-operate on the design, construction, and operation of a greenfield port at Myponie Point on South Australia's eastern Spencer Gulf to export magnetite concentrate.

Under the terms of the agreement,

Flinders Ports will construct, own, and operate the proposed Myponie Point Port – reducing the Hawsons Iron Project's capital requirements, while enabling it to participate in future growth as the port's 'cornerstone' customer.

Engaging early helped Flinders Ports to make informed assessments on the viability of financing and constructing and operating a new port, enabling Hawsons to determine export feasibility.

With the nation's energy needs front of mind, Venice Energy's Outer Harbor Project was designated "essential infrastructure" and given South Australian Government approval in late 2021.

The terminal, which will include a Floating Storage and Regasification Unit, two new wharfs, loading arms, cryogenic piping and shore-based infrastructure with the ability to supply gas into the South Australian and Victorian markets, will be the only LNG import facility in the state and the first in the world to be powered by renewable energy.

By working with Venice Energy, the terminal will open the state to the international gas market, diversify local gas supply and prevent forecast domestic gas shortages from impacting both states in the coming years.

The first shipment of LNG into the terminal and connection to South Australia's gas network is anticipated during 2025.

By taking advantage of its existing Port Adelaide infrastructure, Flinders Ports also began working with Hallett Group, South Australia's largest integrated supplier of building and construction materials. Hallett Group launched its

\$125m green cement project in July, which will reduce carbon dioxide (CO<sub>2</sub>) emissions by 300,000 tonnes per annum immediately, growing to approximately one million tonnes per annum in the future.

By actively working together to identify and develop Berth 25, Port Adelaide, linking land and sea-based infrastructure, has optimised Halletts' imports freight supply chains.

Australian ports are changing dramatically, with physical and digital architecture going through a rapid transformation. Going forward, the capacity of ports to deliver for exporters will also depend on commercial agility and a willingness to evolve – including collaborating with strategic partners, upgrading equipment and introducing new technologies.

Ports need to adjust their offerings beyond a transactional approach to handling throughput. They need to create more value at the port and along the supply chain to reduce costs and improve efficiencies. Working with ports will help insulate the mining and resources industry against market volatility.

Flinders Ports is committed to facilitating large-scale exports from South Australia. Working strategically to explore development opportunities is essential. ▲





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# Infrastructure investment critical to resilience, productivity and big ships

By SAUL CANNON,  
CEO, Port of Melbourne

Ongoing public and private investment in supply chain infrastructure is a necessary part of ensuring Australia's resilience and productivity. Recent disruptions and congestion at both the global and local level demonstrate why we need an ongoing focus on building supply chain resilience.

Australia is still a relatively small market by international trade and shipping standards, and we need a stronger strategic focus on our global positioning to ensure that Australia is appropriately positioned to respond to growing trade demand and changing market dynamics.

At Port of Melbourne, we have a strong focus on planning for and investing in port projects to maintain efficient operations, respond to changing market dynamics and capacity needs.

We are moving forward with a number of key strategic projects that form part of our Port Development Strategy.

We are at the early stages of our Port Capacity Enhancement Program (PCEP). PCEP is a significant infrastructure program aimed at developing a Webb Dock North Container Terminal (WDN).

We are currently engaging with industry and stakeholders to ensure that our planning takes into account relevant feedback in relation to the development of PCEP.

Our Port Rail Transformation Project is well underway, involving the development of a rail terminal adjacent to Patrick's container terminal at Swanson Dock. This is on track to complete by mid-next year, and it will support the Victorian Government's Port Rail Shuttle Network providing direct rail connections from the port to major freight hubs in Melbourne's north, west and south-east.

Our Webb Dock East Extension Project is also well underway and will restore Webb Dock East to a two-berth terminal, as it was designed to be. This project is also on track to complete around mid-next year.

Planning for our Swanson Dock West Remediation Project is well underway. This project will remediate the condition of the existing wharf structures to maintain minimum load requirements, and it also includes upgrades to existing bollards. It will be a multi-year project so we minimise the operational impacts on the stevedore.

Supply chain infrastructure has long lead times, so we need to plan now for the longer-term future. For ports, that means addressing the trend in larger vessels and ensuring we have the capacity to meet trade demand.

We recognise that large-scale port development is a significant and important issue for the industry, and we need to get it right. We're committed to open engagement, and we take our stewardship obligations very seriously. It's about ensuring that we have the right infrastructure in the right place at the right time to deliver for Victoria and beyond.

As we look back at 2022, it has certainly been challenging; from continuing COVID disruptions to devastating weather events and even a horrific war. Three years ago, it was hard to imagine that supply chains would be regularly on the front page of daily newspapers around the globe.

The events of the last few years have shown us just how interconnected and dependent we all are on each other – how a crisis in one part of the world, or one part of Australia, or one particular

player in one particular market, can have serious and big flow on impacts right across the end-to-end supply chain.

Ports are the critical gateways for trade in and out of Australia. If ports are working well – that means – goods are moving, the economy is growing and people have jobs. ▲





# THE TRADE GATEWAY

## FOR VICTORIA AND SOUTH-EAST AUSTRALIA

As Australia's largest container and general cargo port, we already handle more than one third of Australia's trade, but we certainly don't take this privileged position lightly. With more than \$2 billion in anticipated capital investment by the Port of Melbourne over the next decade or so, we're investing to ensure we have the right infrastructure in the right place at the right time to help keep the supply chain moving efficiently across south-east Australia.

The Port of Melbourne has several projects underway, with more to come as part of our 2050 Port Development Strategy including:



Port Rail Transformation  
Project



Webb Dock  
East Extension



Swanson Dock  
West Remediation

### FOR FURTHER INFORMATION ON CURRENT PROJECTS

please visit [portofmelbourne.com/current-projects](https://portofmelbourne.com/current-projects)



# Liability for marine plastic pollution

## Current developments

By MICHELLE TAYLOR, partner, and  
STEFANIE ANDRENSEK, lawyer, both of Sparke Helmore

Increasing demand for container shipping in the last 10 years has been attended by a rising number of container spills, whether by serious casualty or rogue containers overboard. According to the World Shipping Council, in the fourteen-year period spanning 2008 - 2021, there was on average a total of 1,629 containers lost at sea each year. This is an increase of 18% to the average annual loss for the twelve-year period ending in 2019.

The frequency and intensity of container shipping is closely correlated with developments in the world economy, manufacturing and consumption. Changes in consumption patterns triggered by the pandemic have led to increased demand for consumer goods carried in containers, many of which are made of plastic. In addition, the raw microplastics used to manufacture those goods, which take the form of pellets – commonly known as “nurdles” – flakes and powders, are also carried by sea.

The impacts of the high and rapidly increasing levels of plastic pollution on the marine environment are well-established. Plastic poses distinct risks to human health, from both exposure to plastic particles themselves and associated chemicals. Marine plastic endangers the functioning of ecosystems, which serve as sanctuaries for biodiversity, critical food sources and major carbon sinks. A recent review published in the *Environmental Science Processes & Impacts* journal indicates that 18 million tonnes of plastics are estimated to enter the sea annually. This equates to about 18 tonnes a minute.

The risks posed to organisations by

the prospect of regulatory change to reduce plastic pollution, such as virgin plastic taxes and extended producer responsibility schemes, investor pressure for the disclosure of plastic data, and shifting expectations for an organisation’s social licence to operate are driving new ESG perspectives which are likely to continue gaining momentum in coming years.

In the European Union, for example, a number of recent directives have mandated a minimum target of 65% of plastic packaging waste to be recycled by 2025 (2018/852), the reduction in the consumption of single-use plastic products (2019/904) and reporting requirements of single-use plastic consumption (2022/162).

Plastic pollution therefore poses both an increasing risk to parties involved in the sea carriage of cargo as well as a significant investment opportunity.

### International framework

Unlike oil, there is no dedicated international framework for liability and compensation in respect of ship-sourced plastic pollution from cargo.

Currently, there are two international maritime law regimes governing plastic pollution from ships. The first is Annex V of MARPOL (the International Convention for the Prevention of Pollution from Ships), which has the effect of regulating any plastics discharged from a ship that fall within the definition of “garbage” under the prohibition on marine litter. Plastics that count as “garbage” are those plastic wastes “generated during the normal operations of a ship”, which would include, for example, rubbish generated in the operation of

the vessel or by its crew, or disused equipment such as fishing nets, that are discharged from a ship.

Whilst discharges of marine litter have been regulated since the 1980s, there has been a recent resurgence of work by the International Maritime Organization (IMO) to improve implementation, namely the adoption of an Action Plan to Address Marine Plastic Litter from Ships in 2018 (Resolution MEPC.310(73)), and the adoption of the Strategy on Marine Plastic Litter (MEPC.341(77)) in 2021.

Whilst this reinvigorated focus on marine litter may be considered a welcome development to the regulation of plastic pollution in the ocean, it remains the case that MARPOL Annex V is clearly not intended to regulate marine plastic pollution that emanates from cargo spills, particularly containers.

The other international regime relevant to plastic pollution is the Nairobi Convention on the Removal of Wrecks 2007, otherwise known as the Wreck Removal Convention. If a ship is wrecked, the costs incurred in its recovery may be sought from the shipowner and its insurer under a compulsory liability and compensation regime applying to vessels from signatory states. According to Article 1, paragraph 4 of the Convention, a “wreck” includes any object that was on the ship, or the recovery of any object that is lost at sea from the ship. This definition is ostensibly wide enough to catch plastic pollution, including plastic pollution either spilled from or remaining in containers.

Whilst Australia is not currently party to the Wreck Removal Convention,



although a process of consultation on accession by Australia was undertaken by the Department of Infrastructure in 2020.

### Plastics treaty

There is momentum gathering in international maritime law for the regulation of plastic pollution from cargo. On 2 March 2022, the fifth session of United Nations Environment Assembly passed a new resolution, entitled “End Plastic Pollution: Towards a legally binding instrument” (UNEP/EA.5/Res.14). The resolution establishes the first steps towards the United Nations Plastics Treaty by setting up an intergovernmental negotiating committee that will develop the specific content of the new plastics pollution treaty with the aim of completing its work by 2024. Significantly, the committee is tasked to consider “global obligations and measures along the full lifecycle of plastics, including on product design, consumption and waste management”. It is therefore likely the creation of liability regimes for plastic pollution along the lifecycle, including when in sea transit, will be contemplated; however, the final form of the treaty will await to be seen.

### HNS Convention

Another potential means of regulating plastic pollution from cargo would be to incorporate spills of plastic into the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, and its 2010 Protocol, otherwise known as the HNS Convention.

The HNS Convention, which is not yet in force, regulates the sea carriage of hazardous and noxious substances as defined in MARPOL Annexes III and V and the International Maritime Dangerous Goods (IMDG) Code. Currently, plastics and microplastics are not included in the regime.

In 2021, Sri Lanka made a submission to the Marine Environment Protection Committee of the IMO in its seventy-seventh session (MEPC 77/8/3) recommending that the Committee consider the need to reclassify plastic pellets, flakes and powders as a hazardous substance under the IMDG Code. The proposal was referred to the IMO’s Sub-Committee for Pollution Prevention and Response for consideration.

In 28 January 2022, Norway and several co-sponsor states submitted a further proposal to the Sub-Committee to amend the criteria for the identification of harmful substances in MARPOL Annex III so that plastic pellets specifically would be identified as a harmful substance and classified as a marine pollutant according to the IMDG Code.

This reclassification would increase the requirements for the safe packaging and stowage of plastic products onboard vessels.

It would also have the important effect of making plastic pellets, being the second largest source of microplastics in the ocean by weight, fall within the purview of the third-party liability and compensation regime under the HNS Convention.

The HNS regime is largely modelled on the regime for liability and compensation for oil pollution. Its purpose is to provide adequate compensation for loss and damage to persons, property and the marine environment, arising from the carriage of HNS by sea. Under the HNS Convention, claimants in member states have a direct right of action against the shipowner or its insurer who is made strictly liable for loss or damage up to a capped amount covered by a first tier of compulsory insurance. An additional second tier of compensation is available in the form of the HNS Fund, to be

funded by entities which receive HNS after sea transport in member states.

If adopted and the IMDG Code amended, the HNS Convention could make available large funds to cover claims in the event of a catastrophic spill of plastic.

One of the arguments against bringing plastics within the IMDG Code is that they have been historically viewed as chemically “inert”, that is, they do not react chemically with other substances. However, developments in scientific research challenge this view by showing that marine plastics can leach chemical constituents, as well as absorb and leach other hazardous substances in the environment. Given these developments, there may be a strong case for the reclassification of plastics under the IMDG Code.

### Conclusion

There is momentum in international law regarding marine plastic pollution. Alongside this plastic pollution risk reduction is gaining widescale traction due to an ESG focus on the protection of the oceans. Marine plastic pollution is likely to become a major focus in the international maritime law regime with the potential for liability imposed on parties involved in the sea carriage of plastic cargo. ▲





## Changes to future supply chain risk profiles will be permanent

By MARCUS JOHN,  
Managing Director, TT Club

Disruptive economic, societal and geopolitical influences are altering supply chain risk profiles.

The challenges inherent in today's international trade and the supply chains that service it are painfully obvious – higher prices of energy and food; shortages of and delays in delivering manufactured goods; dynamic changes in market demands and sourcing patterns due to geopolitical pressures and high inflation with the possibilities of economic recession, all bring lasting consequences to risk profiles. The last three years have been an extraordinary period in this context, affecting all maritime trades.

As a specialist in providing insurance and risk management services to the international transport and logistics industry, TT Club is convinced that a thorough understanding of the practical risks is vital in mitigating the dangers to safety and security that are a consequence upon these dynamic factors.

We are suffering from a disappearing ability to absorb short-term shocks to the supply chain because of fundamental societal and geopolitical changes to the global equilibrium. Yes, Covid and the other varied Black Swans that have taken flight in recent years have been disruptive and are driving up prices but the longer-term trends of production cost increases in Asia and stricter demands of Environmental, Social and Governance (ESG) policies mean that cheaper goods and transport services are features that are fast-disappearing from the global economy.

The future will contain increased unreliability of supply affecting primary commodities, fuel, manufactured goods and their components, and also food and

other consumables. In short anything that is moved over significant distances will be subject to delay, unavailability and loss.

In the past the steady flow of supply across the majority of commodities and goods provided a buffer protecting from short-term fluctuations and disruptions. These buffer stocks are far less likely in the future as the cost of production continues to rise and the cheap labour from countries with traditionally large young populations (primarily in Asia) is becoming a thing of the past.

There is also another element ever stronger in all our considerations, ESG. Actually, its goals and those of supply chains (which are optimised for cost and speed) are not necessarily always aligned. So as and when we prioritise ESG, we have to anticipate altered risks to the existing patterns of supply.

So, what are the features of this less secure supply chain of the future? Trends in cargo theft are in flux with more essential goods such as food and beverages being targeted as much as luxury goods and electronics have been in the past.

Cargo at rest, either at ports or inland staging areas, some of which have been hurriedly pressed into service as overflow facilities, is increasingly subject to theft. With shippers looking for 'workarounds' to reduce costs or avoid disruption, thieves have been quick to adapt their methodologies and the use of online means of deception and recruiting insiders is on the increase.

Claims data shows that port congestion creates a number of additional opportunities for criminals: with cargoes stowed to overcapacity, port operators and other cargo terminals must stay vigilant so as not to let criminals exploit

these vulnerabilities. In fact TT sees raising awareness, whether that be freight crime hot spots, or any particular trends, or identifying specific cargoes, as a primary defence against such risks.

Increased safety concerns are also impinging on the complex system of supply. Dangerous goods are particularly concerning. It is crucial that such cargo is handled correctly and many aspects of supply chain disruption legislate against this. At rest, in ports and various storage locations it is vital to ensure that dangerous goods are segregated and protected. The tragic Beirut port explosion is a vivid reminder of the dangers but less severe and more regular occurrences of fire and explosion associated with hazardous materials underline safety hazards along supply chains under stress.

In terms of improving resilience within the new parameters of supply chain reality, TT believes data analysis will be of crucial importance in mitigating risk in the future and is utilising its own claims experience along with theft and incident reporting agencies information to maintain and expand the all-important industry awareness of evolving dangers. Such analysis harnessed to developing technologies will help the drive to mitigate the challenges. Artificial Intelligence (AI) machine learning and other cutting-edge tools are likely to assist in swiftly reacting to supplier hick-ups, transport disruption, raw material and component unavailability, and to efficiently deal with the bureaucratic red-tape of cross-border trade. ▲



# Smartship Australia – 10 years serving the Australian Maritime Industry

Commissioned in April 2011, Smartship Australia (Smartship) is a purpose-built, world-class maritime simulation and training facility with a core focus on pilotage professional training and development, advanced ship handling and port development. Smartship encompasses five ship simulators providing for advanced training, enhanced safety management, as well as the testing of new vessels, structures and operations.

In addition to state-of-the-art simulation equipment, Smartship draws on the extensive mariner experience of its instructors (over 90 years combined mariner experience in commercial shipping) and its technical support to deliver a customised, realistic experience to enhance the customer experience.

Smartship traditional service delivery has been face-to-face. With the onset of the COVID-19 pandemic, Smartship reassessed its delivery in order to continue to provide as many services as possible to Australia's maritime industry. This has included remote simulations of ship handling and port development projects as well as redesigning some courses to provide online learning options.

In the 2020-21 financial year, just under a quarter of Smartship's total services (measured by revenue) were delivered remotely.

In April 2021 Smartship renewed its technology partnership arrangement with Force Technology in Denmark. This arrangement ensures that the simulation environment remains world's best.

In August 2021, Captain Giuseppe Ferretti de Luca joined the instructor team here at Smartship. Giuseppe brings a wealth of experience from shipping and maritime regulation (AMSA).

Over the past 18 months, Smartship has taken the opportunity to progress with several projects designed to maintain its position as Australia's foremost ship simulation centre. This has included:

- Expansion of training facilities to incorporate a new flagship lecture facility, provision of space for a second tug simulator and space for new services (eg VTS).
- Upgrade of the tug simulator display array and refit of computer hardware thus improving the visual interface and the customer experience.

- A state-of-the-art audio-visual system for the new lecture facility with seamless integration with multiple media sources.

The majority of these facilities have been pressed into service in the second half of 2021 and have performed with flying colours.

Smartship has also undertaken a number of course redesign and alignment projects, ensuring that courses remain current and focussed on customer needs. Smartship is particularly proud of its courses purposely designed to support marine pilots. Courses such as the Check Pilot course are proving very popular with our customers in multiple jurisdictions.

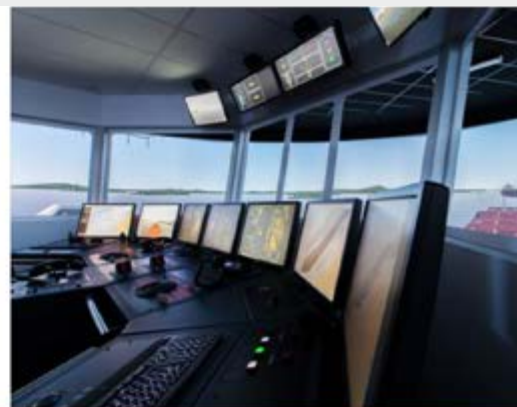
As Smartship enters its second decade of service, we can reflect on what has been a very busy year and we note with satisfaction our customers' achievements in skills development and safety enhancement. ▲

## Smartship Australia

**Delivering value for our customers through the provision of world class marine simulation and related services**

Our services enable our customers to safely develop:

- ship handling skills and port procedures.
- new marine infrastructure, including the ability to test and refine operational limits.
- emergency and contingency skills.



**Booking contact: Peter Listrup** [peter.listrup@smartshipaustralia.com](mailto:peter.listrup@smartshipaustralia.com)



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*Pictured: a green-powered container ship. The shipping industry is on the verge of decarbonisation.  
Photo credit: Ian Taylor via Unsplash. False colour added by Shipping Australia.*

## Shipping and the green energy transition

By GUY PLATTEN,  
Secretary General, International Chamber of Shipping

If there's anything that the past few years has taught us it is that we are stronger united. We have risen to the challenges that have come our way, and we have overcome them by working together.

The green energy transition continues to be a pivotal area of work, both for the International Chamber of Shipping (ICS) and the wider shipping industry. As we emerge from the pandemic the International Maritime Organization (IMO) is getting back to operations as normal and we will see a raft of work including the revision of the initial IMO GHG strategy, development of some form of Market Based Measure such as the ICS fund and reward proposal, and the implementation of the short term measures EEXI and CII which all aim to reduce greenhouse gas emissions from global shipping.

There is an increasing realisation that shipping cannot operate on its own. Australia is already leading the way with its plans to export hydrogen derived fuels to all parts of the world to power a

range of industries while also maintain and evolving their own economy. All of which will need shipping if we are to unlock the potential of these new fuels and markets. We need to see this type of innovative thinking all across the world so that every country can unlock these opportunities for growth. This is much bigger than decarbonising our own industry as this is not an issue unique to shipping. Energy providers, maritime, ports, infrastructure, governments and finance communities all have a role to play.

It was a significant step forwards when, along with the International Association of Ports and Harbors and the International Chamber of Shipping along with the Clean Energy Ministerial (CEM), announced the formation of the Clean Energy Marine Hubs (CEM-Hubs)





initiative at their ministerial meeting in Pittsburgh. The CEM-Hubs is a platform for information and knowledge sharing to take the decarbonisation actions needed to create a supply chain fit for a green-fuel future. The CEM-Hubs aim to de-risk investment in alternative fuels and technologies, and to accelerate their commercial deployment. This is a partnership with all parts of the industry plus governments under the banner of the clean energy ministerial, of which Australia is a key member.

Shipping will be up against other industries that want access to new green fuels too. But our industry is unique in that it will be a key enabler in the decarbonisation of land-based sector. As an industry we must avoid focusing solely on what fuel we are going to use to power our ships, because as an industry we only use 4% of liquid fuels. Instead, we need to focus on the transportation of all fuels, the 4% for shipping and the 96% for all other sectors. With up to 50% of the green fuels of the future set to be moved by sea it is vital we have a seat at the table

where important decisions related to decarbonisation are being made.

The introduction of new green fuels and technologies is wonderful, but their introduction must not come at the cost of safety. We need to make sure seafarers are trained to use and handle them, and here we face a challenge. A shortage of seafarers is jeopardising the movement of global trade, and recruitment numbers need to increase urgently. An ICS and BIMCO report estimates that the industry needs an additional 90,000 STCW certified seafarers by 2026. This was calculated before the conflict in Russia and Ukraine, both major seafaring nations, and is now likely to be much higher. As a former seafarer myself, I know that seafaring continues to be an excellent career that offers fantastic opportunities. The task ahead is making sure other people know this too. Shipowners, unions, governments all have a part to play increasing seafarer numbers. We must not restrict the definitions of who can be a seafarer and instead be an industry that welcomes everyone.

The world's nearly two million seafarers are key to powering this industry through a successful transition to net zero. Seafarers will need adequate skills, education, and training, to operate new technology systems on board and to manage new fuels. The Just Transition Maritime Task Force has been set up to make sure the seafarer workforce can be prepared for the changes on the horizon. At COP27 in November the Task Force published a forward looking ten-point-action plan outlining what needs to be done to equip seafarers with the skills needed to support shipping's decarbonisation goals.

Ours is an industry I am incredibly proud to be a part of. For shipping, as for the whole world, there are challenges ahead and it is important that we look to the future and the opportunities that lie before us. Together we can and must play a leading role in creating a decarbonised future, and ensure a just transition for our seafarer workforce. ▲

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# Out of time!

## Hague-Visby and mis-delivery of cargo

By PETER MCQUEEN FCI Arb,  
Independent arbitrator and mediator, [www.petermcqueen.com](http://www.petermcqueen.com)

Can the time bar in Article III Rule 6 of the Hague-Visby Rules apply to claims in relation to misdelivery of cargo after discharge from the vessel? Yes, says the English Commercial Court (Sir William Blair) in *FIMBank p.l.c. v KCH Shipping Co.* [2022] EWHC 2400 (Comm).

This recent decision relates to a question which has not been previously decided by English courts and which has divided both academic and judicial opinion in common law jurisdictions.

### Facts

FIMBank as holder of bills of lading claimed against KCH Shipping (“KCH”), the contractual carrier, for every alleged misdelivery of cargo, the bills of lading were in Congenbill form and, by way of incorporation from the charterparty, were subject to the Hague-Visby Rules (“Rules”), including the time bar provision in Article III Rule 6 of the Rules applying one year after delivery in respect of claims by cargo interests against carrier interests.

In March 2008 M/V “GIANT ACE” carried a cargo of coal from Indonesia to Indian ports where discharge into port stockpiles took place between 1 and 18 April 2018 against letters of indemnity which ran up the charterparty chain. FIMBank as financier of one of the purchasers of the coal took a pledge over the bills of lading and the cargo. It claimed misdelivery of the cargo pursuant to delivery orders after discharge from the stockpiles.

FIMBank commenced arbitration against KCH in April 2020 which was more than one year, that being the time bar period, after delivery of the cargo and the date when the cargo should have been delivered. It contended that the time bar of one year, which applies to claims against the carrier, did not apply

at all to misdelivery after discharge on the wording of the Rules themselves and clause 2(c) of the Congenbill form prevents their implication or application.

### Findings

The Court found that:

1. On its true construction the Article 111 Rule 6 of the Rules, which provision includes the time bar but is concerned with delivery in a broader context, applies to claims for misdelivery of cargo after discharge.
2. This conclusion avoids the necessity for fine distinctions as to the point at which discharge ends, and is consistent with the statement by Bingham LJ in *The Captain Gregos* [1990] 1 LLR 310 at p315 in relation to the provision that “it is like any time bar, intended to achieve finality and, in this case, enable the ship owner to clear his books”.
3. There is not shown to be a consensus to the contrary among the courts of other jurisdictions, and there is not a clear and settled view to the contrary in the commentary, where support can be found for both conclusions.
4. This conclusion can also be reached by applying the “Carver implied term”, as recognised the Court of Appeal in *The MSC Amsterdam* [2007] 2 LLR 622; namely that the Rules may apply as implied terms after receipt of the cargo but before loading, and after discharge but before delivery or up to the time of the operation of any separate warehousing arrangements, except in so far as this result has been excluded or modified.
5. In *The MSC Amsterdam* at [22-23] Longmore LJ:

(a) made it clear that it must follow from the fact that the object of the Rules is to define not the scope of the contract service but the terms on which that service is to be performed, that the parties are free to agree on terms other than the Rules for periods outside the actual period of the carriage; and

(b) stated that:

“No doubt if no agreement is made for the period after discharge, it might be easy to say that the parties have impliedly agreed that the obligations and immunities contained in the Hague Rules continue after actual discharge until the goods are taken into the custody of the receiver”.

6. The “Carver implied term” does not apply to every contract of carriage under the Rules and that implication cannot be used to rewrite the Rules. Here on a true construction of the bills of lading in question, i.e. clause 2(c) of the Congenbill form, the Rules were contractually incorporated in such a way as not to dis-apply the Rules to functions performed after discharge.

### Conclusion

This is an important decision of considerable commercial significance. It brings clarity to the situation where the discharge and the delivery of the cargo do not occur at the same time, and where the terms of the bill of lading do not provide for functions performed in the period between discharge and delivery. ▲



# Challenges ahead for the global multipurpose and heavy-lift sector

By MAURO CAPANO,  
BBC Chartering

The recent two and a half years have brought a lot of challenges and changes but also positive developments to the global multipurpose and heavy-lift shipping sector. First, rising consumer spend combined with initially soaring volumes in the container sector which, in parallel with port and factory closures due to lockdowns, led to a shortage of space in that sector. This caused a remarkable number of containers being carried on multi-purpose vessels. In addition, after a quiet start into the pandemic, projects quickly picked up again, resulting in increased demand for multipurpose and heavy-lift capacity. Whilst the container sector starting to receive larger

numbers of newbuildings, and container rates having cooled down since the peak of 2021 and early 2022, the mpp/heavy-lift sector is showing subdued market corrections compared to the container sector, with demand from the breakbulk and project sector remaining stable.

One of the main driving factors for demand in the mpp/heavy-lift sector over the coming years will be the renewable energy sector. The need to move away from fossil power generation towards zero emission power generated by e.g. wind power, solar energy and hydro power will have huge investments to kick-off in this

sector, and with it, a rising demand for the transportation of components.

All this will add on the already high utilization of mpp capacity by the renewables sector, and comes in parallel with an ageing mpp fleet, whilst at the same time, newbuilding activities remain insignificant. The current orderbook for vessels with a combined lifting capacity above 240 tons represents just 6.57% of the existing fleet. At the same time, 10.49% are 20 years and older. (figures quoted from Toepfer Transport's Multipurpose Shipping Report Issue No. 25). Companies in this sector are mostly privately owned and must consider risks of newbuilding orders ever more thoroughly. This means, more and more vessels are nearing their phase-out, with regulations such as EEXI and CII adding to it as they are likely to cause earlier decommissioning of some vessels, as retrofitting older and smaller vessels often isn't commercially viable. Some, but not all these vessels, might anyhow be decommissioned soon due to their age. In effect, capacity could come further under pressure. Close contact and trustful communication between shippers and carriers/operators will thus become even more important in the future. ▲





## Leading the way with safety and reliability

By THORSTEN WERGES,  
Chief Executive Officer, Port Phillip Sea Pilots

Imagine this. You're nearing the end of a long international flight and as your plane begins its descent from 30,000ft the captain's voice comes over the PA. "Passengers, please use your in-seat touch screen to select our Air Traffic Controller for landing."

You review the options for this, the most safety-critical part of your flight.

Controller One guarantees the fastest way from 30,000ft to touchdown, your gate and the baggage hall. Regardless of weather, traffic or how rough the landing might be, they'll get you there fastest – if you get there at all.

Controller Two assures safe, reliable passage through the crowded airspace and the approaching weather to the correct runway, with an orderly taxi to your gate.

Controller Three doesn't mention safety or reliability but offers a discount on future flights if you commit to using him for all future travel.

You and your passengers have five minutes to lock in your choice.

It would never happen. Would it?

Competition provides choice. It puts downward pressure on prices. It inspires innovation. We balance the choice competition provides in our everyday lives – from the choice of the car we drive, the brand of phone we use, even the football team we support.

Competition lets us shop around for the best price. We can vote with our feet – and our wallets – when a product doesn't live up to expectations.

Even when the purchase carries risk, competition provides choice to overcome our fears of personal harm

or injury. We choose a car with a high ANCAP safety rating; a bicycle helmet that meets the relevant Australian Standard; a browser that protects our private personal information.

What do we do when our life depends on our choice?

Like aviation, maritime operations are safety-critical. Small failures can lead to major catastrophes. A saved dollar can cost millions if something goes wrong.

The aviation industry doesn't sacrifice standards in the interests of time and money. Aviation chooses Controller Two.

At Port Phillip Sea Pilots, we think the maritime industry should be no different. When you choose a Port Phillip Sea Pilot, you're choosing Controller Two.

Port Phillip Sea Pilots are Australia's oldest and most respected name in marine pilotage. We provide marine pilotage, but our product is safety and reliability.

We don't make promises we can't keep and we don't scrimp on safety.

Our mission is to get your precious cargo where it needs to go, safely and on time, every time.

Port Phillip Sea Pilots are among Australia's most experienced seafarers.

For more than 183 years, Port Phillip Sea Pilots have kept Victoria's economy going – and growing.

Our pilots provide the vital link between Victorian businesses and markets around the world; between your cargo and their destination.

Port Phillip Sea Pilots ensure the safe and efficient passage of billions of dollars of imports and exports from the ports

of Melbourne, Geelong and Western Port – supporting countless jobs, small business and local investment.

We are the pilots Victorian authorities look to when planning the growth of Victoria's ports. We work with authorities like Ports Victoria to make our bays safer and more efficient. Port Phillip Sea Pilots wrote the book on safe shipping in Port Phillip Bay.

Our commitment to safety and efficiency is second to none.

Competition has changed marine pilotage in Victoria. Ships have been left without pilots, pilot service provider operations have been suspended and bookings have been cancelled at short notice, leaving vessels without pilots.

Every time, Port Phillip Sea Pilots has risen to the challenge.

In an industry where safety and reliability are pre-requisites, not an added bonus, Port Phillip Sea Pilots is Leading the Way.

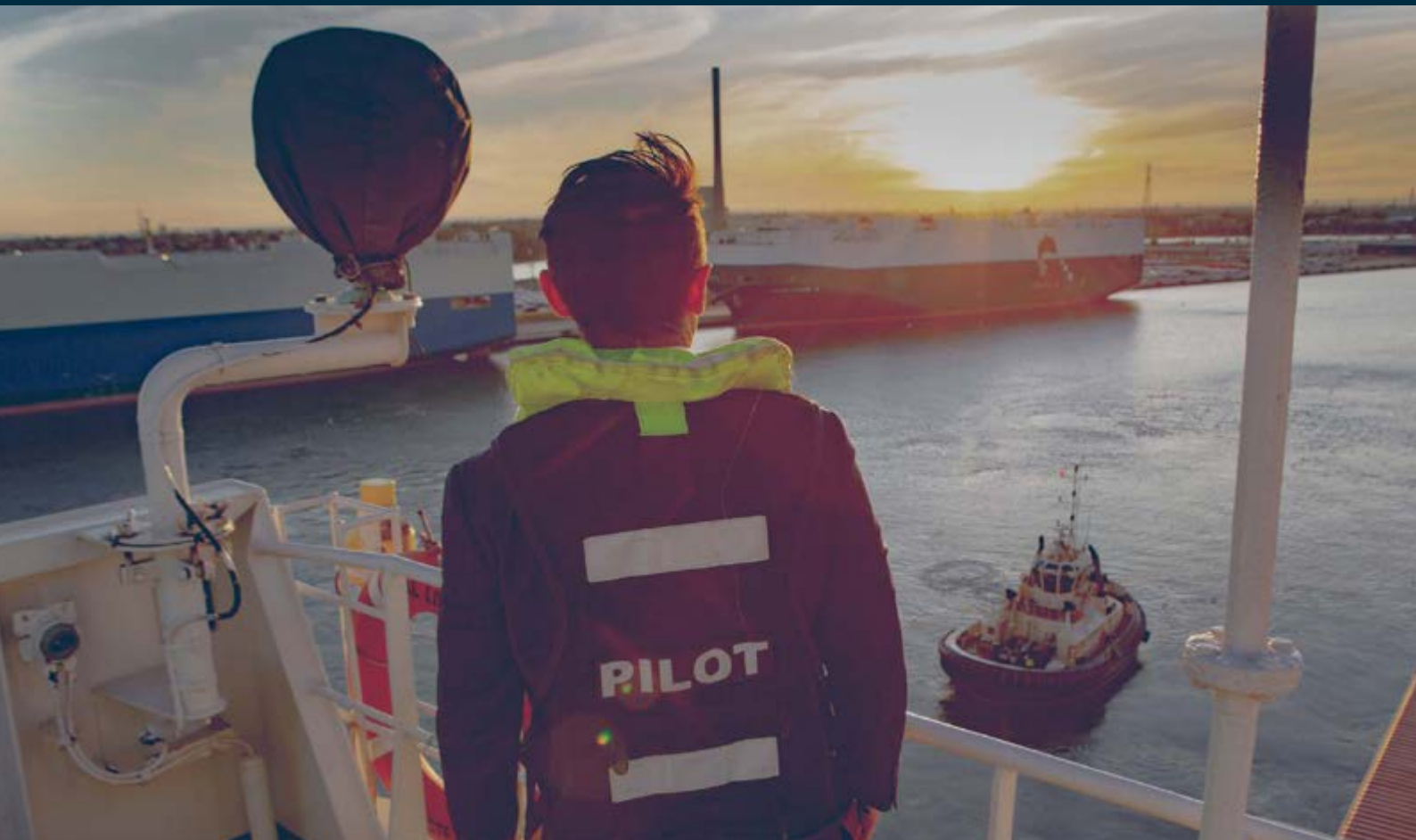
We rely on world-leading safety standards, advanced safety management systems, cutting-edge technology and the expertise of Australians best mariners – not marketing gimmicks. We don't triage jobs to chase more lucrative clients and we don't offer short cuts on safety.

When you choose Port Phillip Sea Pilots, you're investing in safety and reliability – yours and ours.

There, when you need us, on-demand, guaranteed 24 hours a day, 7 days a week, 365 days a year in good weather and bad, Port Phillip Sea Pilots is there, leading the way. ▲



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# Vessel sharing for efficient and resilient global supply chains

By JOHN BUTLER,  
Chief Executive Officer, World Shipping Council

Nations around the world have, for decades, maintained competition law exemptions to allow liner carriers to share vessel space as a tool for serving customers as efficiently and sustainably as possible. The benefits to customers, trade, and national economies are well proven, and regulators have been comfortable that these benefits should be preserved through legal certainty. Then came the pandemic. Over the past couple of years, the supply/demand imbalance resulting from inland congestion and a parallel surge in consumer demand have disrupted carrier operations and driven significant rate increases. The congestion also resulted in historically poor service levels for our industry despite carriers' deployment of every available ship and container.

These market shocks have had real political and regulatory consequences. Shippers – accustomed to cheap and abundant capacity for decades – are urging competition authorities around the world to review or repeal regulations enabling vessel sharing agreements. Rocketing inflation in many countries has fuelled the political pressure. The political forces set in motion by the disruption have yet to run their course, and we have seen simultaneous political pressure in almost every corner of the globe – a very unusual circumstance for our industry.

But as markets across all aspects of global trade have clearly begun to normalize as consumer demand has moderated, the picture of what actually happened during the pandemic becomes increasingly clear: Rate increases were driven by market forces and were not a result of concentration in the industry.

Recent economic studies have shown conclusively that the rate increases

during the pandemic were directly correlated to the explosive increase in demand for goods in combination with a congestion-driven reduction in the supply of capacity. Industry vessel sharing and consortia remained constant in the years of rock-bottom rates before the pandemic, during the pandemic and in the current environment of falling rates levels. The competitive situation has not changed – the market has.

## **Vessel sharing delivers value for the whole supply chain**

Vessel sharing is a key enabling feature of the global supply chain, delivering efficiencies to shippers and consumers

across the world. Vessel sharing allows carriers to cooperate on the same service whilst independently pricing their services and competing on price. This increases efficiency, reducing emissions and supporting more service to more ports than would otherwise be the case.

Regulators in Singapore, Hong Kong, and Israel have over the past years chosen to take a long term perspective, considering the interests of the full supply chain over time and opting to renew or extend regulations facilitating vessel sharing. In the US, the FMC two-year investigation on “The Effects of COVID-19 on the U.S. International Ocean Transportation Supply Chain,” concluded that: “Our markets are competitive and the high ocean freight rates have been determined by unprecedented consumer demand, primarily in the United States, that overwhelmed the supply of vessel capacity.” A competition law bill introduced in Congress has not progressed.

Currently, the EU and UK regulations for vessel sharing are under review for renewal in 2024, and reviews are also under way in Malaysia and India. Australia's ACCC also has the topic in scope. We hope for a fact based and long term approach from regulators also in these jurisdictions – for the health of supply chains globally. ▲



*Pictured: the bow of a ship.  
Vessel sharing is a key enabling  
feature of the global supply chain.  
Photo supplied by the World  
Shipping Council.*





# Decarbonisation of shipping needs all hands on deck

*Pictured: a graphic representation of a molecule of carbon dioxide in the atmosphere. Graphic credit: Malte Reimold via Pixabay.*

Transitioning global shipping from a carbon dependent industry into one that operates without greenhouse gas (GHG) emissions is a massive task. Container and ro-ro carriers are already investing in the development of zero GHG technologies and are committed to enabling the industry's transition to zero. But to ensure progress, clear global regulations and unprecedented public and private investment and engagement will be needed.

There will be no single or simple fuel technology solution, no single party that can set the pace, no single regulation that will drive the necessary change. The reality will be a complex multi-technology, multi-stakeholder development process that needs to be driven and supported by an array of mutually reinforcing global regulations. Maritime actors, technology providers, fuel innovators, organisations and regulators will all need to step out of their usual in-sector focus and work together to decarbonise shipping in line with the Paris agreement.

## The path to zero emissions

WSC has identified six regulatory and economic pathways, all of which are critical to successfully navigate the maritime energy transition:

- **A global price on carbon combined with dependable and broad-based "buy down" programmes** that effectively level the playing field among newer low and zero GHG ships and the tens of thousands of ships that will still be burning conventional fuels.
- **Transparent well-to-wake life cycle analysis of fuels**, breaking out well-to-tank emissions and tank-to-wake

emissions, combined with regulatory mechanisms to incentivize first-movers for use of alternative fuels that offer significant GHG reductions even if they are not available from fully renewable sources from the start.

- **Integrated development of global production and supply of zero GHG fuels** through partnerships between nations and energy providers, as well as regulatory provisions that allow for flexibility in the initial stages of the energy transition, given that zero GHG fuels will not be available at the same time around the globe.
- **A Green Corridors Programme** to accelerate an equitable fuel and technology transition, introducing zero GHG ships and fuels across trade lanes where the necessary shoreside energy infrastructure is first available.
- **New build standards** that support the energy transition, such as requiring ships built after a certain date to be able to operate on zero GHG fuels or not allowing the construction of vessels that can only operate on fossil fuels after a certain date.
- **Applied R&D for shipboard and shoreside systems** that allow the safe use of zero GHG fuels is necessary to put zero emission ships on the water, to avoid accidents and stranded assets.

The critical pathways have been further detailed and submitted by WSC to the IMO (MEPC 78/7).

## Will there be enough green fuel?

Production of the majority of likely alternative shipping fuels – hydrogen, methanol, ammonia and the like – consumes large

amounts of electricity. For the use of these fuels in the shipping sector to be sustainable, that electricity used for production must be green rather than carbon based (brown). Competition for these green energy sources is high - all other parts of society need it for their energy transition.

In its Outlook 2022, the International Energy Agency shows that for the world to reach net zero by 2050, total electricity production would need to be tripled – and be generated only by non-carbon sources. Worryingly, the IEA also shows that the current pace of investment, even if investments are stepped up to be in line with nations' climate commitments, will fall woefully short of what is needed in a net zero scenario.

We may consider ourselves a big fuel buyer, but in the future we are no longer buying in the very restricted market for residual fuel. Shipping will be competing with everyone else on the planet for green electricity and as an industry our buying power is not enough to move fuel providers to invest at scale in new production and supply chains to fit our rather specific needs.

For liner shipping, and the industry as a whole, to be able to advance at the necessary speed with investments and adoption of alternative fuels, we – and all other maritime actors – need the public sector. Nations and regulators must move forward with the necessary GHG regulations, invest in infrastructure for the maritime fuels supply chain, and support energy providers in their efforts to establish new green energy sources. Not just for shipping's sake, but for the future of us all. ▲

# Commercial ports are vital to every Victorian

By PRAVEEN REDDY,  
Executive Director of Freight Victoria, Victorian Department of Transport

Victoria's commercial ports have long been integral to the success of the state's economy. They're also key to Victoria's status as the nation's biggest exporter of agricultural commodities and manufactured goods.

The pandemic highlighted the vital role our commercial ports play in the lives of every Victorian.

As shipping delays, labour shortages and container imbalances disrupted global supply chains, it fell to our ports to step up and maintain the movement of goods.

It was the resilience and adaptability of our ports that sustained the flow of everything from life-saving pharmaceuticals to vital food exports.

With Victoria's gross state product set to grow by \$40 billion over the next three decades and freight volumes expected to more than double, ensuring our ports are operating at peak efficiency is a key economic priority.

It's these factors that drove Navigating our Ports Future: The Victorian Commercial Ports Strategy which was launched in July 2022.

It outlines how the Victorian Government will work with our four commercial ports; reserve and plan for the land and seaside connections needed for a second container port; and ensure long-term policy settings are in place that recognise the contribution our commercial ports make to the enduring vibrancy of the Victorian economy.

Navigating our Ports Future reinforces government's approach to engaging more closely with the Commonwealth.

Victoria wants the Commonwealth to play a greater role in overseeing the performance of the ports sector.

We believe that the Commonwealth in conjunction with the states can set national standards and objectives which are monitored and reported against.

There are opportunities for greater cohesion in the current arrangements.

As an example:

- The Commonwealth sets national policy governing the operation of international gateways.
- The states manage access and oversee operation of port assets.
- And local government has a role in the land-use planning.

We think we can do more to improve supply chain performance.

The Commonwealth can lead an overarching strategy that guides each level of government in delivering their responsibilities.

We also see opportunities for national performance benchmarks for the port sector and a more formalised forum between the Commonwealth and the states to provide a platform to work together and coordinate responses to port performance issues.

We think the Bureau of Infrastructure and Transport Research Economics' Waterline Report and the ACCC's stevedore monitoring report can evolve to setting targets for the ports sector.

Over the next five years, we'll be adding a marine safety code to each port's Safety and Environment Management Plan so that we have an industry-wide marine safety standard for all state waters.

We'll also begin the process of establishing a non-exclusive licence

scheme for towage and pilotage services at commercial ports which we'll begin implementing later in 2023.

As well as dealing with the macro issues facing our ports, Victoria has also tackled the micro.

In September, the Department of Transport released a guide to aid in managing congestion in the container supply chain.

The aim of the guide is to alert the industry to signs of stress in the container supply chain and the potential actions that can be taken in response.


The guide arose from work undertaken by the Container Storage Working Group, which was convened by the Department and invited 20 industry leaders to share their views on measures to overcome the pandemic-induced disruptions to container movements through the Port of Melbourne.

It was from this work that the Victorian Government launched a trial of paperless truck entry to empty container parks (ECPs).

The partnership with Container Transport Alliance Australia has already seen participation by the majority of ECPs in Melbourne and a number of shipping lines.

The Department is confident this is a big step toward easing one of the main congestion points that have bedevilled the container supply chain for a number of years.

The Container Storage Working Group identified ECPs as critical pinch points in the container supply chain and that streamlining access to ECPs will go a long way to easing the logjam.

We look forward to working with the Commonwealth, other jurisdictions and industry on innovative and cohesive approaches that better secure our supply chains and ensure a simpler and more transparent ports system. 



*Pictured: Appleton Dock at the Port of Melbourne on the Yarra River. Photo credit: Port of Melbourne.*



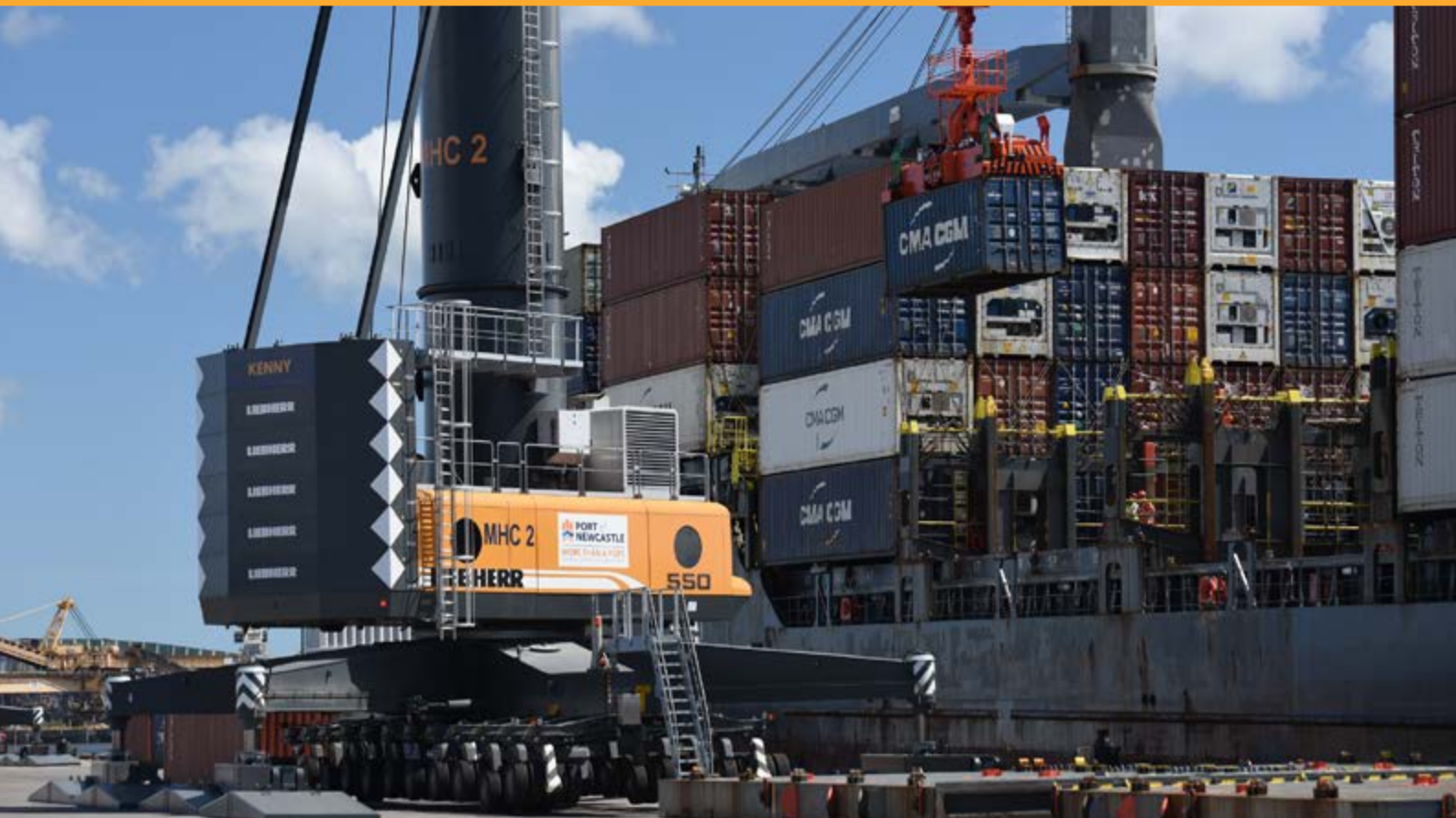
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## FONASBA: a year in review

By JONATHAN WILLIAMS,  
Secretary, Federation of National  
Associations of Ship Brokers and Agents

In common with the rest of our industry, FONASBA has made the most of the opportunities provided by the welcome lifting of most COVID restrictions and we are glad to be back to normal, travelling and meeting once again.

When I wrote last year, we were concerned that our Annual Meeting would be postponed yet again, and indeed it was, twice, before we finally managed to meet in Antwerp in May 2022. As it was our first physical meeting since Miami in 2019, being able to get together again was eagerly awaited by members and the event did not disappoint.

Highlights of the programme included the election at Council of a new Executive Committee, led by Javier Dulce of Argentina as President, and the presentation of the 2021 Young Ship Agent or Ship Broker of the Year Award to Ana Garcia of Spain, the sixth winner and the first female recipient of the Award. Our colleagues at the Belgian ship agents' association NAVES, supported by the Antwerp Shipping Federation, handled all the arrangements perfectly and provided an excellent social programme allowing delegates and partners to catch up after a break of more than two years. The next Annual Meeting will take place in October 2023 in Bahrain and then Jordan in October 2024.

ECASBA, FONASBA's European Committee, also held its first European seminar since March 2020 when it met in Athens in October, giving delegates an opportunity to discuss issues impacting on ship agents and brokers in the European Union and to meet their Greek counterparts.

Turning to our work programme, the FONASBA Infectious Diseases Protocols,

mentioned last year, were approved at the Ship Agent Plenary Meeting in Antwerp, and have since been published. Also launched since the last SAL Annual Review is UN/CEFACT Recommendation 45, Minimum Standards for Ship Agents and Ship Brokers, which refers to the FONASBA Quality Standard and Code of Conduct in assuring the provision of professional and high-quality ship agency and ship broking services. The author was honoured to have led the drafting group on this two-year project, which comprised experts from UN agencies, academia, and industry.



*Pictured from left: FONASBA President Javier Dulce with Young Ship Agent / Broker of the Year Winner, Ana Garcia.*

The Quality Standard itself now covers nearly 600 companies in 47 member countries (including Australia) and recently expanded to include the Dominican Republic and Venezuela. In a further boost to the status of the Standard, the new GENCON 2022 charterparty, released by BIMCO in November, makes specific reference to the nominated agent being either FQS or ISO 9001 accredited. As GENCON is the most used charterparty in maritime transport, it is anticipated that this reference will see demand for

Quality Standard accredited ship agents increase significantly as the new form becomes more widely used. FONASBA is a member of the BIMCO Documentary Committee and of the GENCON drafting sub-group, represented in both by Ship Broker Committee Chair Fulvio Carlini FICS, and we were proud to contribute to the development of the new form. BIMCO has supported the Quality Standard since its launch in 2007 and we are grateful for their long-standing commitment to it. The Standard, which is also endorsed by INTERCARGO, INTERTANKO and the International Chamber of Shipping, is further referenced in the FONASBA/BIMCO Agency Appointment (AAA) and General Agency Appointment (GAA) forms launched in 2017.

Any SAL members wishing to apply for accreditation under the Standard should contact the association.

We are also pleased that FONASBA also continues to expand its membership. In the last year GAMBIA, the national association of Georgia, made a welcome return after withdrawing from membership in 2006, and new Associate members joined from the Dominican Republic, Malaysia, and North Macedonia. The total number of countries in membership now stands at 68.

The end of 2021 saw us move out of the Baltic Exchange, our home for eleven years, and into the offices of the International Chamber of Shipping. We have enjoyed working with the Chamber on several issues in recent years, from measures to protect seafarers during COVID through actions against corruption in the maritime sector to the application of general sales tax on agency operations in India. Our relationship has grown even closer in the past year, particularly over the situation in Ukraine, and we look forward to many more years of excellent cooperation with the Chamber on issues of joint concern.

We are also in the process of expanding the FONASBA Secretariat through the appointment of a General Manager Designate, a process we hope will be completed by the time this article is published. This will allow us to expand the range of issues we can take on, increase our service levels to Members and continue to support the international ship broking and ship agency communities for many years to come. ▲





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# Ship owners successfully limit their liability to £100 per package

By NATHAN CECIL, partner, and MELANIE LONG, Holding Redlich

In a recent judgment handed down by the Federal Court, it was held that the owner and carrier (Carrier) of the *M.V. "Dijksgracht"*, could rely on a limitation of liability clause in its standard terms and conditions and limit its liability to £100 per package (£300 in total) in the event that it is ultimately found liable for the alleged damage, the subject of the case.

## The facts

This case concerned a shipment of pontoons from Cork, Ireland to Geelong where they were to be installed as a breakwater at the Royal Geelong Yacht Club. The Booking Note included certain features of a space charterparty (a voyage charterparty for only part of a vessel), such as the type of vessel to be used, various conditions as to the fixture of the vessel and detailed provisions for the allocation of the costs of loading, discharge and detention. Subsequently, a non-negotiable Seaway Bill was issued after the vessel had left Cork. The Booking Note and Seaway Bill purported to incorporate Articles I-VIII of the Hague Rules (but not Article IX, which increases the stated liability limits by reference to the value of gold) and limited liability to £100 per package.

The consignee alleged that three of the pontoons were damaged during the voyage and claimed \$1.82 million in respect of the cost of manufacturing and shipping replacement pontoons, additional mobilisation, installation and project delay costs.

The matter was listed for a separate issue hearing on whether the Carrier was entitled to limit its liability to £300.

## Australian law

The Carriage of Goods by Sea Act 1991 (Cth) (the Australian COGSA) applies the Hague-Visby limitations to outward contracts of carriage, including those contained in both negotiable and non-negotiable sea carriage documents. For inward contracts of carriage, Australian COGSA will apply unless one of the Hague, Hague-Visby or Hamburg Rules applies by force of law or agreement. Additionally, Australian COGSA will not apply to charterparties unless a sea carriage document is issued under them.

## The Carrier's argument

The Carrier argued it was entitled to limit its liability to £300 in accordance with the incorporation of Articles I-VIII of the Hague Rules in the Booking Note and/or Seaway Bill, as this amounted to an incorporation of (substantially all of) the Hague Rules, and should be considered a sufficient incorporation of (most of) the Hague Rules and thus recognised under the Australian COGSA. Secondly, the Carrier argued that the contract of carriage was formed by the Booking Note, which was in truth a charterparty to which Australian COGSA (and the limits thereunder) did not apply.

## The consignee's argument

The consignee argued that an incorporation of most, but not all, of the Hague Rules was not sufficient to be recognised and applied under Australian COGSA to inwards contracts of carriage. Secondly, it argued that the Booking Note was not a charterparty. As such, the consignee argued that Australian COGSA applied and the Carrier's limitation of liability equated to approximately \$1.053 million.

There were also a number of other issues

and arguments raised by both sides, but in order to focus on the most significant findings, they are not discussed here.

## The court's decision

The decision handed down by the Federal Court can be summarised as follows.

## What documents evidenced the contract of carriage?

The Booking Note. The Seaway Bill was held to be receipt in respect of the contract of carriage contained in the Booking Note.

## Is the incorporation of most of the Hague Rules sufficient to be recognised under the Australia COGSA?

No. The omission of an operative part of the Hague Rules (Article IX) meant that 'the convention' was not incorporated for the purposes of recognition under the Australian COGSA.

## Was the contract of carriage (the Booking Note) a charterparty?

Yes. As a result of the particular features of the Booking Note, it was held to be a charterparty and not a sea carriage document to which Australian COGSA applied.

## What was the limit of the Carrier's liability?

The ultimate effect of the contract of carriage (the Booking Note) being characterised as a charterparty, was that Australian COGSA did not operate to mandatorily apply the Hague-Visby Rules. As a result, the Carrier could limit its liability to £100 per package, or £300 in total, in the event that it is found liable for the alleged damage to pontoons.

This decision is presently under appeal.

Holding Redlich acted for the successful Carrier. ▲



# Arbitration vs court in determining commercial shipping disputes

By Joe Hurley and ANTHONY DONOHOE,  
HWL Ebsworth Lawyers

Commercial shipping disputes can often give rise to complex legal and factual issues that prevent parties from resolving these disputes in an efficient and timely manner. As such, parties to these disputes should give careful consideration to the most effective forum for determining these disputes. While litigating the dispute through the courts may be the first port of call for some, parties to a commercial shipping dispute often use arbitration as an alternate way of resolving the dispute.

Arbitration is a form of alternative dispute resolution in which parties present arguments and evidence to an impartial third party, known as the arbitrator, who makes a determination on the dispute. While parties can voluntarily agree to arbitration after a dispute arises, many commercial shipping contracts contain an arbitration agreement in which parties are required to resolve a potential dispute by way of arbitration.

Unlike in court proceedings where the judge is assigned by the court, an arbitrator or a Tribunal can be selected with consent of the parties. This allows the parties to consider the expertise, experience and reputation of the individual who will facilitate their dispute, and as such, an arbitrator may provide a greater level of expertise than a judge for example, in technical cases. Parties also have control over the issues they wish to have arbitrated, as well as the applicable jurisdictional laws and rules. The increased flexibility provided through arbitration allows the parties to personalise the forum of dispute resolution to the facts or issues at hand; one further advantage is the confidential nature of arbitration.

Arbitration is often seen as a quicker and cheaper way to resolve a dispute than court proceedings. However, when

resolving larger and more complex disputes arbitration may not always result in cost-savings in comparison to court proceedings, as parties must pay the administrative costs of the professional institution who facilitates the dispute resolution as well as Tribunal professional costs. Arbitration also provides a confidential and private forum for resolving the dispute.

Also, an award made in an international arbitration is enforceable under the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral ('New York Convention'). The New York Convention provides that an arbitral award is enforceable on any State that is a signatory to the New York Convention. Therefore, in disputes involving parties from different States, an arbitral award provides a wider scope and ability to enforce the decision on these parties than in a decision in a court proceeding. Put another way, for contracting States it is generally easier to enforce an award rather than a judgement.

Arbitral awards are also perceived as binding and final, as the grounds of

appealing arbitral awards are limited. While this can save parties time and money in comparison to lengthy appellant proceedings in court, the lack of recourse afforded to parties in appealing arbitral awards may result in a binding and permanent determination even if the arbitrator makes a mistake of fact or law. While appealing a court decision is neither easy or straightforward, appellate courts provide an accountability mechanism that arbitration often does not have.

Court proceedings provide easier and more effective ways of facilitating the discovery process and allowing parties to gather evidence, such as issuing subpoenas compelling a third party to produce documents and attending court to give evidence.

Overall, arbitration provides parties with a flexible and efficient way to chart a course through a dispute, resulting in a confidential and binding decision that is difficult to appeal and is enforceable in other States. Parties to a commercial shipping dispute should carefully weigh the advantages and disadvantages of forums in determining commercial shipping disputes. While not all matters are suitable for arbitration, it can serve as an optional way of resolving disputes. Ultimately, there are merits in both forums; however, one useful strategy when embarking on drafting dispute resolution clauses, is to include a requirement that prior to any commencement of arbitration or court proceedings that the parties must meet to discuss the dispute and mediate. ▲

*Pictured: a statue of Lady Justice, the anthropomorphic personification of justice and law. Photo Sang Hyun Cho via Pixabay.*





## Planning for the future

By ROGER JOHNSTON,  
CEO, Pilbara Ports Authority

Pilbara Ports Authority (PPA) is the world's largest bulk export port authority, responsible for the ports of Ashburton, Dampier, Port Hedland and Varanus Island.

In 2021/22, PPA again broke its annual throughput record, facilitating 733.1 million tonnes (Mt) of product and 17,376 vessel movements. The estimated value of commodities handled is \$165.8 billion. This follows a decade of strong performance, with technological advancements and port efficiencies enabling growth in port capacity. With demand for capacity, trade diversification and efficiency continuing to build, PPA is embarking on transformational infrastructure projects to meet the needs of existing and new port users.

The challenges of the COVID-19 pandemic

have highlighted the importance of robust supply chains. Direct freight shipping between Asia and the Pilbara improves supply chain reliability by reducing reliance on trucking products from Fremantle to the Pilbara. In addition, it saves costs for Pilbara businesses while reducing greenhouse gas emissions, traffic congestion and road maintenance costs. Demand for direct shipping has increased faster than anticipated, with PPA identifying the need to triple its First Point of Entry facilities to accommodate inbound cargo less than two years after liner services to the Pilbara commenced.

The updated Port of Port Hedland Development Plan, endorsed by the Western Australian Government in early 2022, will enable iron ore exports through the port to grow to 660Mtpa.

This is a 41 per cent increase in capacity compared to the Port's 2012 Development Plan and compares to the Port's throughput in 2021/22 of 561Mt. In developing the Plan, PPA undertook navigation simulations, hydrodynamic studies and scenario testing to update the port capacity model. The updated Plan allows for a new bulk liquids berth, new common user cargo berths and development of a new cape size iron ore export berth, Stanley Point berth 3. An important component of the Plan is the development of a multi-user facility and logistics hub at Lumsden Point – the ultimate development of which will include two berths, channel access, turning basins and a central access road and service corridor connecting to the Great Northern Highway.



Development of Lumsden Point will enable increased exports of critical battery minerals, with the demand for lithium and copper concentrates expected to grow tenfold by 2030 as the demand for electric vehicles rises. The facility will also support the development of renewable energy in the Pilbara, by being designed to accommodate the import of wind turbine blades and towers. Lumsden Point's development is a key initiative to increase port capacity in the Pilbara and is recognised as a priority project by Infrastructure Australia. In its 2022/23 Budget, the State Government committed a further \$78 million to progress works at Lumsden Point. This builds on previous investments from PPA and port proponents costing a total \$144 million that included dredging, reclamation and remediation and construction of a temporary module offloading facility.

The Port of Dampier will also play a significant role in growing Pilbara

ports' capacity, with PPA progressing plans for a new multi-user wharf that will support the proposed multi-billion-dollar Perdaman Urea Project, while encouraging trade diversification and creating regional jobs. The Northern Australia Infrastructure Facility announced a \$160 million investment in the wharf, which will be capable of berthing Panamax bulk carriers, as well as accommodating cruise ships and cargo vessels supporting direct freight shipping between Singapore and the Pilbara.

These critical infrastructure projects have been supported by the Federal Government, with \$565 million committed in the Federal Budget announced in October. The funding will support common user port facilities in the Pilbara to boost the region's readiness for emerging green energy markets and its transition to renewable energy.

PPA is working with resource companies to support transshipping operations which will

unlock stranded iron ore assets in the West Pilbara – this includes works to support the expansion of activities at the Port of Ashburton, including a First Point of Entry wash pad and inspection facilities, firefighting system, multi-purpose shed, security and lighting, and future plans for a deep water jetty that would provide a bulk and general cargo berth and bulk liquids berth.

PPA is continuing to work closely with port proponents to help deliver strong economic returns to Australia. Our long-term planning also includes development of five greenfield ports: Balla Balla, Cape Preston East, Cape Preston West, Urala and Anketell.

With the future looking bright for the Pilbara, PPA is excited to play a pivotal role in supporting port proponents meet their growth aspirations and trade diversification as we continue our journey to net-zero emissions. ▲

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## Patrick Terminals: Terminal of the Year 2022

By MICHAEL JOVICIC,  
CEO, Patrick Terminals

Patrick Terminals' comprehensive investment program continued throughout 2022. Over the past 10 years, Patrick Terminals has invested close to \$1 billion to benefit both quayside and landside customers.

After the successful go-live of the on-dock Sydney AutoRail in 2021, phase 2 of the project has delivered an extension of the rail to four 600m sidings allowing for the side-by-side dual handling of trains. Ongoing infrastructure work in 2023 will deliver a dramatic improvement in road truck management that will deliver enhanced reliability and performance in this area.

The automated rail terminal is in the process of delivering a step-change in capacity and efficiency for rail freight - supporting the modal shift to freight on rail and providing a more sustainable solution for efficiently moving freight throughout the supply chain.

Patrick Sydney AutoRail has delivered improved reliability, reduced CO2

emissions and a 250% increase in rail capacity, moving from 200k to 500k TEU capacity, with the scope to double again to 1.0M TEU.

Patrick Terminals – Sydney AutoStrad was recognised as the Terminal of the Year at the annual Shipping and Maritime Awards and is fast being recognised as the showcase and benchmark for gateway terminals around the world!

Construction commenced in Melbourne on the Port of Melbourne Port Rail Transformation Project. This \$125 million investment by the Port of Melbourne will deliver a new Patrick PortRail Terminal that will interface with Patrick Terminals – Melbourne and include two new 600m rail sidings. This project is on schedule to be operational in mid-2023.





Containers stacked at a Patrick wharf.  
Photo supplied by Patrick Terminals.



Additionally, the berth works program at Patrick Terminals – Melbourne was completed during 2022 including rehabilitation of the fender beam faces and soffits, as well as replacement of corroded steel and delaminated concrete. New 35-metre-long steel piles were installed underground to combat subsidence and cranes rails were rebuilt and replaced to allow for more efficient movements of cranes along the quay line. The terminal also expanded yard space and increased the number of reefer plugs. All three berths are now fully operation and ready to service shipping line needs at the Patrick terminal.

Patrick Terminals continues to invest in innovative solutions to improve landside efficiencies and support the efficient movement of freight through our terminals.

A recent significant innovation is the introduction of automated truck handling at our Patrick Terminals - Brisbane AutoStrad. After several years in development, this new automated system allows for the autonomous placement of import containers onto trucks supported by remote screen-based technology. The new system will assist in reducing truck wait times, improving truck turnaround times and improving safety on the truck grids.

Patrick Terminals is investing \$50 million in works to upgrade Patrick Terminals - Fremantle. These works include a significant increase to hard stand area, an upgraded gate system, an integration of the new ZPMC ship-to-shore crane, and improved terminal

interface with North Quay Rail Terminal, with a continued focus on facilitating efficient landside interfaces and rail mode share.

Construction is well progressed with paving nearing completion and all works expected to be completed in 2023. This redevelopment will help support the growing import and export requirements of our West Australian importers and exporters.

Patrick Terminals will complete 2022 with the arrival of additional Kalmar AutoStrad units that will be deployed across the Brisbane and Sydney terminals. ▲



# The Merchant Navy War Memorial Fund (MNWMF)



## Vision Statement

To ensure that the Australian Merchant Navy “A title emblazoned in battle and honoured in freedom” is recognised as an important part of Australian Maritime History and Social Culture.

## Primary Objective

Honouring the memory of Australian Merchant Navy Mariners who gave their lives in the service of their country in World Wars I and II and giving thanks for those that were able to return to their families.

## What we do “Making a difference”



Make Difference Day Logo  
Copyright: USA Weekend

**The aim of the MNWMF in all that we undertake is to ‘Make a Difference’, and the MNWMF is guided by its supporting objectives. These are:**

- **Accepting the responsibility of the current generation** to ensure

the greater recognition of the vital role undertaken by the Australian merchant navy in WWI & WWII.

- Identifying and partnering with other organisations that can assist our efforts to advance the cause of the greater recognition of the Merchant Navy.
- Ensuring ongoing viability and vitality of the Annual Commemorations at Rookwood, NSW (April) & the National Merchant Navy War Memorial, Canberra, ACT (October) by further developing the partnership with the Rookwood General Cemetery (RGC) and the National Capital Authority (NCA) and encouraging increased participation, especially among younger generations.
- Supporting, where possible, other Merchant Navy War Memorials throughout Australia.
- Enhancing the close partnership developed with the Australian Maritime College (AMC), through the “Merchant Navy War Memorial Fund Scholarship” and identifying potential areas of part and/or full-time sea going opportunities for AMC Cadets.
- Prudent management of the MNWMF Investment Portfolio, in partnership with our external Financial Advisor, to ensure that the Fund can meet the cost of its activities and maintain the value of the portfolio in real terms.
- Pursuing opportunities for Federal and State Grants, Corporate Sponsorship, Bequests and Donations to offset costs and assist to fund new initiatives.
- Producing an ongoing three year ‘Strategic Plan’ that documents policies and procedures of key activities that can be followed and further developed by those who follow.
- Working with the Merchant Navy RSL Subbranch, the Merchant Navy Association (MNA) and the Company of Master Mariners Australia (CMMA) in the achievement of our joint objectives.
- **Encouraging the next generation** to take up the commitment to ensure that future Australian Merchant Navy recognition is as secure in the future as in the past and the present. We remain highly committed to continuing to work in what we believe is the best interests of our cherished Merchant Navy Veterans and the wider Australian Merchant Navy Community.

## Major Annual Projects

The MNWMF has several important major Annual Projects. The April Commemoration that commemorates the ultimate sacrifice of merchant seafarers during the World Wars is held at the Memorial & Columbarium, Rookwood Sydney, in partnership with the Rookwood General Trust (RGT).

In 1947 a section of the necropolis at Rookwood, in which seafarers are interred, was granted to MNWMF by the Church



of England Cemetery Trust. The stone wall enclosing the Merchant Navy section and the Columbarium erected thereon, were paid for by the Merchant Navy War Memorial Fund. The ongoing maintenance of the site is undertaken by The Rookwood General Cemeteries Reserve Trust.

The October Commemoration is held at the National Merchant Navy War Memorial, Kings Park Canberra, in partnership with The National Capital Authority (NCA). It is held to honour and reflect on the memory of those brave and courageous merchant navy men who gave their lives in the service of their country during WWI and WWII. It is also an opportunity to give thanks to those who were able to return to the love and care of their families. Also acknowledged are those within today's Merchant Navy, who are away from their families for long periods and may face loneliness and ill-health or injury. The Memorial itself includes a number of merchant marine and naval war themes.

### Scholarships and Funding

In partnership with the Australian Maritime College (AMC) in Launceston, we fund four annual MNWMF scholarships and help to identify potential career opportunities for AMC Cadets. The Scholarships are in the following areas of study:

#### Ocean Seafaring

- Bachelor of Applied Science (Marine Engineering)
- Bachelor of Applied Science (Nautical Science)

#### Maritime Operations and Coastal Seafaring

- Certificate III in Maritime Operations (Master up to 24 metres Near Coastal)
- Certificate IV in Maritime Operations (Master up to 35 metres Near Coastal)

- Certificate III in Maritime Operations (Integrated Rating)
- Diploma of Maritime Operations (Marine Engineering Class 3 Near Coastal)

The Scholarships began in 2008 and 51 scholarships will have been awarded by the end of 2021. They will have provided \$127,000, to students at undergraduate level and who can demonstrate financial need.

We are conscious of the need to identify other projects that can assist in the ongoing greater recognition of the role of the Australian Merchant Navy, in times of war and Peace. Our rolling three-year Strategic Plan covers additional major and smaller projects, that we feel can further assist to achieve this important objective.




*WWI & WWII plaques commissioned in 2019, at the Merchant Navy War Memorial, King's Park, Canberra*

### Major Projects 2022 – 2024

- Design & installation of WWI and WWII plaques at Rookwood Merchant Navy Memorial.
- Equal recognition of the merchant navy flag on National Flag Day, which is on the 3rd of September each year. It is also Merchant Navy Day.

- Additional recognition of the role of the merchant navy within the Australian War Memorial (AWM).
- Campaign for approval of merchant navy logo on existing war memorials in Australia.
- Support the AWM 'Places of Pride' launched by the AWM in November 2018 to record all memorials throughout Australia on the national register.

### Smaller Projects 2022 – 2024

- To establish shipping company names and logos to match the ships on the WWI & WWII plaques and consider having an additional plaque made for the Canberra and Rookwood Merchant Navy memorials.
- To support the Australian War Memorial project 'Honour Our Fallen' where the purpose is to ensure a flag is flown each ANZAC day from 2018 on every grave or memorial plaque in Australia, to honour those who have served their country.
- To establish a protocol with the Australian War Memorial that on National Flag Day / Merchant Navy Day that the Merchant Navy flag be flown with the Australian National Flag above the War Memorial and that a Merchant Navy representative be among those laying wreaths on that evening's Last Post Ceremony.
- To have recognition of ANZAC Day 25th April at Rookwood & Canberra merchant navy memorials: flags flying and poppies on our WWI and WWII plaques.
- To have Merchant Navy badge recognition at the Hyde Park, Sydney, War Memorial. 

### How you can help - donations, bequests, sponsorships of projects



**The Merchant Navy War Memorial Fund Ltd (MNWMF)**

Our ability to cover annual costs, fund major and smaller projects and specific grants to other merchant navy associated organisations, requires prudent financial management.

The MNWMF Board recognises that each generation of office bearers has a responsibility to do all they can to ensure the greater recognition and promotion of the vital role played by the Australian Merchant Navy. We place high priority on the professional management of the MNWMF Investment Portfolio by working in partnership with our external financial advisors. At the same time, we are conscious to maintain the value of the portfolio in real terms.

**Inquiries about donations may be directed to the Secretary of the MNWMF at [secretary@mnwmf.com.au](mailto:secretary@mnwmf.com.au).**

# Oldendorff Carriers – what we are doing about sustainability

By OLDENDORFF CARRIERS  
(see: [www.oldendorff.com](http://www.oldendorff.com))

Oldendorff Carriers is a 100-year-old family-owned shipping company typically operating a fleet of around 700 bulk carriers. The company is represented by 21 offices around the world with 10 bulk trans-shipment projects and has a workforce of over 4,500 people, from 60 countries. Like many shipping companies today, we are committed to adhering to Environment, Social and Governance, so we aim to closely align our business operations with the United Nations' Sustainable Development Goals. Our objective is not only to achieve, but also exceed, the IMO 2030/50 GHG reduction requirements.

Our CEO Peter Twiss explains, "Throughout our 100-year history, Oldendorff has remained a forward-thinking and values-driven company, highly adaptive to change. Our culture of integrity extends to all regions we serve and applies to all aspects of our business. We continue to advance our sustainability priorities by way of proactive environmental stewardship, an unwavering commitment to diversity, and a steadfast respect for human rights." We have set up multiple teams and made investments that spearhead our efforts in decarbonisation.

Some of our actions to better the world, both on board our vessels and for the environment include:

- Supporting our Seafarers. Covid has been a very difficult period for all Seafarers. Providing support to our Seafarers so that they are kept healthy and happy is a core goal at Oldendorff. We are proud that over 97% of our Seafarers are fully vaccinated. In 2022, we were awarded the Safety4Sea – Crew Welfare Dry Bulk Operator Award, given in recognition for focusing on crew welfare, and supporting social life aboard.
- We are a partner in the West Australia

– East Asia Iron Ore Green Corridor project, established in April 2022, together with Starbulk, Rio Tinto, BHP and Global Maritime Forum. This consortium of partners are assessing the feasibility for deploying zero emission vessels on this major iron ore trade route. The focus is on green ammonia as a zero-emission marine fuel, a renewable hydrogen based future fuel without any carbon content.

- Biofuels: Together with Australian charterers BHP and CBH, trial voyages using biofuel (used cooking oil) have been performed. The key objectives of the biofuel trials included safety, understanding the behavior of the fuel, assessing engine and vessel operational performance, as well as exploring the merits and challenges of biofuels as a marine fuel. The emission reduction potential was analysed as part of Oldendorff Carriers' research agreement with MIT.
- Our Global Engagement and Sustainability Team is collaborating with many different organisations and entities to listen, learn and share to find the best ways forward. Collaborating with others is a valuable way in which to learn and share experiences, so we are active members of a variety of leading associations driving sustainability in shipping.
- In 2019, Oldendorff Carriers signed a multi-year research agreement with the Massachusetts Institute of Technology's Center for Bits and Atoms (CBA) to fund extensive research in improvements in ship design and propulsion. In addition to hydrodynamic design and modeling, MIT research has included biofuels emissions & long-term stability, the impact of scrubbers, and a study on future marine fuels.

- Oldendorff Carriers signed a Joint Development Project (JDP) with Anemoi Marine Technologies (Anemoi), Lloyd's Register (LR) and Shanghai Merchant Ship Design and Research Institute (SDARI) to develop a wind-assisted propulsion solution for Dry Bulk Carriers. Harnessing the power of the wind to produce additional energy will reduce emissions and lower fuel consumption.
- To optimise voyages today, it is imperative to receive large volumes of data directly from ships and to be able to analyse it promptly. The majority of our owned vessels are equipped with performance monitoring systems including systems that propose optimal voyage plans by AI driven simulations. Using the power of this big data in combination with advanced analytics and weather routing gives us about a 3.5% fuel savings.
- 12 of our ships (7 Babycapes and 5 Post-panamaxes), will have Becker "Mewis" ducts and rudder bulbs installed during first half 2023. These devices are expected to return a 5% fuel savings and a speed increase of about 0.4 knots. This will bring to 45 the number of bulk carriers in our own fleet that have been fitted with fuel saving devices. The purpose of the fuel saving devices is not only to reduce our fuel consumption but also to reduce our Greenhouse Gas emissions.

We feel strongly that the IMO 2030/50 GHG reduction targets can be achieved if everyone in the shipping community participates in a positive way towards real savings. This is not about Oldendorff, it's about all of us. It's about our kids and a greener world. ▲





## UNITED SALVAGE SERVICING AUSTRALIA AND THE SOUTH PACIFIC

The company's head office and main warehouse facilities are located in a convenient and multi-user facility located near the port.

We are working alongside Avcon Projects Australasia and Risk Response Resources to form a combined Training, Safety, Environment and Emergency Response Hub in Port Kembla.

The new location places the company and its assets adjacent to one of New South Wales' busiest ports.

We have maintained our caches of equipment located in Dampier WA, Cairns and Mackay Qld.

The new location houses the majority of the company's first strike and large-scale equipment and machinery held for all forms of marine emergency response, wreck removal and decommissioning support.

We are well experienced in providing decommissioning services and support in Australasia. We have undertaken large scale projects in port and offshore that include;

- Removal of fire damaged jack up rigs from oil fields
- Fire damaged bulk carriers within port limits.

The United Salvage team is experienced at responding at short notice to assist, ship owners and their crews in a variety of circumstances. Our emergency salvage response services can include;

- Naval architecture
- Marine engineering towage
- Marine pollution
- Hazardous materials management

We maintain our Lloyds Register accredited training course for emergency towing crews as part of our wider scope of services.



### UNITED SALVAGE

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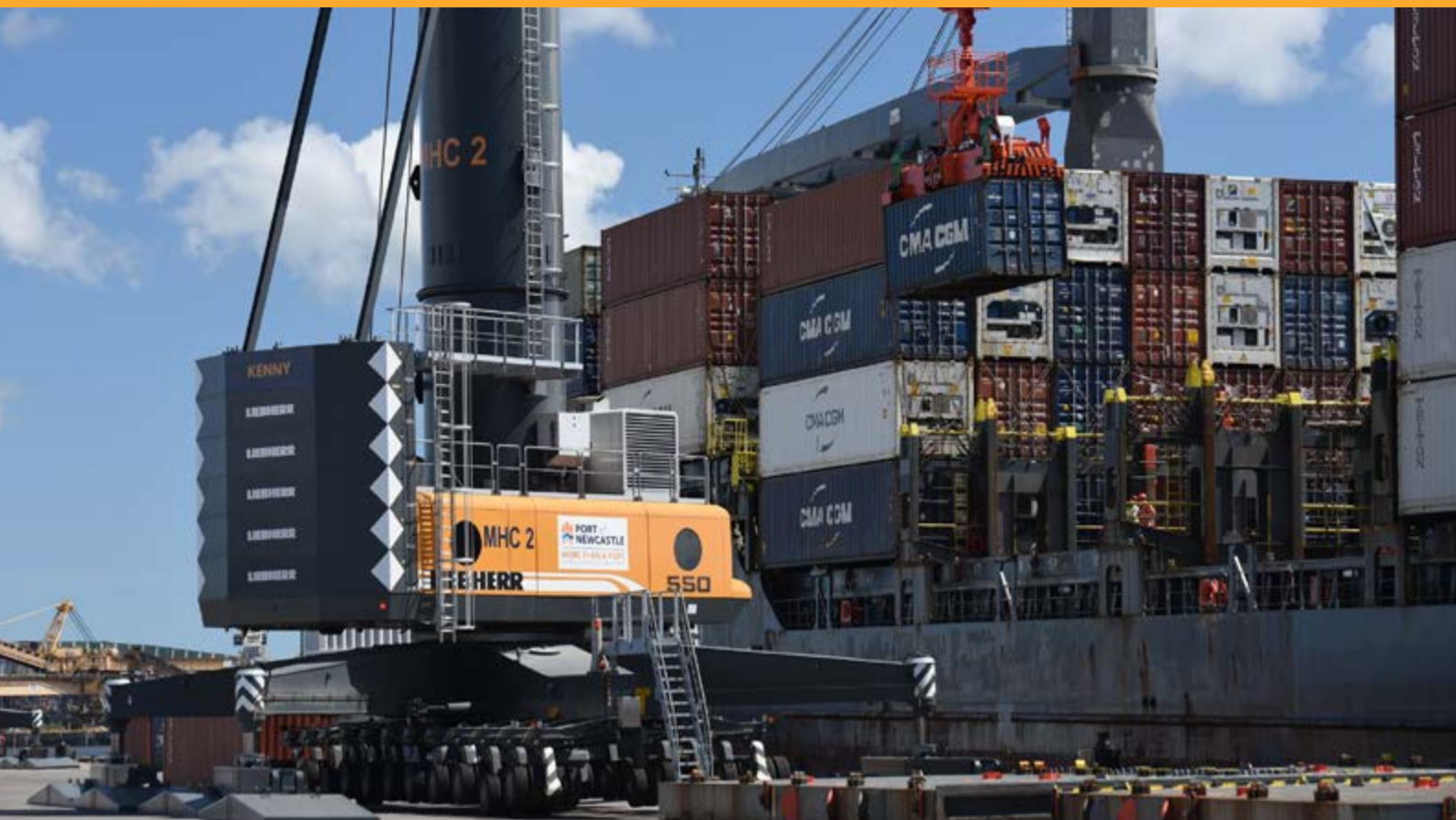
# MULTI-PURPOSE TERMINAL

## CONTAINER, PROJECT AND CARGO HANDLING CAPABILITY

**The Port of Newcastle's Multi-Purpose Terminal is open.**

Contact our Business Development team to discuss how the Port can import and export your goods and produce efficiently and cost effectively.

Email [trade@portofnewcastle.com.au](mailto:trade@portofnewcastle.com.au) to get in touch with the team at Port of Newcastle.



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