

**Submission to the
House of Representatives Standing Committee
on Transport and Regional Services.**



AAPMA

**INQUIRY INTO
MARITIME SALVAGE IN AUSTRALIAN WATERS**

14 April 2004

The Association of Australian Ports and Marine Authorities

The Association of Australian Ports and Marine Authorities (AAPMA) is the peak body representing the interests of government owned and privately owned ports as well as marine regulatory authorities in Australia. The Association provides leadership and support in areas of common interest related to ports, their interfaces and the achievement of their trade facilitation objectives. A list of our members is included at Appendix I.

Summary

The provision of salvage and emergency response is a complex issue. Whilst the response capability has worked reasonably well in Australia to date the reduction in the number of salvage capable vessels in Australian waters, as well as the potential for a decline in the skills base, require a rethinking of how there should be an Australian approach to these issues.

This paper raises a number of issues that are relevant to consideration of this issue.

At this stage, we believe that it is not appropriate to come up with solutions as there needs to be a better understanding and acceptance of the issues themselves so that there can be a joint Australian, State and Territory Government and industry approach to determining the most appropriate future response capability and means of managing whatever process is determined as being most appropriate.

Introduction

We note that the purpose of the Inquiry is to “investigate the impact of the (Productivity Commission) report in respect to the nation’s ongoing capacity to provide a defined level of salvage capabilities and cover for all Australian waters”.

The discussion paper, in our view, adequately defines the act of salvage on page 4.

We consider that salvage, whilst a most important outcome in its own right, cannot be considered in isolation from the need to provide an adequate emergency response capability. An emergency response to a ship or environmental interest incident in a port, or in nearby coastal waters, need not encompass the provision of salvage services.

There appears to be no national or state policy that has been established in relation to either salvage or emergency response situations, whereas there is an ongoing and well developed national policy for pollution viz., “*The National Plan to Combat Pollution of the Sea by Oil and other Noxious and Hazardous Substances (National Plan)*”. In addition, “*The National Maritime Place of Refuge Risk Assessment Guidelines*” have also been developed through the National Plan.

The proactive approach that the Australian Government has taken to port state control for vessels visiting Australian ports has led to a situation where Australia benefits from receiving a higher quality of vessels, in most circumstances, than those received in many other countries. This higher standard of vessels has, inevitably, reduced the likelihood of salvage incidents in Australian waters. However, this higher quality of vessels has, arguably, also led to a cost impost on Australian exporters who have a smaller pool of “Australian suitable” vessels from which to charter their requirements.

Salvage

As the discussion paper indicates, salvage services are generally provided by harbour towage vessels from Australian ports. However, salvage vessels from other countries, for example, Singapore also compete in the Australian and New Zealand market for salvage opportunities. Furthermore, offshore supply vessels and perhaps other vessels can provide salvage requirements or, alternatively, the emergency response – particularly in the north-west.

Salvage generally requires several weeks of activity for the salvage vessel while the incident vessel is being stabilized and then towed to, generally, a foreign port for repairs.

Emergency Response

Emergency response arrangements would be designed to ensure the safety of the crew, stabilization of the ship, and to provide measures in aid of the prevention of possible pollution and/or further damage to the environment. It is an immediate response capability to allow experts to decide, in an informed manner and without undue commercial pressure, what further action is required. In many cases, such further action could well be salvage.

Emergency response, in most circumstances, will be provided by a harbour tug or other suitable vessels such as offshore supply vessels or other vessels used for harbour services. In most cases, it is of a relatively short duration of up to about three days.

Ports and Harbour Towage

- Harbour towage contractual arrangements are generally between the vessel owner/representative and the towage operator. Port authorities/corporations generally do not have a direct commercial relationship with the towage operator; some government owned port authorities license or have a form of licence with a towage operation in their port; others maintain a “hands off” approach; whilst some privately operated mining industry ports provide towage operations themselves or through related companies. Ships contract with the towage company to provide harbour towage.
- Australian ports are small in terms of towage jobs compared with many overseas ports which have two or even more competing towage operators, even though some of our ports are large in terms of volume. This results from the size of vessels used in the larger, generally bulk commodity, ports where vessels of over

100,000 tons are the norm. Often these vessels require a similar number of tugs to those required in a port handling a smaller vessel of say, 20-30,000 tons.

- Ports are facilitators of trade for both imports and exports and must encourage the provision of the most cost effective suite of services in ports to ensure that our trade maintains its competitive edge. Towage costs are often a fairly small percentage of the total cost of transport for a commodity or goods, however, they must be reviewed at intervals to ensure that the services are provided at a cost effective and competitive level.
- There are few ports in Australia that can sustain competition in harbour towage services. However, a greater level of competition has been introduced into the harbour towage market in the last two years through the entry of a second operator in Melbourne, Brisbane, Sydney and, we expect, Fremantle later this year. On the basis of an exclusive licence being granted for harbour towage operation a new entrant entered the market in Bunbury and has subsequently expanded their operations to another port in WA.

A new entrant at the port of Newcastle resulted in competition with the incumbent which eventually resulted in that new entrant selling its operation to the original sole provider.

It is contended that, given the size of the towage market in most ports, it is not easy for a new entrant, as a second operator, to be able to establish a sustainable business in competition with the incumbent, especially where that incumbent has a high level of national market share.

- As vessels get larger and become more technically advanced, for example with the introduction of bow thrusters, stern thrusters etc, the pressure to reduce the number of tugs on a vessel increases. Thus, despite our increasing trade, the number of towage jobs could actually decrease over time. However, there needs to be a balance based on environmental and safety issues, usually established by the Harbour Master and pilots, which may well require a minimum number of tugs of a specified capacity being used in all movements into and out of a harbour.
- In the interests of keeping costs to a reasonable minimum, there is pressure within the industry to ensure that there is only that number of tugs with the required capacity to suit the types of vessels visiting a port being made available. The users of the port bear the charges for the suite of tugs that are in the port. Surplus capacity, in terms of bollard pull or numbers of tugs within a port, would normally be reflected in charges to port users.
- Port users need to have confidence that there will be towage services available at all times to meet their requirements, barring unforeseen circumstances. We do not consider salvage is an unforeseen circumstance in terms of harbour towage availability as the tug could be away from the port for up to several weeks. Nor

do we consider emergency response requirements of more than, say, two days without adequate replacement capacity “an unforeseen circumstance”.

Salvage and Emergency Response

- Salvage vessels, are generally of a high bollard pull with additional equipment to allow them to undertake the salvage task. They also require a crew or crews who are trained for ocean going purposes rather than simply for harbour towage, together with employees who have salvage skills. These are potentially significant additional costs over and above the cost of a suitable harbour tug. These additional (salvage) costs should not, in any circumstances, be considered as part of the harbour towage costs and should be transparent. Furthermore, a salvage capable tug would be seen to have a wide geographical area in which to carry out the salvage task ie., not be limited to an area around its “home” port.
- Emergency response vessels would not require the same level of equipment or crewing, nor possibly the capacity, especially if the task were in port boundaries or within sheltered waters. There may be some requirement for crew with ocean going experience for emergency towage jobs in nearby coastal areas.
- Anecdotal evidence shows that there has been, on occasions, pressure applied on a Master of a vessel by a potential salvor, especially when there is an incident within port boundaries such as engine breakdown with immediate assistance called for by the vessel, to accept salvage conditions. The situation may, subject to the views of the Harbour Master and vessel Master, be an emergency response situation rather than a salvage issue for a short period at least, whilst an assessment of the effects of the incident is carried out.

An emergency response capacity may be seen to be a more acceptable and less threatening response to a vessel Master and owner than a negotiation by a potential salvor over the terms in which they would render immediate assistance. Obviously, given the investment gamble nature of salvage, a potential salvor would be expected to press for salvage so that they could claim the salvage reward and thus meet their salvage investment criteria.

- An emergency response capability in a port would be dictated by the nature of vessel size and type in the particular area in which the emergency response were to operate (assuming it could cover more than one port depending on the proximity and sailing times between those ports), and the level of perceived risk together with an analysis of the potential consequences. Such response capability may require a larger sized tug than normally needed in that port, together with some modest sea going capability. There could be an “additional” cost of providing that capacity over and above the normal harbour towage capacity.
- Neither salvage nor emergency response capability need to be harbour tugs; as mentioned earlier, off shore supply vessels and other harbour service vessels could be used for these purposes.

Competitive and Operational Considerations

- The additional cost of salvage or emergency response capability should not be levied as part of the harbour towage cost upon users in the host port as that would make that port less competitive with nearby ports, resulting in neighbouring ports gaining a “free ride” at the expense of the host port.
- There is also the issue of a Government owned port providing a salvage or emergency response service and adjacent privately owned ports, or port service, or port towage providers getting a “free ride”.
- Arrangements need to be entered into with a towage provider who provides an emergency response tug for that tug to be covered by other towage capacity if it were going to be absent from the host port for a period, and would result in an inability to meet the requirements of the ongoing shipping programme for the host port and its port users.

This should not be viewed as an argument in favour of a dominant towage provider in Australia (as such a provider could move tugs around more readily rather than sourcing them from competitors). There is already a level of competition in towage with different providers in different ports. This competition is working well and meeting market needs and, we believe, needs to be encouraged. There is, therefore, a need for further thought to be given to how replacement capacity could be made available, in relation to the adequacy and willingness of competing harbour towage providers to provide salvage and for emergency response capability when required.

- Furthermore, if there were competing towage operators in a particular port and that port were determined to be an emergency response provider, arrangements would need to be made so that one provider in that port was not disadvantaged in relation to its competitor – sharing of resources in these circumstances may need to be mandated.
- Other resources within a port that could be used to provide back up or even the emergency response need to be assessed.

Training and Skills Maintenance and Development

- Salvage and emergency response requires specific training and skills development. This is particularly the case with salvage where the skills base is rapidly declining, partially due to the lower number of incidents requiring salvage. Whilst it would be possible to bring relevant skills from overseas to meet salvage requirements, consideration needs to be given as to whether there should be a minimum level of expertise available in Australia at all times and how that expertise should be maintained.

Issues for Consideration

- Should the provision of salvage and emergency response services be mandated on a national basis by a government body, perhaps similar to the operation of the National Plan? Some coordination appears desirable from a national perspective so that state boundaries are not barriers to responses.
- Should the positioning of salvage capacity be directed by such a national body which sets salvage capacity requirements and ensures that there is an ongoing supply of adequately trained salvage experts?
- Should a salvage capable tug be considered to be part of a port's harbour towage capacity, or, should it be seen purely as a salvage capable vessel that may be used from time to time in one or more ports as a relief harbour tug?
- How should a situation be managed when a harbour towage operator in a particular port is different to the owner of the salvage capacity tug that needs to be based in that same port for geographical risk management reasons?
- Should there be competition in the supply of harbour towage services in ports, or, should this be dictated by salvage and emergency response requirements?
- If commercial arrangements cannot be entered into between competing harbour towage operators or other service providers to provide cover for salvage or emergency response situations in another port, should a coordinating authority order the movement of relief towage capability from one port to another to ensure adequate towage capacity to meet ship programmes? If not, is it reasonable for port users to meet demurrage costs for delays to their vessels if there were insufficient harbour towage capacity available because of salvage or emergency response requirements?
- Is there an argument for having a pool of salvage and emergency response skilled people available for utilization when there is an appropriate incident elsewhere in Australia ie., away from their home port?
- Should such skills be the "property" only of a salvage company or should they be made available to all potential salvors as encouragement to a wider range of potential salvors to make themselves available for salvage opportunities?

Appendix 1 – List of AAPMA Port Corporation Members

- Albany Port Authority
- Broome Port Authority
- Bunbury Port Authority
- Bundaberg Port Authority
- Burnie Port Corporation Pty Ltd
- Cairns Port Authority
- Dampier Port Authority
- Darwin Port Corporation
- Esperance Port Authority
- Flinders Ports South Australia
- Fremantle Port Authority
- Geraldton Port Authority
- Gladstone Port Authority
- Hobart Ports Corporation Pty Ltd
- King Island Port Corporation Pty Ltd
- Mackay Port Authority
- Port of Melbourne Corporation
- Newcastle Port Corporation
- NSW Waterways
- Port Hedland Port Authority
- Port Kembla Port Corporation
- Port of Brisbane Corporation
- Port of Devonport Corporation Pty Ltd
- Port of Launceston Pty Ltd
- Port of Portland Pty Ltd
- Ports Corporation of Queensland
- Rockhampton Port Authority
- Sydney Ports Corporation
- Toll Ports and Resources - A Division of Toll Logistics
- Townsville Port Authority